

**Syracuse Regional Airport Authority
Syracuse Hancock International Airport
Syracuse, NY**



**Airport Concession Disadvantaged Business Enterprise (ACDBE) Program
49 CFR Part 23**

August 2025

POLICY STATEMENT

Section 23.1, 23.23

Objectives/Policy Statement

Syracuse Regional Airport Authority operator of Syracuse Hancock International Airport, herein called "SRAA", 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. SRAA 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). SRAA has signed airport grant assurances that it will comply with 49 CFR part 23.

It is the policy of SRAA 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.

Dawn O'Shaughnessy has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Dawn O'Shaughnessy 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 SRAA in its financial assistance agreements with the Department of Transportation.

SRAA has disseminated this policy statement to the Board of Directors and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. Copies of this statement are available upon request at Syracuse Hancock International Airport, and to DBE and non-DBE business communities that perform work on DOT-assisted contracts through contract documents.


Robin Watkins, Chief Financial Officer


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

SRAA] 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

SRAA 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

SRAA 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, SRAA 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.

SRAA 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

SRAA 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

SRAA is a small hub primary airport required to have an ACDBE program.

The ACDBE program will be implemented at Syracuse Hancock International Airport.

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

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

Section 23.23 Administrative Provisions

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

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

We have designated the following individual as our ACDBELO:

Dawn O'Shaughnessy
E-mail: oshaughnessyd@syrairport.org
Telephone: 315-455-3643

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that SRAA complies with all provision of 49 CFR part 23. The ACDBELO has direct, independent access to the Executive Director 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 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 SRAA progress toward attainment and identifies ways to improve progress.
7. participates in pre-bid meetings.
8. Advises the CEO/governing body 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. Provides ACDBEs with information and assistance in preparing and responding to bids.
12. Maintains the SRAA updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: New York State Unified Certification Program (NYSUCP) 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.

The Directory can be found at <https://nysucp.newnycontracts.com>.

A link to the directory can also be found in **Attachment 2**.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

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

We will follow all federal state and local nondiscrimination laws. These laws, policies and procedures include, but are not limited to Title VI and 49 CFR Part 26 and 49 CFR Part 23.

SRAA will include the following assurances in all concession agreements and management contracts it executes:

- The concessionaire and subconcessionaire 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.

SRAA 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))

SRAA's overall goal methodology and a description of the race-neutral measures it will use to meet the goals are described in Section 23.25 and Attachment 5 and Attachment 6 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If SRAA 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 5 and Attachment 6 of this plan. (23.25(e))

SRAA 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))

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

Section 23.26 Fostering Small Business Participation

SRAA 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 11 to this ACDBE Program. The program elements will be actively implemented to foster small business participation. SRAA acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

SRAA 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

SRAA 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, and each year thereafter, we will submit to the FAA Regional Civil Rights Office an annual Uniform Report of ACDBE Participation.

Section 23.29 Compliance and Enforcement Procedures

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

1. We 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 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 in Attachment 3.
3. The Airport has a monitoring mechanism in place to ensure that the required provisions are being incorporated in concession agreements and management contracts. This includes a written certification that the Airport has reviewed records of all contracts, leases, joint venture agreements, or concession related agreements.
4. We will implement a monitoring and enforcement mechanism to ensure that work committed to an ACDBE firm at contract award is actually performed by the ACDBE firm. This mechanism will provide a running tally of actual ACDBE attainments. These mechanisms will include:
 - 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 annually to the Fiscal Officer. The report includes gross receipts for the period October 1-September 30 and ACDBE participation for the same period. The forms found in Attachment 4 will be required on February 1 and will be utilized to complete the annual report required by the FAA.
 - SRAA 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.
 - SRAA 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.
 - SRAA will document the monitoring and enforcement mechanisms in the form of a written certification prepared by the Fiscal Officer.
 - SRAA 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.

CERTIFICATION AND ELIGIBILITY

Section 23.31

Certification Standards and Procedures

We will rely on the New York Unified Certification Program (UCP) to use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in our concessions program.

SRAA is a non-certifying member of the Unified Certification Program (UCP) administered by the State of New York which will make ACDBE certification decisions on behalf of the Airport. The UCP meets all of the requirements of this section. A copy of the signed agreement page of the UCP can be found in Attachment 9.

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 confirm their certification at that time.

The UCP will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets, for pay telephone companies it is 1500 employees and for ACDBE automobile dealers is 350 employees.

Section 23.35

The personal net worth standard used in determining eligibility for purposes of part 23 is posted online on the Departmental Office of Civil Rights' webpage, available at <https://www.transportation.gov/DBEPNW>. Any individual who has a PNW exceeding this amount is not a socially and economically disadvantaged individual for purposes of this part, even if the individual is a member of a group otherwise presumed to be disadvantaged.

The Airport relies on the NYSUCP to use the certification standards of part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i))

The UCP will use the Uniform Application Form found in appendix F to part 26 with additional instruction as stated in 23.39(g), also found in Attachment 8.

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, we may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. We 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))

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41

Overall Goals

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

SRAA 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

SRAA 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, SRAA 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.

SRAA 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).

SRAA 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 SRAA 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 SRAA.

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 5 to this program.

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 6 to this program.

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

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in Attachments 5 & 6 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

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

SRAA 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. We 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).

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

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the 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 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/offers 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 Airport's concession specific goals.

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 SRAA 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.

SRAA 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:

- SRAA 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
- SRAA 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, SRAA 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

SRAA 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

SRAA 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.

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

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

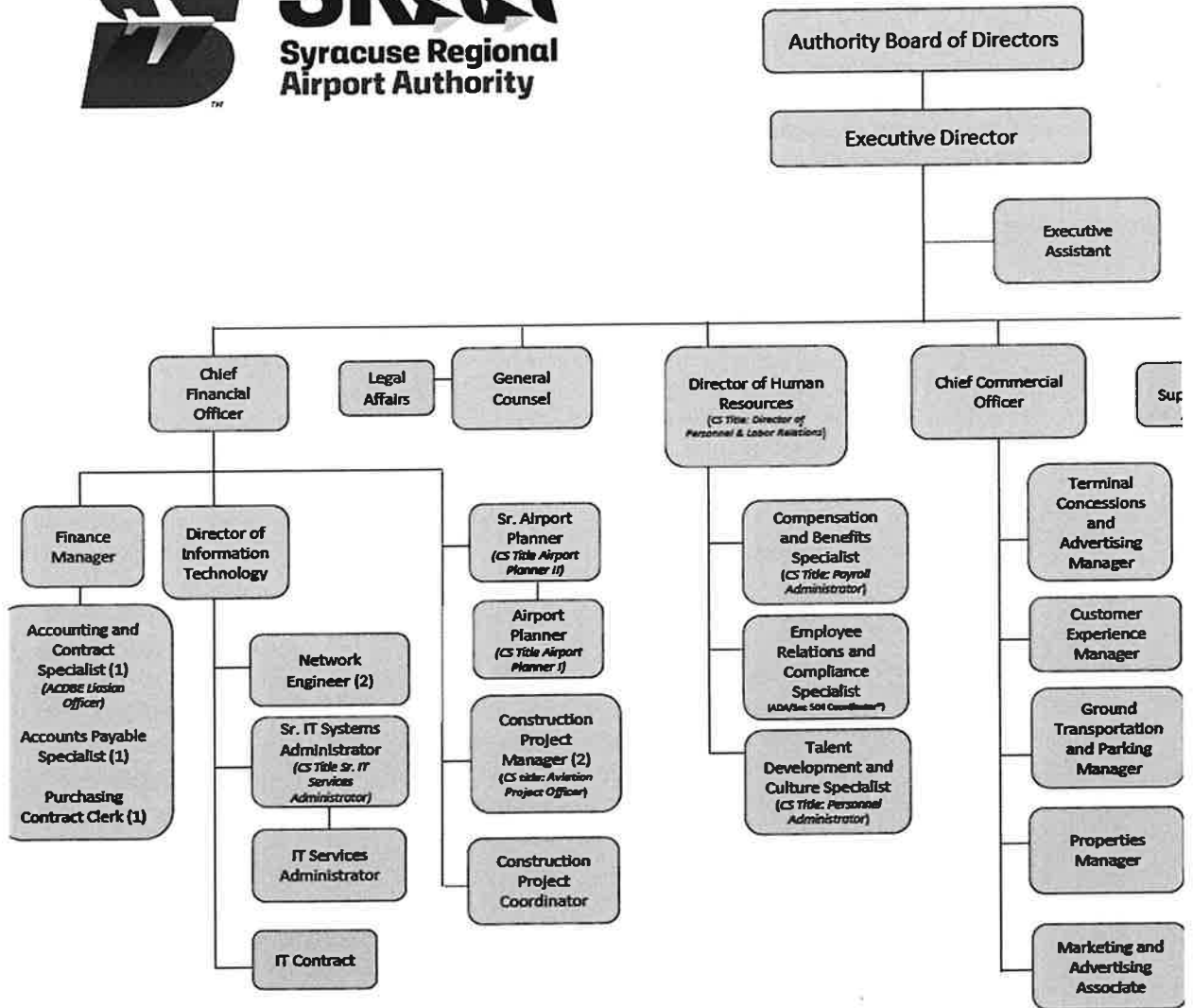
SRAA will not use a local geographic preference. For purposes of this section, a local geographic preference is any requirement that gives a concessionaire located in one place (e.g., our local area) an advantage over concessionaires from other places in obtaining business as, or with, a concession at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

ATTACHMENTS

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

Attachment 1

Organizational Chart



Revision Date: August 28, 2025

Attachment 2

New York State UCP DBE Directory

<https://nysucp.newnycontracts.com>

Attachment 3

Monitoring and Enforcement Mechanisms

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

- Breach of contract action, pursuant to the terms of the contract.
- Other actions deemed appropriate including responsibility reviews on future concession opportunities.

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

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

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

- SRAA will monitor the compliance and good faith efforts of concessionaires in meeting the requirements of this Program. The 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.

