

CLINTON COUNTY
PLATTSBURGH INTERNATIONAL AIRPORT



AIRPORT CONCESSIONS
DISADVANTAGE BUSINESS ENTERPRISE
PROGRAM
49 CFR PART 23

UPDATED November 2024

CLINTON COUNTY'S ACDBE PROGRAM

POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

Clinton County 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. Plattsburgh International Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). Clinton County has signed airport grant assurances that it will comply with 49 CFR part 23.

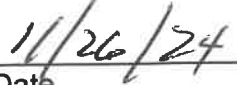
It is the policy of Clinton County to ensure that ACDBEs as defined in part 23 have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

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

Sandra Haley, Administrative Services Officer, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Sandra Haley 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 Clinton County in its financial assistance agreements with the Department of Transportation.

Clinton County has disseminated this policy statement to the Clinton County Legislature and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area. The distribution was accomplished by including it all RFP's for concessionaires and posted on our website at: www.flyplattsburgh.com


The Honorable Mark R. Henry
Chairperson, Clinton County Legislature


Date

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

Clinton County 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

Plattsburgh International Airport 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

Clinton County 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, Clinton County 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.

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

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

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

Section 23.11 Compliance and Enforcement

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

ACDBE PROGRAM

Section 23.21 ACDBE Program Updates

Clinton County is the operator of at least one primary airport and is required to have an ACDBE program. This ACDBE program is applicable to the following airport(s):

- Plattsburgh International Airport

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

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

Section 23.23 Administrative Provisions

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

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

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

*Sandy Haley
Administrative Services Officer
Plattsburgh International Airport
42 Airport Lane, Suite 201
Plattsburgh, NY 12903
Sandra.Haley@clintoncountygov.com
518-565-4847*

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that Clinton County complies with all provision of 49 CFR part 23. The ACDBELO has direct, independent access to Chairman of the County Legislature 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 7 to assist in the administration of the program. The duties and responsibilities include the following:

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

Directory: New York State Unified Certification Program (UCP) maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The Directory clearly specifies whether a firm is certified as a DBE for purposes of part 26, an ACDBE for purposes of part 23, or both. See **Attachment 2** for link

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

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

Clinton County will seek ACDBE participation in all types of concession activities.

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

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

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

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

1. Establishing concession-specific goals for particular concession opportunities.
 - a. In setting concession-specific goals for concession opportunities other than car rental, Clinton County will explore, to the maximum extent practicable, all available options to set goals that concessionaires can meet through direct ownership arrangements. A concession-specific goal for any concession other than car rental may be based on purchases or leases of goods and services only when the analysis of the relative availability of ACDBEs and all relevant evidence reasonably supports that there is *de minimis* availability for direct ownership arrangement participation for that concession opportunity.

- b. In setting car rental concession-specific goals, Clinton County will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, Clinton County is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
- c. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, Clinton County will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
- d. If the goal applies to purchases or leases of goods and services from ACDBEs, Clinton County will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
- e. When a concession-specific goal is set, Clinton County will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
- f. The administrative procedures applicable to contract goals in part 26, § 26.51 through 26.53. apply with respect to concession-specific goals.
- g. In setting car rental concession-specific goals, Clinton County will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, Clinton County is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
- h. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, Clinton County will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
- i. If the goal applies to purchases or leases of goods and services from ACDBEs, Clinton County will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
- j. When a concession-specific goal is set, Clinton County will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
- k. The administrative procedures applicable to contract goals in part 26, § 26.51 through 26.53. apply with respect to concession-specific goals.

2. Negotiate with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the non-car rental concessions.
3. With the prior approval of FAA, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

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

Section 23.26 Fostering Small Business Participation

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

The small business element is incorporated as **Attachment 3** to this ACDBE Program. The program elements will be actively implemented to foster small business participation. Clinton County acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

Clinton County will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at https://www.faa.gov/about/office_offices/acr/bus_ent_program.

Section 23.27 Reporting

Clinton County 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.

Clinton County will submit an annual report on ACDBE participation to the FAA by March 1 following the end of each fiscal year. This report will be submitted in the format acceptable to the FAA and contain all of the information described in the Uniform Report of ACDBE Participation.

