



**Alaska Department of Transportation and Public Facilities
Title 49 CFR Part 23 Airport Concessions Disadvantaged Business
Enterprise (ACDBE) Goal Methodology for Fiscal Years 2023 – 2025**



For

Wiley Post - Will Rogers Memorial Airport (BRW)

**Prepared and submitted by:
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POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

Alaska Department of Transportation & Public Facilities (Alaska DOT&PF) 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. **Wiley Post - Will Rogers Memorial Airport (BRW)** 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). Alaska DOT&PF has signed airport grant assurances that it will comply with 49 CFR part 23.

It is the policy of Alaska DOT&PF 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.

Rashaud Joseph has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, **Rashaud Joseph** is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Alaska DOT&PF in its financial assistance agreements with the Department of Transportation.

Alaska DOT&PF has disseminated this policy statement to the Alaska DOT&PF Commissioner and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area. The distribution was accomplished by electronic transmission.

Ryan Anderson, P.E.
Commissioner

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

Alaska DOT&PF 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

Alaska DOT&PF 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

Alaska DOT&PF 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, Alaska DOT&PF 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.

Alaska DOT&PF 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

Alaska DOT&PF 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

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

- **Wiley Post - Will Rogers Memorial Airport (BRW)**

Although the program applies to all of the above airports, **Alaska DOT&PF** will submit a separate goal methodology for each primary airport.

Prior to implementing significant changes to this ACDBE program, **Alaska DOT&PF** will provide the amended program to FAA for review and approval.

Section 23.23 Administrative Provisions

Policy Statement: **Alaska DOT&PF** is committed to operating its ACDBE program in a nondiscriminatory manner. The Policy Statement is elaborated on the first page of this program.

Alaska DOT&PF 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. **Alaska DOT&PF** will also encourage prime concessionaires to use such institutions.

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

Rashaud Joseph, ACDBELO
AK DOT PF Office of Civil Rights
P.O. Box 196900
Anchorage, AK 99519-6900
907-269-0848
rashaud.joseph@alaska.gov

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that **Wiley Post - Will Rogers Memorial Airport (BRW)** complies with all provision of 49 CFR part 23. The ACDBELO has direct, independent access to **Rashaud Joseph** concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 1 to this program.

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

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes **Wiley Post - Will Rogers Memorial Airport (BRW)** 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. Chairs the ACDBE Advisory Committee.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU-Minority Resource Center (MRC).
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program (UCP) in **Alaska**.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains the **Wiley Post - Will Rogers Memorial Airport (BRW)** updated directory on certified ACDBEs and distinguishes them from DBEs.

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

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

Alaska DOT&PF will not use set-asides or quotas as a means of obtaining ACDBE participation.

Alaska DOT&PF will seek ACDBE participation in all types of concession activities.

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

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

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

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

1. Establishing concession-specific goals for particular concession opportunities.
 - a. In setting concession-specific goals for concession opportunities other than car rental, **Alaska DOT&PF** will explore, to the maximum extent practicable, all available options to set goals that concessionaires can meet through direct ownership arrangements. A concession-specific goal for any concession other than car rental may be based on purchases or leases of goods and services only when the analysis of the relative availability of ACDBEs and all relevant evidence reasonably supports that there is *de minimis* availability for direct ownership arrangement participation for that concession opportunity.
 - b. In setting car rental concession-specific goals, **Wiley Post - Will Rogers Memorial Airport (BRW)** will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, **Wiley Post - Will Rogers Memorial Airport (BRW)** is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
 - c. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, **Alaska DOT&PF** will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.

- d. If the goal applies to purchases or leases of goods and services from ACDBEs, **Alaska DOT&PF** will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
 - e. When a concession-specific goal is set, **Alaska DOT&PF** will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
 - f. The administrative procedures applicable to contract goals in part 26, § § 26.51 through 26.53. apply with respect to concession-specific goals.
 - g. In setting car rental concession-specific goals, **Alaska DOT&PF** will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, **Alaska DOT&PF** is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
 - h. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, **Alaska DOT&PF** will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
 - i. If the goal applies to purchases or leases of goods and services from ACDBEs, **Alaska DOT&PF** will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
 - j. When a concession-specific goal is set, **Alaska DOT&PF** will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
 - k. The administrative procedures applicable to contract goals in part 26, § § 26.51 through 26.53. apply with respect to concession-specific goals.
2. Negotiate with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the non-car rental concessions.
 3. With the prior approval of FAA, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

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

Section 23.26 Fostering Small Business Participation

Alaska DOT&PF 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 10 to this ACDBE Program. The program elements will be actively implemented to foster small business participation. **Alaska DOT&PF** acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

Alaska DOT&PF 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

Alaska DOT&PF 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.