- SRAA 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:

- 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 annually to the Fiscal Officer. The report includes gross receipts for the period October 1 – September 30 and ACDBE participation for the same period. The forms found in Attachment 4 will be required on February 1 and will be utilized to complete the annual report required by the FAA.
- SRAA will review the semi-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.
 - SRAA will periodically review the specific duties, functions and responsibilities of each ACDBE to confirm that no material change has occurred.
 - SRAA 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.

- SRAA will document the monitoring and enforcement mechanisms in the form of a written certification prepared by the Fiscal Officer.
- SRAA 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.

SRAA will include the following assurances in all concession agreements and management contracts it executes:

- The concessionaire and subconcessionaire 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.

Attachment 4

Annual Report for Airport Concessions



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) participation. Please complete this form, along with the ACDBE Firms report, and return to Dawn O'Shaughnessy at oshaughnessyd@syrairport.org as soon as possible, no later than _____.

Name of Airport: Syracuse Hancock International Airport

Airport Sponsor: Syracuse Regional Airport Authority

City/State/Zip: Syracuse, NY 13212

Name of Concessionaire: _____

Report period: _____

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. From C, total (\$) and D, total (#) ACDBE Sub-Concessions from:

Race-Conscious (*Race-conscious* means a measure or program that is focused specifically on assisting only ACDBEs, including women-owned ACDBEs. For the purposes of this part, race-conscious measures include gender-conscious measures.)
\$ _____ and # _____

Race-Neutral (*Race-neutral* means a measure or program that is, or can be, used to assist all small businesses, without making distinctions or classifications on the basis of race or gender.)
\$ _____ and # _____

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. From C, total (\$) and D, total (#) ACDBE Management Contracts from:

Race-Conscious (*Race-conscious* means a measure or program that is focused specifically on assisting only ACDBEs, including women-owned ACDBEs. For the purposes of this part, race-conscious measures include gender-conscious measures.)
\$ _____ and # _____

Race-Neutral (*Race-neutral* means a measure or program that is, or can be, used to assist all small businesses, without making distinctions or classifications on the basis of race or gender.)
\$ _____ and # _____

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. From C, total (\$) and D, total (#) ACDBE goods and services purchased from:

Race-Conscious (*Race-conscious* means a measure or program that is focused specifically on assisting only ACDBEs, including women-owned ACDBEs. For the purposes of this part, race-conscious measures include gender-conscious measures.)
\$ _____ and # _____

Race-Neutral (*Race-neutral* means a measure or program that is, or can be, used to assist all small businesses, without making distinctions or classifications on the basis of race or gender.)
\$ _____ and # _____

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

Attachment 5

Section 23.45 Overall Goal Calculation for Concessions Other Than Car Rentals
Amount of Goal

Name of Recipient: Syracuse Regional Airport Authority (SRAA)

Goal Period: FY-2025-2026-2027 – October 1, 2024, through September 30, 2027

Overall Three-Year Goal:

1.62% to be accomplished through 0.00% Race Conscious and 1.62% Race Neutral

Methodology used to Calculate Overall Goal:

SRAA is determining the extent, if any, the firms in the market have suffered discrimination or its effects in connection with concession opportunities and related business opportunities. The process includes a review of the market area, a review of the previous three years of gross concession receipts and projection over the next three years.

Market Area:

The market is the geographical area where the majority of firms seeking to do concessions business with the airport are located.

SRAA has determined the market area identified below:

Type of Concession	Company	City	State	Nationwide
News/Gifts	Delaware North	Buffalo	NY	Yes
Food Service	Delaware North	Buffalo	NY	Yes
Tavern	Delaware North	Buffalo	NY	Yes
ATM	Key Bank	Cleveland	OH	Yes
Vending	American Food & Vending	Syracuse	NY	No
Tavern	CAVU Experiences (AMER)	Chicago	IL	Yes
Food Service	CAVU Experiences (AMER)	Chicago	IL	Yes
Food Service	Gideon Total Management	Fort Worth	TX	Yes

Non-Car Rental Concessions Base Goal

Non-car concessions consist of food and beverage, advertising, retail, vending and ATM sales. 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.

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.

To calculate the base of the goal, Syracuse Regional Airport Authority 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.

Fiscal Year	Non-Car Concessions Revenue (Gross Receipts)
2021	\$5,219,685
2022	\$10,901,334
2023	\$12,454,049
2024	\$13,838,527

The Syracuse Regional Airport Authority estimates that revenues from existing concessions will grow by 2.0% over the next three years due to increased concession opportunities, inflation and increased passenger traffic.

Goal Period:

2025 - $\$13,838,527 + 2\%$ (\$276,770.54) = \$14,115,298

2026 - $\$14,115,298 + 2\%$ (\$282,306) = \$14,397,604

2027 - $\$14,397,604 + 2\%$ (\$287,952) = \$14,685,556

$\$14,115,298 + \$14,397,604 + \$14,685,56 = \$43,198,458$ is the recipients base of the goal for non-car rental concessions.

Methodology used to Calculate Overall Goal

Goods and Services

We can meet the percentage goal by including purchases 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 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 denominator) and to the base from which the airport's percentage goal is calculated (23.55 (b)). 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 (23.47 (c)). *While we realize that this appears to go against the normal rules and rational 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 FAA Matchmaker System and Census Bureau data.

Concession Activity	NAICS / SIC codes	ACDBE Firms	All firms	% Availability
Gifts/Novelties/Souvenir	453220	198	19,220	1.03%
Food Service	722310	50	3,821	1.31%
Snack Stands	722330	9	8,489	.11%
Tavern	722410	15	38,304	.04%
ATM	522320	1	3,353	.03%
Vending (NY)	445132	4	147	2.72%
Totals		277	73,534	.38%

When we divided the numerator by the denominator, we arrived at the Step 1 base figure for our overall goal for non-car rental concession of: 0.38%.

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 to arrive at our goal.

In order to reflect as accurately as possible, the ACDBE participation we would expect in the absence of discrimination we have adjusted the base figure by 2.86%.

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

Past History Participation

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

FY	RC	RN	Total Achievement
21	0.00%	.85%	.85%
22	0.00%	1.18%	1.18%
23	0.00%	4.53%	4.53%
24	0.00%	5.65%	5.65%

Arranging this historical data from low to high 0.85%, 1.18%, 4.53% and 5.65%, the median is 2.86%, which is our Step 2 figure.

$$.38\% + 2.86\% = 3.24\% / 2 = 1.62\%$$

To arrive at an overall goal, we added our Step 1 base figure with our Step 2 adjustment figure and then averaging the total arriving at an overall goal of 1.62%.

We feel this adjusted goal figure will accurately reflect ACDBE non-car rental concession participation that can be achieved during this 3-year period. 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, SRAA consulted with the following stakeholders: minority, women's and general contractor groups, community organizations, our concessionaires and their representatives, which could be expected to have information concerning the availability of ACDBEs and non-ACDBEs. The consultation process was also intended to gather information concerning the effects of discrimination on opportunities for ACDBEs, if present – and establishing a level playing field for the participation of ACDBEs.

The consultation was a face-to-face meeting on August 28, 2025, at the airport.

One comment was reported related to the number of ACDBEs currently participating at the airport.

Breakout of Estimated Race-Neutral & Race Conscious Participation

Section 23.512

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

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 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; and
6. Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

We estimate that, in meeting our overall goal of 1.62% we will obtain 1.62% from race-neutral participation and 0.00% through race-conscious measures.

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:

1. ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures;
2. 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;
3. ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

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

Attachment 6

Section 23.45 Overall Goal Calculation for Car Rental Company Concessions

Amount of Goal: **\$833,419**

Name of Recipient: Syracuse Regional Airport Authority (SRAA)

Goal Period: FY-2025-2026-2027 – October 1, 2024 through September 30, 2027

Overall Three-Year Goal: 1.32%, to be accomplished through 0.00% RC and 1.32% RN

Methodology used to Calculate Overall Goal:

SRAA is determining the extent, if any, the firms in the market have suffered discrimination or its effects in connection with concession opportunities and related business opportunities. The process includes a review of the market area, a review of the previous three years of car rental expenditures/purchases and the potential car rental expenditures into the future, including upcoming new opportunities.

Goal Based on Goods and Services – Determination:

Upon review of the market, it appears that all or most of the goal is likely to be met through 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, SRAA 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 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, Alamo, National, Hertz, Dollar, Avis-Budget, and Payless.

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 parts, oil change services, office supplies, auto repair services, insurance services, tires and landscaping services, etc. with estimated expenditures of \$55,561,298.

Market Area

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

SRAA has determined that its market area is nationwide.

Car Rental Concessions Base Goal

To calculate the base of the goal, Syracuse Regional Airport Authority 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
2022	\$20,396,692
2023	\$13,537,989
2024	\$17,452,201
2025 EST	\$17,975,767
2026 EST	\$18,515,040
2027 EST	\$19,070,491

The Syracuse Regional Airport Authority estimates expenditures will increase by 3% over the next 3 years due to inflation and increased passenger traffic as shown below.

2024 $\$17,752,201 + 3\% (\$523,566) = \$17,975,767$

2025 $\$17,975,767 + 3\% (\$539,273) = \$18,515,040$

2026 $\$18,515,040 + 3\% (\$555,451) = \$19,070,491$

$\$17,975,767 + \$18,515,040 + \$19,070,491 = \$55,561,298$ is the recipient's base of the goal for car rental concessions.

Step 1: 23.51 (c)

The data source or demonstrable evidence used was the NYSUCP DBE/ACDBE Directory and the Census Bureau data.

NAICS	Type of Concession	Total ACDBE's	Total All Firms	% of ACDBE Firms that may be available
811121	Auto Body Work	0	1,692	0.00%
423120	Auto Parts	0	481	0.00%
811192	Car Wash & Detailing	0	806	0.00%
238210	Electrical (Low Voltage)	1	5,206	0.02%
524210	Insurance	14	119,543	0.01%
424350	Car Seats	0	8,800	0.00%
811191	Oil Change	0	180	0.00%
561730	Snow Plow	3	7,537	0.04%
561720	Janitorial Services	0	3,134	0.00%
811490	Key Cutting	0	597	0.00%
424120	Office Supplies	15	2,375	0.63%
561612	Security	54	7,692	0.70%
423130	Tires	3	1,194	0.25%
488410	Towing	0	450	0.00%
812331	Uniform	1	453	0.22%
811122	Windshield Repair	0	244	0.00%
424720	Petroleum Products	13	1,850	0.70%
TOTAL		104	162,234	0.06%

Based on the chart above our Step 1 base figure is 0.06%, which is adjusted to 0.10%.