Clinton County will create and maintain active participants list information and enter it into a system designated by the FAA. Clinton County will collect the following

information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities. See Attachment 4.

- a. Firm name;
- b. Firm address including ZIP code;
- c. Firm status as an ACDBE or non-ACDBE;
- d. Race and gender information for the firm's majority owner;
- e. NAICS code applicable to the concession contract in which the firm is seeking to perform;
- f. Age of the firm; and
- g. The annual gross receipts of the firm.

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

Section 23.29 Compliance and Enforcement Procedures

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

1. Clinton County will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR § 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (See Attachment 5).
3. The concessionaire and sub concessionaire shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The concessionaire shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of contracts. Failure by the concessionaire to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Plattsburgh International Airport/Clinton County deems appropriate.
4. 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.

5. 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.

CERTIFICATION AND ELIGIBILITY

Section 23.31 Certification Standards and Procedures

Clinton County is a non-certifying member of the New York State Unified Certification Program (UCP) and relies upon the UCP's determinations of certification eligibility. New York State UCP will use the certification standards of Subpart C of Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concessions contracts. To be certified as an ACDBE, a firm must meet all certification eligibility standards. Certifying New York State UCP members make all certification decisions based on the facts as a whole.

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

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

New York State Department of Transportation
Contract Audit Bureau
DBE Certification
50 Wolf Road, 6th Floor
Albany, NY 12232
(518) 417-6631
dbecert@dot.ny.gov

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

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Overall Goals

Clinton County 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. Clinton County will submit any significant overall goal adjustments to the FAA.

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

Clinton County'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

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

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

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

Section 23.45 Overall Goals

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

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

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

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

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

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

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, Clinton County will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, Clinton County will require the firm to provide, annually on December 1, a Declaration of Eligibility, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of [subpart C](#) of part 23 or any other material

changes, other than changes regarding the firm's business size or the owner's personal net worth. Clinton County will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

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

Section 23.55 Counting ACDBE participation for Concessions Other than Car Rentals

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

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

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

Section 23.57 Goal shortfall accountability.

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

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

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

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

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

Section 23.61 Quotas or Set-asides

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

OTHER PROVISIONS

Section 23.71 Existing Agreements

If permitted by the existing agreement, Clinton County 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

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

Section 23.75 Long-Term Exclusive Agreements

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

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

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

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

- 1) A description of the special local circumstances that warrant a long-term, exclusive agreement;
- 2) A copy of the solicitation;
- 3) ACDBE contract goal analysis developed in accordance with this part;
- 4) Documentation that ACDBE participants are certified in the appropriate NAICS code in order for the participation to count towards ACDBE goals;
- 5) A general description of the type of business or businesses to be operated by the ACDBE, including location and concept of the ACDBE operation;
- 6) Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE, if applicable;

- 7) Final long-term exclusive concession agreement, subleasing or other agreements;
 - a) In order to obtain FAA approval of a long-term exclusive concession agreement that has been awarded through direct negotiations, Clinton County will submit the items in paragraphs (1) and (3) through (7) of this section at least 45 days before contract award;
 - b) In order to obtain FAA approval of an exclusive concession agreement that becomes long-term as a result of a holdover tenancy, Clinton County will submit to the responsible FAA regional office a holdover plan for FAA approval at least 60 days prior to the expiration of the current lease term. The holdover plan shall include the following information:
 - i. A description of the special local circumstances that warrant the holdover;
 - ii. Anticipated date for renewal or re-bidding of the agreement;
 - iii. The method to be applied for renewal or re-bidding of the agreement;
 - iv. Submission of all items required under (3), (4), (6), and (7) of this section for the agreement in holdover status or an explanation as to why the item is not available or cannot be submitted.