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

- 1) **Alaska DOT&PF** will create and maintain active participants list information and enter it into a system designated by the FAA. **Wiley Post - Will Rogers Memorial Airport (BRW)** will collect the following information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities.
 - a. Firm name;
 - b. Firm address including ZIP code;
 - c. Firm status as an ACDBE or non-ACDBE;
 - d. Race and gender information for the firm's majority owner;
 - e. NAICS code applicable to the concession contract in which the firm is seeking to perform;
 - f. Age of the firm; and
 - g. The annual gross receipts of the firm.

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Wiley Post - Will Rogers Memorial Airport (BRW) will collect the data from all active participants for concession opportunities by requiring the information to be submitted with their proposals or initial responses to negotiated procurements. **Alaska DOT&PF** will enter this data in FAA's designated system no later than March 1 following the fiscal year in which the relevant concession opportunity was awarded.

The state department of transportation in each Unified Certification Program (UCP) established pursuant to 49 CFR § 26.81 must report certain information from the UCP directory to DOT's Departmental Office of Civil Rights each year. **Alaska DOT&PF**, if a certifying member of the state UCP, ensures the collection and reporting of the following information in the UCP directory:

- 1) The number and percentage of in-state and out-of-state ACDBE certifications for socially and economically disadvantaged by gender and ethnicity (Black American, Asian-Pacific American, Native American, Hispanic American, Subcontinent-Asian Americans, and non-minority);
- 2) The number of ACDBE certification applications received from in-state and out-of-state firms and the number found eligible and ineligible;
- 3) The number of decertified firms;
 - i) Total in-state and out-of-state firms decertified;
 - ii) Names of in-state and out-of-state firms decertified because SEDO exceeded the personal net worth cap;
 - iii) Names of in-state and out-of-state firms decertified for excess gross receipts beyond the relevant size standard.
- 4) Number of in-state and out-of-state ACDBEs summarily suspended;
- 5) Number of in-state and out-of-state ACDBE applications received for an individualized determination of social and economic disadvantage status; and
- 6) Number of in-state and out-of-state ACDBEs whose owner(s) made an individualized showing of social and economic disadvantaged status.

Section 23.29 Compliance and Enforcement Procedures

Alaska DOT&PF will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR part 23.

The Alaska Department of Transportation & Public Facilities (DOT&PF) will incorporate specific provisions and enforcement mechanisms into Wiley Post - Will Rogers Memorial Airport (BRW) airport leasing agreements to ensure compliance with 49 CFR Part 23. These provisions will include measures for monitoring and verifying that the work committed to Airport Concessions Disadvantaged Business Enterprises (ACDBEs) is performed by the ACDBEs. Furthermore, Alaska DOT&PF will require a written certification indicating that they have reviewed records of all contracts, leases, joint venture agreements, or other concession-related agreements at Wiley Post - Will Rogers Memorial Airport (BRW). They will also conduct on-site monitoring at the airport to ensure compliance, in conjunction with monitoring contract performance for other purposes. This approach is designed to maintain integrity and accountability in fulfilling ACDBE commitments.

1. **Wiley Post - Will Rogers Memorial Airport (BRW)** will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR § 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (See Attachment 3).

CERTIFICATION AND ELIGIBILITY

Section 23.31 Certification Standards and Procedures

Alaska DOT&PF is a **certifying member** of the Alaska Unified Certification Program (AUCP). **Alaska DOT&PF** will use the certification standards of Subpart C of Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concessions contracts. To be certified as an ACDBE, a firm must meet all certification eligibility standards. **Alaska DOT&PF** makes all certification decisions based on the facts as a whole. Detailed certification processes are described in the Alaska UCP (or AUCP) agreement. The full AUCP agreement can be found at:

<https://dot.alaska.gov/cvlrts/forms/aucp-agreement.pdf>

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

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

Sarah Starzec, Civil Right Compliance Specialist
AK DOT PF Office of Civil Rights
P.O. Box 196900
Anchorage, AK 99519-6900
(907) 269-0845
sarah.starzec@alaska.gov

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

Section 23.33 Business Size Standards

In general, a firm will be considered as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous five (5) fiscal years, do not exceed \$56.42 million. The following special exceptions apply to the general small business size limit:

1. The limit for passenger car rental companies is \$75.23 million, averaged over the firm's previous five (5) fiscal years.
2. The size standard for banks and other financial institutions is \$1 billion in assets.
3. The size standard for pay telephone companies is 1500 employees.
4. The size standard for new car dealers is 350 employees.