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.

Past History Participation

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

FY	RC	RN	Total Achievement
21	0.00%	2.45%	2.45%
22	0.00%	2.62%	2.62%
23	0.00%	2.41%	2.41%
24	0.00%	6.99%	6.99%

Arranging this historical data from low to high, 2.41%, 2.45%, 2.62% and 6.99%, the median is 2.54 % 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

$$0.10\% + 2.54\% = 2.60\% / 2 = 1.32\%$$

We feel this adjusted goal figure will accurately reflect ACDBE 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, SRAA consulted with the following stakeholders: minority, women's and general contractor groups, community organizations, our concessionaires and their representatives, which could be expected to have information concerning the availability of ACDBEs and non-ACDBEs. The consultation process was also intended to gather information concerning the effects of discrimination on opportunities for ACDBEs, if present – and establishing a level playing field for the participation of ACDBEs.

The consultation was a face-to-face meeting on August 28, 2025 at the airport.

One comment was reported related to the number of ACDBEs currently participating at the airport.

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

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

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; and

We estimate that, in meeting our overall goal of 1.32%, we will obtain 1.32% from race-neutral participation and 0.00% through race-conscious measures.

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

Form 1: UTILIZATION STATEMENT



AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)

UTILIZATION STATEMENT

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

____ The Bidder/Respondent is committed to a minimum of ____ % ACDBE utilization on this contract.

____ The Bidder/Respondent (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 Proposer/Bidder/Respondent's firm: _____

State Registration No. _____

By _____
(Signature)

Title

FORM 2: LETTER OF INTENT



AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) LETTER OF INTENT

Name of Proposer/Bidder/Respondent'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/Respondent 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/Respondent 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.)

Revision Date: August 28, 2025

Attachment 8

ACDBE Certification Application Form

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

Revision Date: August 28, 2025

ATTACHMENT 9

New York State's UCP Agreement

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
PROPOSAL
AND
MEMORANDUM OF UNDERSTANDING**

April 2004

RECEIVED
DEPT OF TRANSPORTATION
O.E.D.O.C.
2004 JUN 29 PM 12:43

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
PROPOSAL
AND
MEMORANDUM OF UNDERSTANDING**

Introduction

This Proposal and Memorandum of Understanding (MOU) has been developed to establish a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in New York State in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). The Certifying NYSUCP Partners are: the Metropolitan Transportation Authority (MTA), the Niagara Frontier Transportation Authority (NFTA), the New York State Department of Transportation (NYSDOT), and the Port Authority of New York & New Jersey (PANYNJ).

Background

The Certifying NYSUCP Partners held numerous meetings to discuss the requirements for developing a unified certification program and directory. Each agency discussed its current procedures, minimum requirements, limitations, and the proposed process for program approval. Several critical areas of discussion included: 1) the need for open and honest communication among and between the certifying participating agencies, 2) the need for continuous staff training and development, 3) the need for an effective and efficient internet based DBE directory and 4) the need for an effective public participation and public relations effort.

The Certifying NYSUCP Partners began the task of developing New York's UCP in 1999. The group's initial task was to determine how uniform certification would take place. It was decided that a reciprocal arrangement would be the most effective way to achieve the goals of the NYSUCP. The Certifying NYSUCP Partners agreed that reciprocity among the Certifying NYSUCP Partners would achieve the goal of the UCP in New York State. It was further agreed that the relationship would have to go beyond a mere reciprocity agreement. Each Certifying NYSUCP Partner made a commitment of sufficient resources (i.e., staff, funds, equipment) and expertise to carry out the requirements of the regulation. The Certifying NYSUCP Partners felt that this proposal would allow each agency to maintain its respective staff and resources while satisfying the needs of the NYSUCP.

Once the framework of the NYSUCP was established, the Non-Certifying Partners were identified and invited to participate in planning meetings as well as developing various aspects of the NYSUCP either through feedback or committee participation. Non-Certifying Partners include: Federal Transit Administration (FTA) grantees, Federal Aviation Administration (FAA)

grantees, Federal Highway Administration (FHWA) grantees, Metropolitan Planning Organizations (MPOs), and sub recipients of United States Department of Transportation (USDOT) funds. Committees were formed to address the following aspects of the formation and implementation of the NYSUCP: Forms and Procedures, Database/Directory, MOU, Public Participation and Training, and Executive.

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Appendix B - Federal Transit Administration (FTA) Grantees

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Exhibit B - March 4, 2002 letter from USDOT approving extension

Exhibit C - NYSUCP Standard Operating Procedure

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MEMORANDUM OF UNDERSTANDING

New York State Unified Certification Program

This Memorandum of Understanding (MOU) has been developed to establish a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in New York State (NYS) in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). The NYSUCP Certifying Partners are: the Metropolitan Transportation Authority (MTA), the Niagara Frontier Transportation Authority (NFTA), the New York State Department of Transportation (NYSDOT), and the Port Authority of New York & New Jersey (PANYNJ).

Introduction

Any FAA and FTA grantee expending at least \$250,000 in contracts and all other recipients and subrecipients of United States Department of Transportation (USDOT) assistance must develop a DBE program meeting the requirements of 49 CFR Part 26. Section 26.81 of this regulation requires each state to develop a UCP by March 4, 2002. In accordance with Section 26.81 (a) (1), by letter dated January 18, 2002 New York State requested an extension until September 30, 2002 to file its UCP (see Exhibit A). By letter dated March 20, 2002 the USDOT approved an extension until March 4, 2003 (see Exhibit B). The Certifying NYSUCP Partners agreed that reciprocity concerning certification decisions among the Certifying NYSUCP Partners would achieve the goal of the UCP in New York State. Each Certifying NYSUCP Partner agrees to commit sufficient resources and expertise to carry out the requirements of the regulation.

Organization

Upon the effective date of this Agreement, a designee of NYSDOT shall serve as the Interim Chairperson of the NYSUCP. Upon USDOT's approval of this MOU, a Chairperson shall be selected by unanimous vote of the Certifying NYSUCP Partners. The term of the Chairperson shall be one year. All other votes of the NYSUCP shall be by unanimous vote of the Certifying NYSUCP Partners. An agency shall not serve as Chairperson for more than two consecutive terms. In addition to the powers specifically referenced here, the Chairperson shall function as the administrative officer of the NYSUCP and will serve as its contact person. Nothing in this MOU should be construed to contravene the sovereignty of each participant.

A Certifying NYSUCP Partner may terminate its responsibilities under this Agreement and become a Non-Certifying NYSUCP Partner upon one year's prior notice to all NYSUCP Partners, unless the Certifying NYSUCP Partners agree in writing to a different notice period by unanimous vote. The remaining Certifying NYSUCP Partners shall then either renegotiate this

Agreement or agree in writing to continue operating under the terms of this Agreement.

Purpose

The objectives of the NYSUCP are as follows:

- § To follow the certification procedures and standards and the nondiscrimination requirements of 49 CFR Part 26.
- § To cooperate fully with all oversight, review, and monitoring activities of the USDOT and its operating administrations.
- § To implement USDOT directives and guidance on DBE certification matters.
- § To ensure that all certification and decertification decisions rendered by Certifying NYSUCP Partners are done so on behalf of all NYSUCP Partners with respect to participation in the USDOT DBE program. Certification decisions by the Certifying NYSUCP Partners shall be pre-certifications and shall be binding on all NYSUCP Partners.
- § To maintain a unified DBE directory containing at least the following information for each firm listed: its address, phone number, and the types of work the firm has been listed to perform as a DBE. The NYSUCP shall make the directory available to the public electronically, on the Internet, as well as in print. The NYSUCP shall periodically update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.

Definitions

§ Certifying NYSUCP Partner

A New York State recipient of USDOT funds with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Certifying NYSUCP Partner can issue or revoke DBE certifications. The Certifying NYSUCP Partners are: the MTA, the NFTA, the NYSDOT, and the PANYNJ.

§ Grantee

Any public or private entity that has received USDOT assistance.

§ Non-Certifying NYSUCP Partner

A New York State recipient of USDOT funds, sub recipient, or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Non-Certifying NYSUCP Partner can neither issue nor revoke DBE certification. See Appendices A, B and C for a listing of the Non-Certifying NYSUCP Partners.

§ NYSUCP Partner

All New York State recipients, sub recipients, or grantees participating in this MOU, including both Certifying and Non-Certifying Partners.

§ Recipient

Any public or private entity which receives direct USDOT financial assistance.

§ Subrecipient

Any public or private entity which receives USDOT financial assistance through another recipient.

NYSUCP Partners' Roles and Obligations

All Certifying NYSUCP Partners agree to maintain DBE certification application files, conduct site visits, make certification decisions and handle complaints on behalf of the NYSUCP. The Certifying NYSUCP Partners agree to use the USDOT DBE Certification Application Form.

DBE Directory and Internet Access

The DBE Directory will be located on the NYSUCP web site once it is established. In accordance with 49 CFR Part 26.31, the DBE Directory will include the following publicly available information for each firm:

- § Name, address, and telephone number of firm;
- § Contact person for firm;
- § Types of work performed by the firm with appropriate 6 digit North American Industry Classification System (NAICS) code and description.

The NYSUCP DBE Directory will contain additional information including but not limited to the following:

- § Geographic location of the firm (i.e., county);
- § Web site address of the firm;
- § E-mail address of the firm and/or contact person.

Users will be able to sort by county or type of work, either for a single county/work type or multiple counties/work types. There will be links to and from the NYSUCP Certifying Partners' respective web sites and the New York State M/WBE Directory.