Section 23.77 Preemption of Local Requirements

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

Section 23.79 Geographic Preferences

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

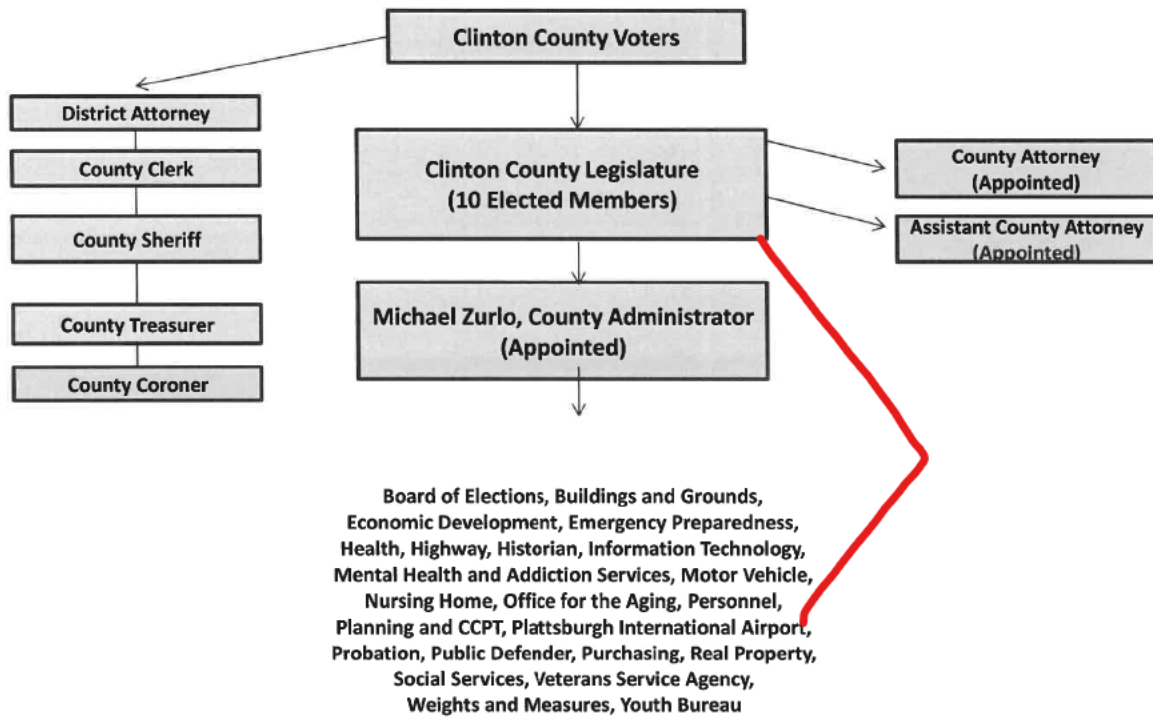
ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory
Attachment 3	Race-Neutral Small Business Element
Attachment 4	Active Participants List Collection Form
Attachment 5	Monitoring and Enforcement Mechanisms
Attachment 6	Overall Goal Methodology – Concessions Other Than Car Rental
Attachment 7	Overall Goal Methodology – Car Rental
Attachment 8	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 9	Certification Application Forms
Attachment 10	State's UCP Agreement
Attachment 11	Regulations: 49 CFR part 23

Attachment 1

Organizational Chart

Clinton County Organizational Chart



Attachment 2

New York State Directory of Certified DBE/ACDBE Firms

<https://nysucp.newnycontracts.com/>

ATTACHMENT 3

49 CFR PART 23

§23.26 FOSTERING SMALL BUSINESS PARTICIPATION

A. Objective (49 CFR Part 23.26)

In accordance with 49 CFR Part 23.26, the County has created an element to structure concession requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

In compliance with 49 CFR Part 23.26, Fostering Small Business Participation, the Airport will meet its objectives using a combination of the following methods and strategies:

- (1) Establish a race-neutral small business set-aside for certain concession opportunities. Such a strategy would include the rationale for selecting small business set-aside concession opportunities which may include consideration of size and availability of small businesses to operate the concession. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location.
- (2) Consider the concession opportunities available through all concession models.
- (3) On concession opportunities that do not include ACDBE contract goals, require all concession models to provide subleasing opportunities of a size that small businesses, including ACDBEs, can reasonably operate.