DBE Directory Management

The Certifying NYSUCP Partners will select a DBE Database Manager who will manage and maintain the web site and the DBE database. When a Certifying NYSUCP Partner makes a final DBE certification approval decision, the Certifying NYSUCP Partner shall submit information for inclusion in the electronic DBE Database, directly to the DBE Database Manager. The following information shall be included, at a minimum:

- \$ Name, street address, P.O. Box, telephone and fax numbers, e-mail address and federal identification number of the certified DBE firm;
- \$ Name, sex, ethnicity, race of the owner(s) and county of origin of the DBE firm;
- \$ Type of work performed by the DBE firm using the NAICS adopted by the Small Business Administration (SBA) on October 1, 2000;
- \$ Licenses (type and number);
- \$ Name of Certifying NYSUCP Partner;
- \$ Site visit date;
- \$ Date of certification;
- \$ Annual review status.

The Certifying NYSUCP Partners shall periodically provide the DBE Database Manager with information on firms denied DBE status and pending certification review.

The DBE Database Manager will:

1. Maintain and keep the electronic DBE database current;
2. Make the electronic DBE database available to all NYSUCP Partners and other interested parties;
3. Provide printed copies of the DBE Directory upon request and at a charge to be established based on the costs of printing, shipping and handling;
4. Maintain the NYSUCP web site.

NYSUCP Program Costs and Funding

The cost of establishing the NYSUCP web site and the electronic DBE Directory will be shared equally among all NYSUCP Certifying Partners. The cost of maintaining the NYSUCP web site and the electronic DBE Directory will be shared among all NYSUCP Partners. The cost of creating and establishing the NYSUCP web site and the electronic DBE Directory will be shared equally among all NYSUCP Certifying Partners. NYSUCP Certifying Partners reserve the right to develop a methodology to ascertain maintenance and operational costs and assess costs to Non-Certifying Partners. The procedures for paying bills and obtaining reimbursement shall be determined by the NYSUCP Certifying Partners. In the event that the NYSUCP is sued, the NYSUCP Certifying Partners shall determine the method for defending such lawsuit and funding the defense and any settlement or judgment cost.

Certification Procedures and Process

In addition to the procedures below, the NYSUCP will follow all certification procedures and standards of 49 CFR Part 26, and will implement USDOT directives and guidance on DBE certification matters. The Certifying NYSUCP Partners have established and will implement a Standard Operating Procedure (SOP) to be used by the Certifying NYSUCP Partners. It may be modified as needed and as agreed upon by the Certifying NYSUCP Partners.

§ The NYSUCP will not process a firm having its principal place of business outside of New York State for NYSUCP DBE certification, unless the firm is certified by the UCP in the state in which the firm maintains its principal place of business.

§ Any firm that is certified by the SBA must independently apply for DBE status with the NYSUCP. We will accept the SBA's determination of socially disadvantaged status; however, SBA firms will be required to demonstrate economic disadvantage eligibility and must undergo a site visit.

§ The NYSUCP will utilize a the USDOT DBE Certification Application Form and other related certification documents issued or approved by USDOT to facilitate "one-stop shopping" for applicants.

Industry or Market Concessions

The Certifying NYSUCP Partner to which the application is made will ascertain the geographical area of the applicant firm and its primary work type or industry. The Certifying NYSUCP Partners may forward the application to the most appropriate Certifying NYSUCP Partner in accordance with the firm's geographical area and/or primary work type or industry. The receiving Certifying NYSUCP Partner may accept the referral or reject it. In the event that the referral is rejected, the Certifying NYSUCP Partners will decide which Certifying NYSUCP Partner should process the certification.

Transition of Currently Certified DBEs

Each Certifying NYSUCP Partner shall electronically submit its current DBE Directory to the DBE Database Manager for inclusion in the NYSUCP DBE Directory. Each Certifying NYSUCP Partner shall attest to the fact that each DBE firm submitted has been certified under the provisions of 49 CFR Part 26. The Certifying NYSUCP Partners shall meet to review the listing of currently certified DBE firms and determine the appropriate Certifying NYSUCP Partner for future review of each DBE. A protocol will be developed that will include but not be limited to a review of the: geographical area, primary work type/industry and the date of the

earliest certification approval (the latter applies to those firms that are certified with more than one Certifying NYSUCP Partner. Upon determination of the appropriate Certifying NYSUCP Partner, the Partner with custody of the affected DBE certification files shall forward them to the newly assigned Partner, who shall assume custody and responsibility for the files. In the event of a disagreement concerning the appropriate Certifying NYSUCP Partner, the remaining Certifying NYSUCP Partners will decide.

Firms that have never obtained, or were denied or lost DBE status with one Certifying NYSUCP Partner but are certified with another Certifying NYSUCP Partner will undergo further review as follows:

§ For each affected firm, the Certifying NYSUCP Partners will compare records and submit a summary and recommendation to the other Partners, who will either uphold or overturn the recommendation.

§ If the Certifying NYSUCP Partners are unable to agree upon a recommendation, the other Partners will review all records for the affected firm and render a determination. (Note that consensus is not the objective in this situation. One Partner may institute a challenge to the firm's certification at this point.)

§ The Certifying NYSUCP Partners reserve the right to request additional information from the affected firm in order to render a recommendation or determination.

§ If a decision is made to remove the firm's status, the steps for decertification as outlined in 49 CFR Part 26.87 and in the NYSUCP SOP will be followed.

The Certifying NYSUCP Partners will establish a procedure for resolving conflicts among the Certifying NYSUCP Partners regarding the DBE status of a specific firm.

Quality Assurance (New Certifications)

The NYSUCP SOP has been created to ensure consistent application of UCP program requirements among the Certifying NYSUCP Partners. There will be periodic training of certification staff in order to maintain consistency in application of policy and the rendering of certification determinations.

Annual Review

As a condition of continued certification, DBEs are required to submit on an annual basis, all supporting documentation as required in 49 CFR Part 26 and the NYSUCP SOP. Failure to submit the required documentation may result in implementation of certification removal as outlined in 49 CFR Part 26.87 and the NYSUCP SOP.

Third Party Challenges

In compliance with the regulation, the Certifying NYSUCP Partners will develop a procedure for receiving and handling written complaints alleging the ineligibility of a currently certified firm.

Agency Compliance

§ All Certifying NYSUCP Partners must have an approved DBE Program.

§ All decisions related to eligibility and certification must comply with 49 CFR Part 26.

If any Certifying NYSUCP Partner believes that another Certifying NYSUCP Partner has not complied with the requirements of 49 CFR Part 26, the Partner may make a written complaint to the NYSUCP Chairperson. The Chairperson shall submit the complaint to the remaining Certifying NYSUCP Partners, which will determine the complaint. If the remaining Certifying NYSUCP Partners render a finding in favor of the complainant, they will determine what remedial action, if any, should be taken. The remedial action may take the form of one of the following:

§ Written Findings - The NYSUCP Chairperson acting in conjunction with and on behalf of the NYSUCP will issue a formal written determination to the affected Certifying NYSUCP Partner. The NYSUCP Chairperson shall be responsible for sending written findings to appropriate entities.

§ Monitoring & Concurrence - The NYSUCP Chairperson may issue a formal written determination as set out above, as well as provide a procedural review and concurrence process. The agency in question will be required to obtain NYSUCP concurrence in certification determinations for a specific period of time. Depending upon the circumstances, the Certifying NYSUCP Partners may elect to "pair" the agency with another Certifying NYSUCP Partner for monitoring purposes and to require concurrence by a vote of the Certifying NYSUCP Partners as set forth above for all future certification determinations.

§ Non-Compliance - The NYSUCP Chairperson acting in conjunction with and on behalf of the NYSUCP may find that a NYSUCP Certifying Partner is not acting in good faith and determine that the NYSUCP will not accept firms certified by that Partner until the required changes are implemented. In this situation, the pending applications will be divided amongst the other Certifying NYSUCP Partners for processing until the affected Partner is found to be in compliance. A fee of \$1,000 per application will be assessed against the affected Partner.

The Certifying NYSUCP Partners shall determine when corrective action has been satisfactorily completed. The NYSUCP Chairperson acting in conjunction with and on behalf of the NYSUCP

will issue formal written notification stating the effective date of reinstatement. The Chairperson shall be responsible for sending this written notification to appropriate entities.

Training and Resources

The Certifying NYSUCP Partners will conduct periodic training. The Certifying NYSUCP Partners will equally share the responsibility for training, including costs.

Regional UCP

This Agreement does not create a Regional UCP and is intended to be limited to the State of New York. The signature of any party that does business in more than one state does not create a Regional UCP with such other states.

Implementation Schedule

The Certifying NYSUCP Partners held public briefing sessions throughout the State during September and October 2002 regarding the proposed NYSUCP, its goals and rationale. The Certifying NYSUCP Partners invited DBE and non-DBE firms, as well as community organizations to the briefings. Notification of the public meetings and the NYSUCP occurred in a variety of ways, including but not limited to the following: press releases, a page on the NYSDOT web site, and a direct mailing to individual DBE firms, professional associations, community based organizations, etc. Having considered information set forth at the briefings and in accordance with regulations promulgated by the USDOT at 49 CFR Part 26, the MOU was submitted to the Non-Certifying NYSUCP Partners, USDOT modal agencies, and the Certifying NYSUCP Partners' respective counsels for review and comment in September 2002. Once changes were made based on comments received, the MOU was forwarded to all Partners for signature in February 2003.

The Certifying NYSUCP Partners will adopt an implementation schedule for staff training and the unified DBE directory (see Exhibit D). The Certifying NYSUCP Partners will fully implement the NYSUCP within 18 months of approval of this MOU by the USDOT.

Changes to the NYSUCP based upon direction from the USDOT will be implemented within 6 months of receiving such direction.

Changes to the MOU

Changes to the MOU shall be made in writing and by unanimous vote of the Certifying NYSUCP Partners. FTA and FAA will be contacted periodically to ascertain current qualifying

grantees. Newly qualified grantees will then be added to the appropriate Appendix; signatures will be obtained and forwarded to USDOT.

Effective Date

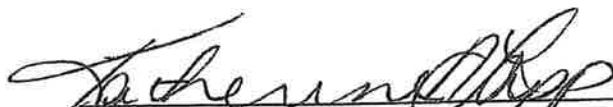
The effective date of this Agreement is the latest date upon which a Certifying NYSUCP Partner executes the Agreement.

Summary


As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

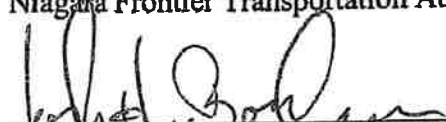
NYSUCP CERTIFYING PARTNERS


Katherine N. Lapp, Executive Director
Metropolitan Transportation Authority


6/4/04
Date


Lawrence Meckler, Executive Director
Niagara Frontier Transportation Authority

April 16, 2004
Date


Joseph H. Boardman, Commissioner
New York State Department of Transportation

5/26/04
Date


Joseph J. Seymour, Executive Director
Port Authority of New York & New Jersey

6/24/04
Date

APPENDIX A

METROPOLITAN PLANNING ORGANIZATIONS AND NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT) SUBRECIPIENTS* OF UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) FUNDS

Adirondack Glens Falls Transportation Council
Binghamton Metropolitan Transportation Study
Capital District Transportation Committee
Elmira Chemung Transportation Council
Genesee Transportation Council
Greater Buffalo Niagara Regional Transportation Council
Herkimer Oneida County Transportation Study
Ithaca Tompkins County Transportation Council
Newburgh Orange County Transportation Council
New York Metropolitan Transportation Council
Poughkeepsie Dutchess County Transportation Council
Syracuse Metropolitan Transportation Council
New York City Department of Design and Construction*
New York City Department of Transportation*
New York State Thruway Authority*

NOTE: This list does not include those municipalities that are not regular NYSDOT subrecipients of USDOT funds. The NYSDOT, as the oversight agency to those municipalities, will ensure that those municipalities will comply with all provisions of the NYSUCP.

APPENDIX B

FEDERAL TRANSIT ADMINISTRATION (FTA) GRANTEES

Capital District Transportation Authority
Central New York Regional Transportation
Chemung County Transit System
City of Long Beach
City of Poughkeepsie
County of Broome
County of Dutchess
County of Nassau
County of Oneida
County of Putnam
County of Rockland
County of Suffolk
County of Ulster
Greater Glens Falls Transit System
New York State Energy Research and Development Authority
Rochester-Genesee Regional Transportation Authority
Tompkins Consolidated Area Transit
Westchester County Department of Transportation

APPENDIX C

FEDERAL AVIATION ADMINISTRATION (FAA) FUNDED AIRPORTS AND GRANTEES (Corresponding Grantees are listed in parentheses after each facility)

Adirondack Regional Airport (Town of Harrietstown)

Akron Airport (Christian Airmen, Inc.)

Albany County Airport (Albany County Airport Authority)

Binghamton Regional Airport/Edward A. Link Field (County of Broome)

Brick Yard Road Airport (Ontario County Industrial Development Aagency)

Brookhaven Airport (Town of Brookhaven)

Buffalo Niagara International Airport (Niagara Frontier Transportation Authority)

Chautauqua County - Jamestown Airport (County of Chautauqua)

Clinton County Airport (County of Clinton)

Columbia County Airport (County of Columbia)

Cortland County Airport/Chase Field (County of Cortland)

Dansville Municipal Airport (Town of North Dansville)

Dutchess County Airport (Dutchess County)

East 34th Street Heliport (City of New York, Dept. of Business Services)

East Hampton Airport (Town of East Hampton)

Elizabeth Field (Town of Southhold)

Elmira/Corning Regional Airport (County of Chemung)

Finger Lakes Regional Airport (County of Seneca)

Floyd D. Bennett Airport (County of Warren)

Francis Grabeski Airport (County of Suffolk)

Fulton County Airport (County of Fulton)

Genesee County Airport (County of Genesee)

Greater Rochester International Airport (County of Monroe)

Hamilton Municipal Airport (Village of Hamilton)

Hornell Municipal Airport (City of Hornell)

JFK International Airport (Port Authority of New York & New Jersey)

Joseph Y. Resnick Airport (Town of Wawarsing)

Kingston Airpark (Kingston Airpark, Inc.)

LaGuardia Airport (Port Authority of New York & New Jersey)

Lake Placid Airport (Town of North Elba)

Lancaster Airport (Lancaster Airport, Inc.)

Ledgedale Airport (Big Fella Enterprises, Inc.)

LeRoy Airport (LeRoy Aviation Services, Inc.)

Long Island/MacArthur Airport (Town of Islip)

Lt. Warren Eaton Chenango County Airport (County of Chenango)

Malone Airport (Town of Malone)

Massena International Airport (Town of Massena)

Montauk Airport (Montauk Airport, Inc.)

Niagara Falls International Airport (Niagara Frontier Transportation Authority)

Ogdensburg International Airport (Ogdensburg Bridge & Port Authority)

Olean Municipal Airport (City of Olean)

Oneida County Airport (County of Oneida)
Oneonta Municipal Airport (City of Oneonta)
Orange County Airport (County of Orange)
Oswego County Airport (County of Oswego)
Perry-Warsaw Municipal Airport (Town of Perry)
Plattsburgh International Airport (County of Clinton)
Potsdam Municipal Airport (Village of Potsdam)
Randall Airport (Aerodrome Development Corp.)
Republic Airport (New York State Department of Transportation)
Saratoga County Airport (County of Saratoga)
Schenectady County Airport (County of Schenectady)
Sidney Municipal Airport (Village of Sidney)
Sky Acres Airport (Sky Acres Enterprises, Inc.)
Stewart International Airport (National Express Corp.)
Sullivan County Airport (County of Sullivan)
Syracuse-Hancock International Airport (City of Syracuse)
Ticonderoga Municipal Airport (Town of Ticonderoga)
Tompkins County Airport (County of Tompkins)
Tri-Cities Airport (Village of Endicott)
Watertown International Airport (City of Watertown)
Wellsville Municipal Airport (Town of Wellsville)
Westchester County Airport (County of Westchester)

Whitford Airport (LDW Properties, Inc.)

Williamson-Sodus Airport (Williamson Flying Club, Inc.)

Wurtsboro-Sullivan County Airport (Wurtsboro Flight Services, Inc.)

Yates County Airport (County of Yates)

NYSUCP NON-CERTIFYING PARTNER

As a result of the requirements set forth in 49 CFR Part 26, we, the undersigned, agree to participate in the NYSUCP in accordance with the tenets of this MOU and agree to abide by its contents. This MOU is being executed by the NYSUCP Partners as separate agreements and at separate times. Each separately executed agreement shall be considered an original of the MOU, as if each Partner had executed the same agreement.

EXECUTED AND DELIVERED by and between the NYSUCP Partners as of the effective date of this MOU.

Matthew J. Driscoll, Mayor

Matthew Driscoll
for

7-1-01
Date

City of Syracuse - Department of Aviation
Agency

**NEW YORK STATE
UNIFIED CERTIFICATION PROGRAM
STANDARD OPERATING PROCEDURE**

I. INTRODUCTION

A Disadvantaged Business Enterprise (DBE) Unified Certification Program (NYSUCP) has been established in New York State (NYS) in accordance with Title 49 Part 26 of the Code of Federal Regulations (49 CFR Part 26). Pursuant to a Memorandum of Understanding (MOU) signed by all recipients required to participate in the NYS NYSUCP, the Metropolitan Transportation Authority (MTA), the Niagara Frontier Transportation Authority (NFTA), the New York State Department of Transportation (NYSDOT) and the Port Authority of New York & New Jersey (PANYNJ) have been designated as Certifying Partners for the NYSUCP.

Each of the Certifying Partners is required to administer a DBE certification program in accordance with 49 CFR Part 26. As part of the NYSUCP, Certifying Partners will make certification decisions on behalf of all U.S. Department of Transportation (USDOT) recipients and sub recipients in New York State with respect to participation in the USDOT DBE Program. Certification decisions by the NYSUCP shall be binding on all USDOT recipients and sub recipients within New York State.

A thorough certification process ensures that the DBE program benefits only bona fide disadvantaged businesses. In order to ensure consistent application and interpretation of the regulatory requirements for DBE certification and consistent certification determinations, all Certifying Partners will use the New York State Unified Certification Program Standard Operating Procedure (NYSUCP SOP).

The NYSUCP SOP sets forth the standards and procedures to be utilized by the all Certifying Partners when making determinations of DBE certification eligibility.

The policies and procedures outlined herein are consistent with the USDOT regulations codified at 49 CFR Part 26.

II. DEFINITIONS

Burden of Proof

Measure of persuasion that is required to convince someone that an alleged fact is true.

Certification

A finding, after a certification eligibility review by a Certifying NYSUCP Partner, that a business meets the certification eligibility requirements and is a bona fide Disadvantaged Business Enterprise.

Certification Interview

Face-to-face meeting between owner(s) qualifying applicant firm for DBE certification and Certifying NYSUCP Partner representative, as part of the certification eligibility review process.

Certifying NYSUCP Partner

A New York State recipient of USDOT funds with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Certifying NYSUCP Partner can issue or revoke DBE certifications.

Clear and Convincing Evidence

A standard of proof, which should leave no reasonable doubt in the mind of the trier of the facts concerning the truth of the matters in issue.

Decertification or Removal of Certification

A finding that there is reasonable cause for a determination that a currently certified DBE no longer meets the eligibility criteria.

Decision Memorandum

Written document prepared by Certifying NYSUCP Partner detailing certification determination rendered.

Denial of Certification

A finding that a business is not a bona fide DBE. A business that has been denied DBE certification cannot reapply for DBE certification for one year from the date of denial.

Grantee

Any public or private entity that has applied for USDOT assistance.

Ineligibility

A finding that a business does not meet the required eligibility thresholds. A business that has been determined to be ineligible cannot reapply for DBE certification for one year from the date of the determination.