Concessions will be required to inform the airport of all subleasing opportunities. The airport will conduct or support all outreach activities to promote such opportunities.

- (1) Identify alternative concession contracting approaches to facilitate the ability of small businesses, including ACDBEs, to compete for and obtain direct leasing opportunities.

The Airport will require that Prime Concessions(s) complete the attached form Entitled *Small Business Participation Plan*.

B. Definitions

1. Small Business:

A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals.
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) does not exceed the described in 49 CFR Part 26.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a ACDBE in accordance with 49 CFR 23.

For the purposes of the small business element of the Airport's ACDBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be strongly encouraged to seek ACDBE certification. In addition, minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek ACDBE certification in order to be counted towards race neutral ACDBE participation. Only ACDBE certified firms will be counted towards ACDBE race- neutral participation on concession contracts.

c. Certification and Verification Procedures

The Airport will accept the following certifications for participation in the small business element of the Airport's DBE Program with applicable stipulations:

1. AC/DBE Certification – AC/DBE Certification by the and State which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of AC/DBE certification issued by a certifying agency.
2. SBA (as described in 13 CFR Part 121) – will require the number of employees over the past 12 months and average annual receipts over the past three years using NAICS codes to determine if the business meets the size standards.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of average annual receipts over the past three years.

d. Assurances

The Airport makes the following assurances:

1. The ACDBE Program, including the small business element is not prohibited by law;
2. Certified ACDBEs that meet the size criteria established under the ACDBE Program are presumptively eligible to participate in the small business element of the ACDBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the ACDBE Program is open to small business regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the ACDBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the ACDBE Program that are eligible for ACDBE certification to become certified.
7. This element is open to small businesses regardless of their location. There is no local or other geographic preference as part of this small business element.

e. Monitoring

The Airport actively monitors concessions for possible small business participation and encourages use of small businesses in concessions.

The Airport will implement the following procedures to monitor small business participation on all their concessions:

- The requirements of the ACDBE Program, including the small business element are discussed at pre-proposal meetings and again prior to a contract being executed and the concession beginning work at the County.
- Bidders are required to complete the Small business participation plan and submit with the bid. The plan details the bidder's commitment to utilize small businesses in the operation of their concession. A copy of this plan is included in **Attachment 1**.
- Concessionaires will be required to complete and submit the Annual Report to the ACDBELO or designee. The report includes gross receipts for the period and ACDBE / Small Business participation for the period. The forms found in **Attachment 2** will be required on January 1 (October 1 through September 30). The report will be utilized to complete the annual report required by the FAA.
- The Airport will review the annual reports along with the concession's Small Business Plan to verify and track Small Business participation.

- Concessionaires will be required to list the specific duties, functions and responsibilities that Small Businesses will perform.
- Concessionaires will be required to submit, for review, a written notification of any material change in the duties, functions and responsibilities of ACDBEs prior to implementing the change.

F. Implementation

Implementation of this plan will be effective May 9, 2024. In order to actively implement the City's program elements to foster small business participation and to comply with the requirement of good faith implementation of our ACDBE program, the City will require Concession opportunities without an ACDBE contract goal, that each bidder fill out and submit the FOSTERING SMALL BUSINESS PARTICIPATION form for concession work items. The forms shall be completed and submitted to the Sponsor at time of bid or for negotiated projects, prior to receiving the Notice to Proceed.

ATTACHMENT 1

Fostering Small Business Participation	
Sponsor's Name:	
Airport Name:	
City, State:	
Federal Fiscal Year:	

In accordance with Section 23.26 the following detailed list shall be completed by bidders(s) for Concession Work Items. Note: The firms listed below may or may not be certified ACDBEs.

Small Business Firms to be Utilized (Name, Address, Phone)		<i>Work to be Performed</i>	Total Estimated Cost of Work
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Name			
Address			
City, St, Zip			
Telephone			
Is the firm a Certified DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

(Duplicate form as necessary.)