Non-Certifying NYSUCP Partner

A New York State recipient of USDOT funds, sub recipient, or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. A Non-Certifying NYSUCP Partner can neither issue nor revoke DBE certification. See Appendices A, B and C to the MOU for a listing of the Non-Certifying NYSUCP Partners.

NYSUCP Hearing Panel

A group that reviews the requests for reconsideration that are filed by DBE firms to the NYSUCP regarding the proposed removal of their status. The group will consist of all of the Certifying Partners except for the Certifying Partner that is responsible for the proposed removal of DBE certification.

NYSUCP Partner

All New York State recipients, sub recipients, or grantees participating in this MOU, including both Certifying and Non-Certifying Partners.

Preponderance of Evidence

A standard of proof which is met when the evidence on a fact indicates that it is "more likely than not" true.

Recipient

Any public or private entity which receives direct USDOT financial assistance.

Reconsideration

Applicant's request for review of the certification decision rendered by Certifying NYSUCP Partner.

Rejection of Application

Non-acceptance of an application for DBE certification because the application is: incomplete; i.e., lacking required signatures; lacking required notarizations; lacking required or requested basic and support documentation; the firm lacks home state DBE certification (if an out-of-state firm); the firm lacks authority to do business in New York State; the firm has no business activity; or, the socially and economically disadvantaged owner(s) lack a required New York State license. A rejected application may be re-submitted at any time after correction of the deficiency.

Sub recipient

Any public or private entity, which receives USDOT financial assistance through another recipient. This excludes third party contracts.

Withdrawal of Application

An applicant request to the Certifying NYSUCP Partner to cease the certification review process. The request must be made in writing. An applicant that has withdrawn its application may re-apply at any time.

III. DBE CERTIFICATION: REGULATORY REQUIREMENTS

Eligibility standards for certification as a DBE and participation in the NYSUCP are governed by federal regulations set forth at 49 CFR Part 26. Only those firms who can demonstrate that they meet the requirements for certification will be granted DBE certification by the NYSUCP.

IV. CERTIFICATION APPLICATION PROCESS

Application for DBE Certification – New Applicants

With the exception of SBA 8[a] Small Business Development and SDB Small Disadvantaged Business programs certified firms, all applicants requesting initial DBE certification must complete and submit a certification application package to one of the NYSUCP Certifying Partners.

The NYSUCP will accept a copy of a firm's application package that was submitted to the SBA and a copy of their certification letter. The NYSUCP will accept the SBA's determination of socially disadvantaged status; however, SBA firms will be required to demonstrate economic disadvantage eligibility and must undergo a site visit.

If a firm has previously filed for, and been denied, DBE certification with a NYSUCP Certifying Partner other than the one with which it is filing the application with, that application may be forwarded to the original reviewing NYSUCP Certifying Partner.

Dependent upon the service provided by the firm and/or its location, an application for DBE certification may be transferred and processed by a NYSUCP Certifying Partner other than the one with which the application was filed.

With the exception of SBA 8[a] and SDB certified firms, a complete certification application package consists of the following:

- USDOT Uniform Application
- SBA Personal Financial Statement for each qualifying socially and economically disadvantaged owner
- Required basic and support documentation as determined by business structure

The verification page of the USDOT Uniform Application and the SBA Personal Financial Statement must all be signed and notarized.

Immediately upon receipt, the application package will be reviewed for completeness. Specifically, the USDOT Uniform Application and SBA Personal Financial Statement are reviewed for original signatures and notarization, and a determination as to whether the basic required supporting documents have been submitted.

The application is reviewed to ascertain the firm's service area(s). Service area is important in determining whether the Certifying Partner in receipt of the application will process it or transfer it to another Certifying Partner.

If the application is essentially complete, it is accepted, logged into the NYSUCP Certifying Partner's vendor base and assigned to certification staff. The firm's

information is transmitted to the NYSUCP Database Manager and logged in as a pending application.

If the application is incomplete, it is returned to the applicant with a letter advising as to the reason for rejection. Incomplete applications may be rejected for:

- lack of home state certification
- lack of signature
- lack of notarization of applicant signature
- incomplete submission of required basic and support documentation
- lack of authorization to do business in New York State
- lack of required New York State license(s) or other credential(s) by the socially and economically disadvantaged owner(s) in the area(s) of business for which certification is being sought
- no business activity

Applications will be accepted from out-of-state firms only if they are DBE certified in their home state by an agency utilizing 49 CFR Part 26.

Certification Review Process

There are three phases in the certification review process:

- Desk Audit
- Interview of the socially and economically disadvantaged owner(s) of the firm.
- On-Site Interview

A Certifying Partner, at its option, may conduct the interview as a separate meeting at its offices, or in conjunction with the on-site interview.

1. Desk Audit

The certification staff will thoroughly review the application package to determine whether all required support documentation has been submitted, and to determine whether any additional information will be requested. Care should be taken to ensure that any requested documentation/information is actually pertinent to the certification review. The certification staff must be mindful that all applications are to be processed within 90 days of receipt of a complete application.

If additional information is required, the certification staff will prepare and send a letter to the applicant firm requesting the information. The letter will include a date for the submission of the additional information and advise the applicant that failure to respond may result in the return of their application. In making a determination as to when the additional information must be submitted, certification staff must allow sufficient time between receipt of the information and conducting the Eligibility Review Meeting/On-Site Review to thoroughly review the requested information.

The certification staff will organize and assemble the applicant information in a business file and file appropriately, insuring confidentiality of the information.

The certification staff will monitor the receipt of the requested information. If the applicant firm fails to submit the requested additional information, a second and final request shall be made. The certification staff will prepare a letter advising the firm that it is a second request and further advising the firm that failure to respond in a timely fashion will be considered failure to cooperate, and will be considered as a reason for denial of DBE certification. The second request will be forwarded to the firm via certified mail. In the event that the firm does not respond to the second request, the application will be processed for denial of certification and all certification processing activity will cease.

Upon receipt of the requested additional information, the certification staff will review it and make a determination as to the completeness of the certification file. An external report (e.g., Dunn and Bradstreet, Lexus/Nexus, etc.) will be requested for the firm, all known affiliates, and other parties.

The certification staff will make a determination regarding the firm's compliance with each of the regulatory threshold requirements:

- size standard
- social disadvantage
- economic disadvantage
- citizenship/lawfully admitted permanent resident

In making a determination of size standard, certification staff must reference and adhere to §26.65 of the regulations.

In making a determination of social and economic disadvantage, certification staff must reference and adhere to §26.63 and §26.67 of the regulations.

In making a determination of citizenship, certification staff must reference §26.67 of the regulation. Each individual qualifying the firm for DBE certification must demonstrate that he/she is a citizen of the United States or a lawfully admitted permanent resident. Each individual must submit acceptable documentation as proof of citizenship or permanent resident status.

If the applicant firm fails to meet any one of the threshold requirements for DBE certification, the firm is ineligible for DBE certification. If any of the socially and economically disadvantaged owner(s) fail to meet any one of the threshold requirements for DBE certification, and this causes the socially and economically disadvantaged ownership to fall below 51%, the firm is ineligible for DBE certification. The firm will be processed as an ineligible firm and will be notified, by letter, of the determination.

The firm may appeal the determination of ineligibility to the U.S. Department of Transportation in accordance with the procedures set forth in §26.89.

If the firm has met the threshold requirements, the certification staff will, upon a thorough and careful review of the complete file, prepare a list of firm specific questions to be answered by the owner(s) of the firm. These questions should be in addition to the standard questions asked of every firm and should address the particulars and unique facts of the applicant firm and its owners.

In preparing firm specific questions, certification staff should be sufficiently knowledgeable of the business area in which the firm is seeking certification, anticipating issues which will require close examination. The certification staff should have knowledge of the capitalization requirements, licensing, technical expertise, and staffing and industry practices. In the event that certification staff is unfamiliar with the requirements for the applicant business, technical assistance should be obtained from technical personnel within the agency or from another NYSUCP Certifying Partner.

Prior to conducting the certification interview meeting/on-site interview, certification staff will contact initial applicant references in order to obtain the most objective responses from the submitted references. At least two, but preferably three, references should be contacted. References may be contacted by telephone or in writing. Both intra-agency and interagency inquiries may be made as well; interagency inquiries will be limited to other government agencies.

Once the applicant file is complete and the questions have been prepared, certification staff must schedule a face-to-face interview with the owner(s) at a time convenient for all participants.

2. Interview

A face-to-face interview must be held with the socially and economically disadvantaged owner(s) of the applicant firm for DBE certification and the certification staff or designees. It provides an opportunity to obtain information, ask questions and clarify inconsistencies, if any.

A Certifying Partner, at its option, may conduct the interview as a separate meeting at its offices, or in conjunction with the on-site review meeting.

The face-to-face interview provides an opportunity for certification staff to:

- assess an applicant's eligibility as a bona fide DBE in accordance with certification eligibility criteria as set forth in the regulations;
- establish that socially and economically disadvantaged individuals "own" the applicant business;

- establish that socially and economically disadvantaged owner(s) have the requisite knowledge, experience and expertise to control the business
- clear up any existing questions and clarify inconsistencies.

It is also an opportunity for the socially and economically disadvantaged owner(s) to ask questions and provide any additional information they deem relevant to the review of their firm.

The interview may be tape recorded or recorded by a court stenographer. The resulting tape or transcript will be made part of the applicant's file.

All socially and economically disadvantaged owner(s) qualifying the applicant firm for DBE certification must attend the interview meeting/on-site interview.

The interview commences with certification staff or designees reading a prepared opening statement into the record. The statement identifies the interview participants, the purpose of the meeting and establishes the parameters under which it will be conducted.

Legal counsel, et al to the applicant firm may be present with the firm's owner(s) during the interview; however, all questions should be directed to the owner.

At the onset of the meeting, the socially and economically disadvantaged owner(s) are provided with the opportunity to review the previously submitted USDOT Uniform Application for content and accuracy. If there are any changes to the document, the owner(s) are to be provided with the opportunity to make the necessary changes. The owner(s) are to be instructed to indicate the changes verbally as well as to make, initial and date such changes on the documents.