The following notation is for Sponsor Use Only:

Accepted by: _____ **Date:** _____

ATTACHMENT 2

Annual Report for Airport Concessions:

In accordance with 49 CFR Part 23, Airport Concession Disadvantage Business Enterprise (ACDBE) Program, the airport is required to report on an annual basis, all concession activity of the airport, including any ACDBE (Airport Concession Disadvantaged Business Enterprises) and SBE (Small Business Element) participation. Please complete this form, along with the Report of Certified Firms, and return it to _____ by: February 1, 2025.

Name of Airport: _____

Airport Sponsor: _____

City/State/Zip: _____

Name of Concessionaire: _____

Report period: **10/1/2023 - 9/30/2024**

Required information:

Estimate Gross Receipts for period above: \$ _____

Sub-Concessions:

A. Total (\$) Sub-concessions During the period above: \$ _____

B. Total Number (#) of Sub-concessions during the period above: _____

C. Total (\$) ACDBE Sub-Concessions during the period above (included in A): \$ _____

D. Total (#) ACDBE Sub-Concessions during the period above (Included in B): _____

E. Total (\$) Small Business Sub-Concessions during the period above \$ _____

F. Total number (#) of Small Business Sub-Concessions during the period above:

Management Contracts:

A. Total (\$) Management Contracts During the period above: \$ _____

- B. Total Number (#) of Management Contracts during the period above: _____
- C. Total (\$) ACDBE Management Contracts during the period above (included in A): \$ _____
- D. Total (#) ACDBE Management Contracts during the period above (Included in B): _____
- E. Total (\$) Small Business Sub-Concessions during the period above \$ _____
- F. Total number (#) of Small Business Sub-Concessions during the period above:

Goods and Services:

- A. Total (\$) goods and services *purchased* during the period above \$ _____
- B. Total number (#) of vendor's that goods and services were purchased from: _____
- C. Total (\$) goods and services *purchased* from ACDBE's (included in A): \$ _____
- D. Total (#) of vendor's that goods and services purchased were from ACDBE's (included in B):

- E. Total (\$) Small Business Sub-Concessions during the period above \$ _____
- F. Total number (#) of Small Business Sub-Concessions during the period above:

Reminder: Please complete the required Certified Firms Report for all ACDBE's and Small Businesses that you have reported above.

Form Completed by:

Name: _____ **Phone:** _____

Title: _____

Email: _____

ACDBE Active Participation List

Active Participation List

The sponsor is required by CFR Title 49, Subtitle A, Part 23, subpart A, § 23.27(c) to collect active participation information from all bidders at the time of bid submittal. The data must be collected for all firms who bid as prime concessionaire or sub-concessionaire (successfully or not).

As such, it is the responsibility of the bidder to complete the following information as a condition of submitting a proposal for this opportunity. The sponsor will consider incomplete information to be an irregular proposal.

Airport Name: _____ **Bid Date:** _____

Concession Name: _____

Bidders and potential sub-concessions / suppliers Information:

Firm Name	Firm Address (including ZIP code)	ACDBE or Non- ACDBE Status	NAICS Code(s) of Scope(s) Bid	Race/Gender of Majority Owner	Age of Firm	Annual Gross Receipts
				<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1-3 million <input type="checkbox"/> \$3-6 million <input type="checkbox"/> \$6-10 million <input type="checkbox"/> Over \$10 million

ACDBE Active Participation List

			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1-3 million <input type="checkbox"/> \$3-6 million <input type="checkbox"/> \$6-10 million <input type="checkbox"/> Over \$10 million
			<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-minority Woman <input type="checkbox"/> Other GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1-3 million <input type="checkbox"/> \$3-6 million <input type="checkbox"/> \$6-10 million <input type="checkbox"/> Over \$10 million

If additional space is needed, copy this form and submit with your original proposal
This form must list all firms that supplied a quote (successful or not) and submitted with the proposal.

Attachment 5

Sample Monitoring and Enforcement Mechanisms

Clinton County has available several remedies to enforce the DBE 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 New York State Codes.
3. Other actions deemed appropriate including responsibility reviews on future concession opportunities.

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

1. We will insert the following provisions into concessions agreements and management contracts:
 - The concessionaire and sub concessionaire shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The concessionaire shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of contracts. Failure by the concessionaire to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Syracuse Regional Airport Authority deems appropriate.
 - This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.
 - The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statements in further agreements.
2. We will implement our compliance and monitoring procedures as follows:
 - The requirements of the ACDBE Program are discussed at pre-proposal meetings and again prior to a contract being executed and the concession beginning work at the airport.

- Concessionaires will be required to complete and submit the Report for Airport Concessions twice annually to the ACDBELO or designee. The report includes gross receipts for the period and ACDBE participation for the period. The forms found in **Attachment 8** will be required on January 1 (October 1 through September 30). The report will be utilized to complete the annual report required by the FAA.
 - The Airport will review the annual reports along with the concession's Letter of Intent to verify and track ACDBE participation.
 - Concessionaires will be required to list the specific duties, functions and responsibilities that ACDBEs will perform.
 - Concessionaires will be required to submit, for review, a written notification of any material change in the duties, functions and responsibilities of ACDBEs prior to implementing the change.
 - The Airport will periodically review the specific duties, functions and responsibilities of each ACDBE to confirm that no material change has occurred.
 - The Airport will perform reviews, including periodic site visits to ACDBE concessionaires with local offices to confirm both the ACDBE concession and/or ACDBE suppliers are performing listed duties, functions and responsibilities. For those without an office on-site or local, the Airport may request copies of awards, purchase orders, invoices and/or cancelled checks to verify participation by ACDBE firms.
 - The Airport will document the monitoring and enforcement mechanisms in the form of a written certification prepared by the ACDBELO or designee.
 - The Airport currently does not have any joint venture agreements. In the event the Airport enters into a Joint Venture Agreement, the agreements will be reviewed in accordance with 49 CFR Part 23 and the July 2008 FAA Joint Venture Guidance.
-
- The Airport will monitor the compliance and good faith efforts of concessionaires in meeting the requirements of this Program. They will have access to necessary records to examine for the purpose of determining compliance with this Program, including, but not limited to, records, records of expenditures, contracts between concessionaires and ACDBE participants, and other records pertaining to the ACDBE participation plan.
 - The Airport will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This will be accomplished by:

Attachment 6

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

Amount of Goal \$118,404

Name of Recipient:

Clinton County
Plattsburgh International Airport

Goal Period:

FY-2023-2024-2025 – October 1, 2022 through September 30, 2025

Overall Three-Year Goal:

1.61%, to be accomplished through 1.61% RC and 0.00% RN

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.

Market Area

The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and in which the firms which receive the substantial majority of concessions-related revenues are located.

Clinton County has determined the market area is as follows:

Type of Concession	Company	City	State	Nationwide
Vending	Valley Vending Service	Plattsburgh	NY	
Vending	Pepsico	Plattsburgh	NY	
ATM	Rabideau Money Machines	Plattsburgh	NY	
Food	Tailwind Concessions			XX

Base of Goal

To calculate the base of the goal Clinton County 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 for Previous 3 Years - Non-Car Rental Concessions

Fiscal Year	Non-Car Concessions Revenue (Gross Receipts)
2021	\$1,056,118
2020	\$1,248,811
2019	\$2,451,422

Clinton County estimates that revenues to existing concessions will return to pre-pandemic figures over the next three years due to the uncertainty of travel to due loss of airlines and inflation. Therefore, we are utilizing 2019 as our base figure in the calculations.

(2019) \$2,451,422 x 3 years = \$7,354,266 is the recipient's base of goal for non-car rental concessions.

The concession opportunities anticipated during this goal period are:

Food and Beverage, vending and ATM with estimated gross receipts of \$6,857,739.

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

Management Contract or Subcontract

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

Step 1: 23.51(c)

We determined the base figure for the relative availability of ACDBEs for non-car rental concessions. 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

The data source or demonstrable evidence used was the New York State DBE/ACDBE UCP directory and Census Bureau data.