After the review of the USDOT Uniform Application by the owner(s) is completed, certification staff or designees will proceed with asking the standard and firm specific prepared questions.

In responding to the prepared and firm specific questions, the owner(s) will provide information that will generate follow-up and additional questions. Certification staff or designees must thoroughly explore all issues relating to compliance with certification eligibility criteria.

Additional information/documentation, which may substantiate statements made during the interview, should be formally requested. A complete list of the requested information/documentation should be confirmed in writing, with a specific date for submission.

Prior to terminating the interview, the socially and economically disadvantaged owner(s) should be provided with the opportunity to ask questions and/or make a statement.

The interview is concluded with a prepared statement read by certification staff or designees. The socially and economically disadvantaged owner(s) are to be advised that the right is reserved to request any additional information or call them back for another meeting, should it be necessary. The owner(s) should be further advised that any determination rendered regarding the eligibility of their firm for DBE certification would be effective for all participants in the NYSUCP.

3. On-Site Review

An on-site review of the applicant firm must be made in accordance with §26.83(c) (1) of the regulations.

The purpose of the on-site review is to verify the firm's location, personnel and operations; to substantiate information/documentation contained in the applicant file; to substantiate information provided during the interview meeting/on-site interview and to review business and financial records.

Certification staff or designees must schedule an on-site interview with the socially and economically disadvantaged owner(s) at a time that is mutually convenient, and confirm the date and time of the meeting. The firm must be advised that failure to participate in an on-site review will be considered failure to cooperate, and will be considered as a reason for denial of DBE certification. The on-site interview must take place at the firm's principal place of business. Additionally, an on-site visit must be performed at a job site if there is such a site on which the firm is working at the time of the eligibility review.

When scheduling an on-site review, certification staff or designees should advise the firm's owner(s) as to which records will require review. If information is located at several different locations, the firm's owner(s) should be advised to have all necessary information available at the on-site review.

Certification staff or designees should also advise the firm's owner(s) that photographs may be taken and that the review may be tape recorded. Should the owner(s) refuse to be tape recorded, the review must be conducted with two staff persons present.

Information obtained during the on-site review must be compiled in a separate comprehensive written report. The on-site review report is made a part of the certification file and incorporated accordingly.

If the on-site review is conducted in conjunction with the interview, certification staff or designees must ask the standard and firm specific interview questions, in addition to addressing the areas set forth below.

Depending upon the location of the firm, a Certifying Partner may request another Certifying Partner to conduct the on-site review. In such instances, a written request

must be made to, and issues of concern identified for, the Certifying Partner conducting the on-site review. The Certifying Partner conducting the on-site review will be responsible for preparing the on-site review report.

In lieu of conducting an on-site review for a firm outside of New York State, a Certifying Partner may utilize an on-site review report from a DOT recipient certifying in accordance with 49 CFR Part 26.

An applicant's failure to permit an on-site review will be grounds for denial of DBE certification for failure to cooperate.

At the very least, the following information should be received and reviewed no later than the on-site review:

Cash Receipts and Disbursements

- Check for entries in the cash receipts journal, which disclose initial capital contributions.
- Verify operational expenditures in the cash disbursements journal. Note questionable/exceptional/unusual entries and the frequency or consistency of such expenditures.
- Note payments to and from shareholders, directors, officers and key employee in the cash disbursements journal.
- Note payments to similar businesses for possible broker activity or evidence of conduit activity.
- Cross reference cash disbursements with cancelled checks.

Bank Statements and Cancelled Checks

- Verify initial capitalization of firm with the first bank statement, if available.
- Verify and document signature authority and consistency in which DBE owner v. non-DBE owner(s)/offices sign checks.
- Verify payments to shareholders, key employees and consultants.
- Pay particular attention to the "memo" section of checks.

Bank Statements and Cancelled Checks

- Determine if there are any additional checking accounts not disclosed prior to the visit. If so, note the authorized signatories.
- Cross reference payments to and from clients, suppliers, consultants, etc.

Payroll

- Determine who is on the firm's payroll.
- Determine if the owner is receiving compensation in accordance with his/her ownership interest.
- Determine who receives bonus payments and amounts.
- Compare W-2's and 1099's to payroll register, to extent possible, for key employees.

- Pay attention to any "memo" notations on any payroll checks.

Invoices and Receipts

- Check telephone bills to determine if they are addressed to the DBE firm.
- Review invoices to substantiate method and source of payment.
- Check invoices for suggestion of brokering activity or reliance on non-DBE firms.
- Examine invoices for resolution of regular dealer issues (freight charges).

Contract Files

- Determine who executes contracts on behalf of the firm.
- Verify the services provided by the applicant firm and the terms and conditions of the provision of their services.
- Verify consistency in which firm does business with a particular firm and whether any issues of dependency.

Inventory and Equipment

- Identify nature and use of equipment possessed by firm.
- Verify ownership of equipment with invoices.
- If equipment lease, review equipment lease agreements.
- Identify inventory maintained by firm.
- Determine whether lack of inventory suggests broker or conduit activity.
- If regular dealer, verify inventory, warehouse facility, transportation equipment, etc.
- Determine if firm's name on vehicles (trucks).

Bonding and Insurance

- Determine who is guaranteeing/financing bonding.
- Is bond commensurate with size of firm?
- Are insurance documents in the name of the firm?
- Verify types of insurance maintained by firm.
- Does firm carry Key Man Insurance? If so, for whom?

Corporate Kit or Business Organization Documents

- Cross reference documents in corporate kit with original submission.
- Review all minutes and entries for voting, control, attendance, etc.

Corporate Kit or Business Organization Documents

- Review stock transfer ledger.
- Review cancelled/voided stock certificates and note reasons for cancellations.
- Review non-issued stock certificates to determine if there is numerical continuity.
- Verify corporate seal.
- Review by-laws for revisions since original submission of documents

Union Agreements

- Determine which unions the firm has agreements with.

- Determine who executes the agreements on behalf of the firm.
- Determine who is authorized to negotiate union contracts.
- Determine if the union affiliation is commensurate with the type of business the firm engages in.
- Determine if union agreements are current. Review union stamps or union cards.
- Cross reference checks with union benefit payments.

Employment Agreements

- Determine the existence of any Employment Agreements for owner(s) or key personnel.
- Review terms of Employment Agreements for possible conflict with qualifying owner's ability to control operations of firm.

Physical Characteristics of Office/Building Location

- Determine if the firm has identifying signs outside or inside of the building/office.
- Determine if DBE owner has own office.
- Request a tour of facilities and observe equipment on premises.
- Ask questions regarding operation of equipment.
- Determine if office space shared with other companies, and if so, the nature of the business of the other companies.
- Determine if equipment, supplies, etc. shared with other companies.
- If shared facilities, equipment, verify arrangement for sharing.
- Determine if owner(s) are operating other related or unrelated businesses from the location. If so, identify the business and its owner(s).

The NYSUCP Certifying Partners reserve the right to conduct an on-site review of a certified DBE at any time. Any of the following may require an on-site review of a certified DBE to be conducted promptly upon notification to the NYSUCP Certifying Partner:

- A request by the DBE to be listed for additional work types
- A change in ownership that affects the control of the DBE
- A change in the location of the DBE

The NYSUCP Certifying Partners may conduct an on-site review of a certified DBE six (6) years after the last on-site review was conducted, subject to consideration of the following criteria:

- The DBE had obtained \$\$\$-of work from NYSUCP Partners
- Complaints or allegations of fraud had been made concerning the DBE

4. Internal Management Review Process

Decision Memorandum: Certification staff will prepare a written certification determination recommending that the firm be certified or denied DBE certification. The

certification determination is the final product of all information, which has been reviewed, and is an evaluation of the firm's compliance with the certification eligibility standards set forth in the regulations. The written determination must be sufficiently comprehensive to persuade an objective party as to the merits of the recommendation.

Management Review: The certification determination must be submitted to the supervisor responsible for certification review. The complete file must accompany the submission of the certification. The supervisor responsible for certification review must provide written concurrence with the recommendation before a letter can be forwarded to the firm's owner(s).

Notice to NYSUCP Certifying Partners: Notice will be provided to the Certifying Partners of the intent to grant or deny the applicant firm DBE certification. If there are no objections from the Certifying Partners as to the intent to grant or deny the applicant firm DBE certification, the appropriate letter will be sent to the qualifying owner.

Notification to Applicant of Certification Determination: The applicant firm will receive notification, in writing, from the Certifying Partner, of the NYSUCP certification determination.

If a firm is granted DBE certification by the NYSUCP, it shall remain certified for a period of at least three years, unless and until its certification has been removed in accordance with procedures set forth in §26.87.

If a firm is denied DBE certification by the NYSUCP, it shall be provided a written explanation of the reasons for denial, specifically referencing the evidence in the record that supports each reason for the denial.

The applicant, upon written request to the Certifying Partner, will make all documents and information used to render a determination of denial available for inspection.

Certification Appeal:

A firm denied DBE certification may appeal the denial of DBE certification to the United States Department of Transportation (USDOT) in accordance with §26.89 of the regulation. Such appeal must be filed within 90 days of the date of the determination letter.

Pending a determination by USDOT, the decision rendered by the Certifying Partner remains in effect for the NYSUCP. Upon notification by USDOT, the NYSUCP Certifying Partner will forward a copy of the complete administrative record for review.

All appeal decisions rendered by USDOT are administratively final and are not subject to petitions for reconsideration.

A firm that is denied DBE certification may not again apply for certification with the NYSUCP for a period of one year.

If a firm denied DBE certification chooses to again apply for DBE certification, the application must be submitted to the Certifying Partner who rendered the original denial of DBE certification.

Notification to Database Manager: The NYSUCP Database Manager will receive written notification of the certification determination rendered by the NYSUCP Certifying Partner.

Annual Review of DBE Certification

Annual Submission Requirement: A certified DBE firm must submit annually, on the anniversary of their DBE certification, a No Change Affidavit, an SBA Personal Financial Statement, and supporting documentation including but not limited to personal and business tax returns, vehicle registrations, etc. A No Change Affidavit is a sworn affidavit affirming that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership or control requirements of the regulation, or any material change in the information provided in its application for DBE certification, along with supporting documentation.

The certified firm will not be required to submit a new USDOT Uniform Application or undergo an on-site review.

A certified DBE firm has an affirmative responsibility to notify the Certifying Partner of the NYSUCP, in writing, of any change in circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of the regulation, or any material change in the information provided in its application for DBE certification. Such notice must be within thirty (30) days of the change taking place.

Notice of Annual Submission Requirement: Each firm will be notified by the Certifying Partner, at least 30 days in advance of its anniversary date, of the annual submission requirement and will be provided with the necessary affidavits.

A firm failing to comply with the annual submission requirement will be notified, in writing, 30 days from the date that the submission was due, of the NYSUCP's intent to revoke their DBE certification in accordance with §26.87 of the regulation.

A firm failing to comply with the annual submission requirement will have its certification removed.

Decision Memorandum: Certification staff will prepare a written certification determination recommending that the firm's DBE certification be continued or that certification be removed in accordance with procedures in §26.87 of the regulations.

Management Review: The certification determination must be submitted to the supervisor responsible for certification review. The complete file must accompany the submission of the certification. The supervisor responsible for certification review must provide written concurrence with the recommendation for continued certification or removal of certification before a letter can be forwarded to the firm's owner(s).

Notice to NYSUCP Certifying Partners: Notice will be provided to the Certifying Partners of the intent to continue the firm's DBE certification or to remove certification, in accordance with regulatory procedures. If there are no objections from the Certifying Partners as to the intent to continue or remove DBE certification, the appropriate letter will be sent to the qualifying owner.

Notification to Applicant of Certification Determination: The applicant firm will receive notification, in writing, from the Certifying Partner, of the NYSUCP's determination to continue the firm's DBE certification or, of its intent to remove the firm's DBE certification.

If a firm is granted continued DBE certification by the NYSUCP, it must continue to comply with annual submission and notification requirements.

If a determination has been made to remove a firm's DBE certification for failure to submit required documentation or exceeding Personal Net Worth thresholds, there will be no reconsideration to the NYSUCP after removal of DBE certification. The NYSUCP Certifying Partners will follow procedures consistent with §26.87 when removing DBE certification eligibility.

Notification to Database Manager: The NYSUCP Database Manager will receive written notification of the certification determination rendered by the NYSUCP Certifying Partner.

Reconsideration:

Reconsideration will be given to a DBE firm if a determination has been made to propose to remove a firm's DBE certification for any of the following reasons:

- The business has changed to the extent that it is no longer owned or controlled by socially and economically disadvantaged individual(s).
- The DBE firm is no longer an ongoing business entity.
- The socially and economically disadvantaged owner(s) falsify a sworn statement.
- The DBE fails to notify the Certifying NYSUCP Partner, within 30 days, of changes in ownership, control, independence or status as an ongoing concern.
- A determination by the Certifying Partner that the firm no longer meets certification eligibility standards.
- The DBE exhibits a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirement of the regulations.

Exceeding the Personal Net Worth or size standards is not subject to reconsideration.

Any firm that was certified under 49 CFR Part 26 and has had their certification removed may file a written rebuttal with the NYSUCP or appear in person.

All requests for an informal hearing must be filed with the Certifying Partner responsible for the removal of DBE certification. The firm will have the opportunity to present information in person or file a written rebuttal with the NYSUCP.

Upon receipt of the request for reconsideration, the Certifying Partner will forward a copy of the file and a written response to the request to the NYSUCP Hearing Panel within a reasonable time, not to exceed 15 days. The Certifying Partner responsible for the proposed removal of DBE certification will not participate in the final determination.

Any firm not wishing to file a request for reconsideration with the NYSUCP may appeal directly to the United States Department of Transportation (USDOT) such appeal must be filed within 90 days of the date of the determination letter.

Pending a determination by USDOT, the decision rendered by the Certifying Partner remains in effect for the NYSUCP.

All appeal decisions rendered by USDOT are administratively final and are not subject to petitions for reconsideration.

Renewal of DBE Certification

A firm that is certified as a Disadvantaged Business Enterprise (DBE) under 49 CFR Part 26 is certified by the NYSUCP for a period of not less than three (3) years.

Once certified, a firm remains certified unless and until its certification is removed through the procedures for DBE eligibility removal outlined at §26.87.

A firm that has been certified as a Disadvantaged Business Enterprise (DBE) under federal regulations must submit, every year on the anniversary of their certification, an Affidavit of No Change from the socially and economically disadvantaged owners affirming whether there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership or control requirements for DBE certification. If there have been changes, the socially and economically owner must identify the changes and provide all documentation supporting the changes.

Firms reaching the end of their initial three (3) year certification period must submit the following information for certification renewal:

- Renewal application and required supporting documentation

- SBA Personal Financial Statement
- Personal Income Tax Returns*
- Business Tax Returns*
- Any other documents deemed necessary (i.e., licenses, vehicle registrations, insurance cards, etc.)

*If an extension was filed for the prior year, two (2) years may be requested.

Upon receipt of the above, the information must be reviewed to determine continued compliance with the certification eligibility criteria. A written evaluation of the firm's compliance with eligibility criteria must be prepared. In the event the firm continues to meet the eligibility criteria, the firm will be sent a Certification Renewal letter, providing the firm with certification for an additional three years. In the event that the firm no longer meets the eligibility criteria for certification, proceedings for the removal of eligibility will be commenced under §26.87.

If a firm does not provide the above listed information in a timely manner, the firm may be deemed as failing to cooperate under §26.109(c), and, proceedings for the removal of eligibility may be commenced in accordance with §26.87.

The minimum process to be followed for certification removal under §26.87 is as follows:

- Provide written notice to the firm of proposal to remove certification eligibility, setting forth, in detail, the reasons for the proposal to remove certification eligibility.
- Provide the firm with an opportunity to respond in person, by participation in an informal hearing, or in writing, to the reasons for the proposal to remove its eligibility,
- If the firm elects to participate in an informal hearing, the agency bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of 49 CFR Part 26.
- A complete record of the hearing must be maintained, and the original record of the hearing must be retained by the agency.
- If the firm elects to present information and arguments in writing, without going to a hearing, the agency bears the same burden of proof that it would have during an informal hearing.
- The firm must be provided with a written notice of the decision regarding removal of eligibility.

Third Party Challenge

NYSUCP Certifying Partners shall accept written complaints from any person, including Non-Certifying Partners, USDOT, and/or a Certifying Partner, alleging that a currently certified DBE firm is ineligible.

The complainant must state the specific reasons for the challenge and submit any documentation in support of the complaint. The complainant's identity shall be protected as provided for in §26.109(b).

The challenged firm shall be notified, in writing, by the original Certifying Partner, of the challenge, the basis for the challenge and the relevant regulations.

The Certifying Partner responsible for the original certification shall thoroughly investigate the complaint within a reasonable time, not to exceed 60 days.

The Certifying Partner shall notify the challenged firm, in writing, by certified mail, of the preliminary findings.

If reasonable cause to remove DBE certification eligibility is found, the original Certifying Partner will notify the complainant of the specific grounds for removal and will inform the firm of its right to appeal request the preliminary findings to the NYSUCP.

The NYSUCP will be the hearing board for all challenges to certified firms. The Certifying Partner conducting the investigation and making the preliminary determination for eligibility removal will not serve as a voting member on the hearing board for the firm in question.

The challenged firm may request reconsideration, in writing, of the intent to remove certification eligibility, within 15 days of the date of the notice.

The request for reconsideration must be made to the investigating NYSUCP Certifying Partner and must state if the firm wishes to file a written defense or appear in person for a hearing.

The investigating NYSUCP Certifying Partner must notify the NYSUCP Hearing Panel within five [5] days of receipt of the request for reconsideration from the challenged firm.

In the event that a firm requests the opportunity to appear before the NYSUCP Hearing Panel, the request for reconsideration must state whether the firm will be represented by counsel.

If the challenged firm requests reconsideration in person, the chair of the NYSUCP Hearing Panel will contact the firm and the members of the NYSUCP Hearing Panel to set a date.

USDOT may notify the NYSUCP of reasonable cause to find a certified DBE firm to be ineligible. In such cases, the NYSUCP shall without delay begin a proceeding to determine whether the firm's eligibility should be removed, as provided in Section 26.87.

Attachment 10

Regulations: 49 CFR part 23

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

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

Attachment 11

Small Business Element

1. Objective/Strategies

(1) Establish a race-neutral small business set-aside for certain concession opportunities. **SRAA** will document 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.

(2) Consider the concession opportunities available through all types of 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.

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

2. Definition

- ACDBE firms should be identified as eligible for participation in the small business element unless there is a micro-small business program element in place.
- Small business size standard should be consistent with 49 CFR § 23.33. Lower size limits may be feasible and could be advisable in some cases (e.g., as part of a tiered program).
- Personal Net Worth standards – should be consistent with 49 CFR Part 23 thresholds.
- Businesses meeting the criteria outlined in this element will be considered to be small businesses, without regard to race or gender.

3. Verification

SRAA will diligently attempt to minimize fraud and abuse in the small business element of its ACDBE program by verifying program eligibility of each firm.

4. Monitoring/Record Keeping

- SRAA will track and monitor participation by ACDBEs and other small businesses that results from the implementation of this small business element. Participation will be reported annually as part of the Uniform Report of ACDBE Participation.
- The information regarding small businesses will be monitored by the ACDBE Liaison.

5. Assurances

- This small business element is authorized by SRAA under State law;
- Certified ACDBEs that meet the size criteria established under this element are presumptively eligible to participate therein element;
- There are no geographic preferences or limitations imposed on any concession opportunities included in this small business element;

- There are no limits on the number of concession opportunities awarded to firms participating in this element but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
- SRAA will take aggressive steps to encourage those minority and women owned firms that are eligible for ACDBE certification to become certified; and
- This element is open to small businesses regardless of their location. There is no local or other geographic preference as part of this small business element.