Concession Activity	NAICS / SIC code/s	ACDBE Firms	All firms	% Availability
Food and Beverage Supplies	722511	4,041	249,975	
Vending	454210/ 445132	0	199	
ATM	522320	1	532	
Totals		4,042	250,709	1.61

When we divided the numerator by the denominator we arrived at the Step 1 base figure for our overall goal for non-car rental concessions of: **1.61%**.

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.

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

There is no historical ACDBE data to reference to make an adjustment to the Step 1 base figure therefore the Clinton County is adopting its Step 1 base figure of 1.61% as its overall goal for this 3-year goal period.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

Prior to submitting this goal to the FAA, Clinton County consulted with the following stakeholders:

- New York State Empire State Development Division of Minority and Women's Business Development
- The National Minority Business Council
- North Country Chamber of Commerce
- Non-Car Rental concessions located at the airport

No comments have been received.

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

Clinton County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. Clinton County 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 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. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
5. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

We estimate that, in meeting our overall goal of 1.61%, we will obtain 0.00% from race-neutral participation and 1.61% through race-conscious measures.

1. Data from private sector MBE/WBE participation;
2. Information you obtained through consultation with stakeholders;

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

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

The Airport Authority does not have a history of ACDBE participation or over-achievement of goals to reference and expects to obtain its ACDBE participation through the use of ACDBE goals or a conscious effort to obtain ACDBE participation. Therefore, we are applying the entire goal of 1.61% to race-conscious participation.

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

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

Attachment 7

Section 23.45: Overall Goal Calculation for Car Rentals

Section 23.45: Overall Goal Calculation for Car Rental Company Concessions

Amount of Goal \$91,894

Name of Recipient:

Clinton County
Plattsburgh International Airport

Goal Period:

FY-2023-2024-2025 – October 1, 2022 through September 30, 2025

Overall Three-Year Goal:

1.34%, to be accomplished through 0.00% RC and 1.34% RN

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.

Goal Based on Goods and Services Purchases - Determination:

Upon review of the market, 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/services from ACDBEs. This is due to the fact that no certified ACDBE car rental companies exist within the market. As such, Clinton County has structured the goal entirely in terms of the purchases of goods and services.

We determined the goal based on outreach for the purchases of goods and services from certified ACDBE firms and/or potential ACDBE firms in the market area. This basis is in lieu of a goal based upon a percentage of total gross receipts of car rental operations at the Airport. We will make a good faith effort to pursue opportunities to meet the goods and services goal. We will continue to consult and work with the New York State DOT & UCP, our car rental concessionaires at the Airport, similarly situated airports in our region, minority and women businesses in the State, minority serving institutions, local pro-business organizations, and targeted media publications to find

prospective ACDBE firms. We will work with our car rental companies to strategize outreach to New York State DOT & UCP certified ACDBEs that may be able to provide car rental goods and services, to encourage current vendors who may be eligible for ACDBE certification to apply, and to encourage firms already working at the airport but certified as ACDBE in other states, to apply via the interstate certification process. The New York State DOT & UCP is aware of this requirement and is on board to assist and process certifications as required by 49 CFR Subpart C.

We have the following car rental agencies operating at the airport: Enterprise and Avis-Budget.

After collaboration and discussion with the Airport, car rental company concessionaires at the Airport stated that the goods and services they may need in the goal period are: Automobile repair, dealers and parts, tires, insurance, glass replacement, fuel, oil changes, car wash, office supplies, locksmith, and towing with estimated gross receipts of \$6,857,739.

Market Area

The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and in which the firms which receive the substantial majority of concessions-related revenues are located.

Clinton County has determined that its market area is Nationwide.

Base of Goal

To calculate the base of the goal, Clinton County considered the previous 3 years of car rental expenditures/purchases and the projected potential car rental expenditures three years into the future, including upcoming new opportunities.

Expenditures for Previous 3 Years - Car Rental

Fiscal Year	Car Rental Expenditures/Purchases	% Growth
2021	1,643,809	8.18%
2020	1,200,863	-52%
2019	2,285,913	

Clinton County estimates that revenues to existing concessions will return to pre-pandemic figures over the next three years due to the uncertainty of travel, due loss of airlines and inflation. Therefore, we are utilizing 2019 as our base figure in the calculations.

(2019) \$2,285,913 x 3 years = **\$6,857,739** is the recipient's base of goal for non-car concessions.

The following are not included in this base: (a) non-car rental operations.

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 Clinton County 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)

The data source or demonstrable evidence used was the FAA Matchmaker ACDBE UCP directory and Census Bureau data.

Concession Type	NAICS Code	ACDBE Firms	All Firms in Market Area	% of ACDBE Firms that may be available
Automobile Body Repair	811111	21	81,617	
Automobile dealer	441110	3	21,383	
Automobile Parts	423120	13	12,500	
Tires	423130	8	2,606	
Insurance	524210	17	134,902	
Glass Replacement / Repair	811122	5	6,274	
Petroleum	447190 / 457120	3	12,812	
Oil Change	811191	8	8,117	
Car Wash Supplies	423850	0	4,485	
Office Supplies	424120	29	3,751	
Locksmith Service	561622	5	4,008	
Towing	488410	9	9,609	
Total		121	302,064	.04

Based on the chart above our Step 1 base figure is 0.04% adjusted to 1.00% per FAA guidelines. *Per USDOT, if the Step 1 base figure is under 1% you must adjust the goal*

upward to at least 1.0% based on planned outreach efforts to certified and potential ACDBEs.

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 0.34%. Our overall goal for car rental concessions is 1.34%.

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:

<i>FY</i>	<i>RC</i>	<i>RN</i>	<i>Total Achievement</i>
<i>2021</i>	<i>0.00</i>	<i>1.67%</i>	<i>1.67%</i>
<i>2020</i>	<i>0.00</i>	<i>1.76%</i>	<i>1.76%</i>
<i>2019</i>	<i>0.00</i>	<i>1.54%</i>	<i>1.54%</i>

Arranging this historical data from low to high, 1.54%, 1.67%, and 1.76%, the median is 1.67% which is our Step 2 figure.

To arrive at an overall goal, we added our Step 1 base figure with our Step 2 adjustment figure and then averaged the total arriving at an overall goal of 1.34%.

$$1.00\% + 1.67\% = 2.67\% / 2 = 1.34\%$$

We feel this adjusted goal figure will accurately reflect ACDBE non-car rental concession participation that can be achieved during this 3-year period.

Further, there are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of ACDBEs.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

Prior to submitting this goal to the FAA, Clinton County consulted with the following stakeholders:

- New York State Empire State Development Division of Minority and Women's Business Development
- The National Minority Business Council
- North Country Chamber of Commerce
- Car Rental concessions located at the airport

No comments have been received.

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

Clinton County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. Clinton County 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 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. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
5. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

We estimate that, in meeting our overall goal of 1.34%, we will obtain 1.34% from race-neutral participation and 0.0% through race-conscious measures.

1. Data from private sector MBE/WBE participation;
2. Information you obtained through consultation with stakeholders;

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

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

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

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

Attachment 7

Demonstration of Good Faith Efforts - Forms 1 and 2

[The following Forms 1 and 2 are provided for illustrative purposes ONLY. Any forms Recipients develop and use for purposes of assessing bidder/respondent good faith efforts should be included with solicitation documents.]

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

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession [***bid/RFP/RLI***] in the following manner:

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

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

Legal name of bidder/respondent's firm: _____

Bidder/Respondent Representative:

Name & Title

Signature

Date

FORM 2: LETTER OF INTENT

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

Name of bidder/respondent's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of ACDBE firm: _____

Name & title of ACDBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Role to be performed by ACDBE firm:

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

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

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

Signature of Bidder/Respondent's Authorized Representative

Date: _____

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

Signature of ACDBE's Authorized Representative

Date: _____

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

Submit this page for each ACDBE participant.

Attachment 9

ACDBE Certification Application Form

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

ATTACHMENT 10

State's UCP Agreement

New York State UCP Agreement can be found here:

<https://www.dot.ny.gov/main/business-center/civil-rights2/civil-rights-repository/Tab/NYSUCP%20SOP%20-%20Revised%20June%202013.pdf>

Attachment 11

Regulations: 49 CFR part 23

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

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