For size purposes, gross receipts (as defined in [13 CFR 121.104\(a\)](#)) of affiliates are included in a manner consistent with [13 CFR 121.104\(d\)](#), except in the context of joint ventures. For gross receipts attributable to joint venture partners, a firm must include in its gross receipts its

proportionate share of joint venture receipts, unless the proportionate share already is accounted for in receipts reflecting transactions between the firm and its joint ventures (e.g., subcontracts from a joint venture entity to joint venture partners).

Section 23.35 Personal Net Worth Limits

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.

Section 23.37 Firms Certified as DBEs

Alaska DOT&PF will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, **Alaska DOT&PF** will ensure that the disadvantaged owners of a DBE certified under part 26 are able to control the firm with respect to its activity in the concessions program.

Section 23.39 Other ACDBE Certification Requirements

The provisions of § 26.83(c)(1) of 49 CFR part 26 do not apply to ACDBE certifications. Instead, in determining whether a firm is an eligible ACDBE, **Alaska DOT&PF** will take the following steps:

- 1) Visit the firm's principal place of business, virtually or in person, and interview the SEDO, officers, and key personnel. **Alaska DOT&PF** will review those persons' résumés and/or work histories. **Alaska DOT&PF** will maintain a complete audio recording of the interviews. **Alaska DOT&PF** will also visit one or more active job sites (if there is one). These activities comprise the "on-site review" (OSR), a written report of which **Alaska DOT&PF** will keep in its files.
- 2) Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to, articles of incorporation/organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued certificates of good standing;
- 3) Analyze the bonding and financial capacity of the firm; lease and loan agreements; and bank account signature cards;
- 4) Determine the work history of the firm, including any concession contracts or other contracts it may have received; and payroll records;
- 5) Obtain or compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive;
- 6) Obtain a statement from the firm of the type(s) of concession(s) it prefers to operate or the type(s) of other contract(s) it prefers to perform;
- 7) Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last 5 years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service; and

- 8) Require applicants for ACDBE certification to complete and submit an appropriate application form, except as otherwise provided in § 26.85 of part 26.

In reviewing the Declaration of Eligibility required by § 26.83(j), **Alaska DOT&PF** will ensure that the ACDBE applicant provides documentation that it meets the applicable size standard in § 23.33.

For purposes of this part, the term *prime contractor* in § 26.87(j) includes a firm holding a contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient.

With respect to firms owned by Alaska Native Corporations (ANCs), the provisions of § 26.63(c)(2) do not apply. The eligibility of ANC-owned firms for purposes of this part is governed by § 26.63(c)(1).

Alaska DOT&PF will use the Uniform Certification Application found in part 26 of this chapter without change. If **Alaska DOT&PF** seeks to supplement the form by requesting specified additional information consistent with this part, we will first seek written approval of the concerned Operating Administration and update this ACDBE program plan.

Alaska DOT&PF will require every applicant to state that it is applying for certification as an ACDBE and complete all of section 5.

Car rental companies and private terminal owners or lessees are not authorized to certify firms as ACDBEs.

GOALS, GOOD FAITH EFFORTS, AND ACCOUNTING

Section 23.41 Overall Goals

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

Alaska DOT&PF 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

Alaska DOT&PF 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, **Alaska DOT&PF** 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.

Alaska DOT&PF 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).

Alaska DOT&PF 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 **Alaska DOT&PF** 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 **Alaska DOT&PF**.

Section 23.53 Counting ACDBE Participation for Car Rental Goals

Alaska DOT&PF will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.53.

Section 23.55 Counting ACDBE participation for Concessions Other than Car Rentals

Alaska DOT&PF will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.55.

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 Alaska DOT&PF 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.

Alaska DOT&PF 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:

- **Wiley Post - Will Rogers Memorial Airport (BRW)** 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
- **Wiley Post - Will Rogers Memorial Airport (BRW)** 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, **Alaska DOT&PF** 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

Alaska DOT&PF 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

Alaska DOT&PF 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.

Alaska DOT&PF 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 Alaska DOT&PF’s plan for meeting the standards of paragraph (c) of § 23.75.

To obtain FAA approval of a long-term exclusive concession agreement, **Alaska DOT&PF** 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, **Alaska DOT&PF** 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, **Alaska DOT&PF** 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, **Alaska DOT&PF** 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 **Alaska DOT&PF**, or the authority of any State or local government or **Alaska DOT&PF** 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

Wiley Post - Will Rogers Memorial Airport (BRW) 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).

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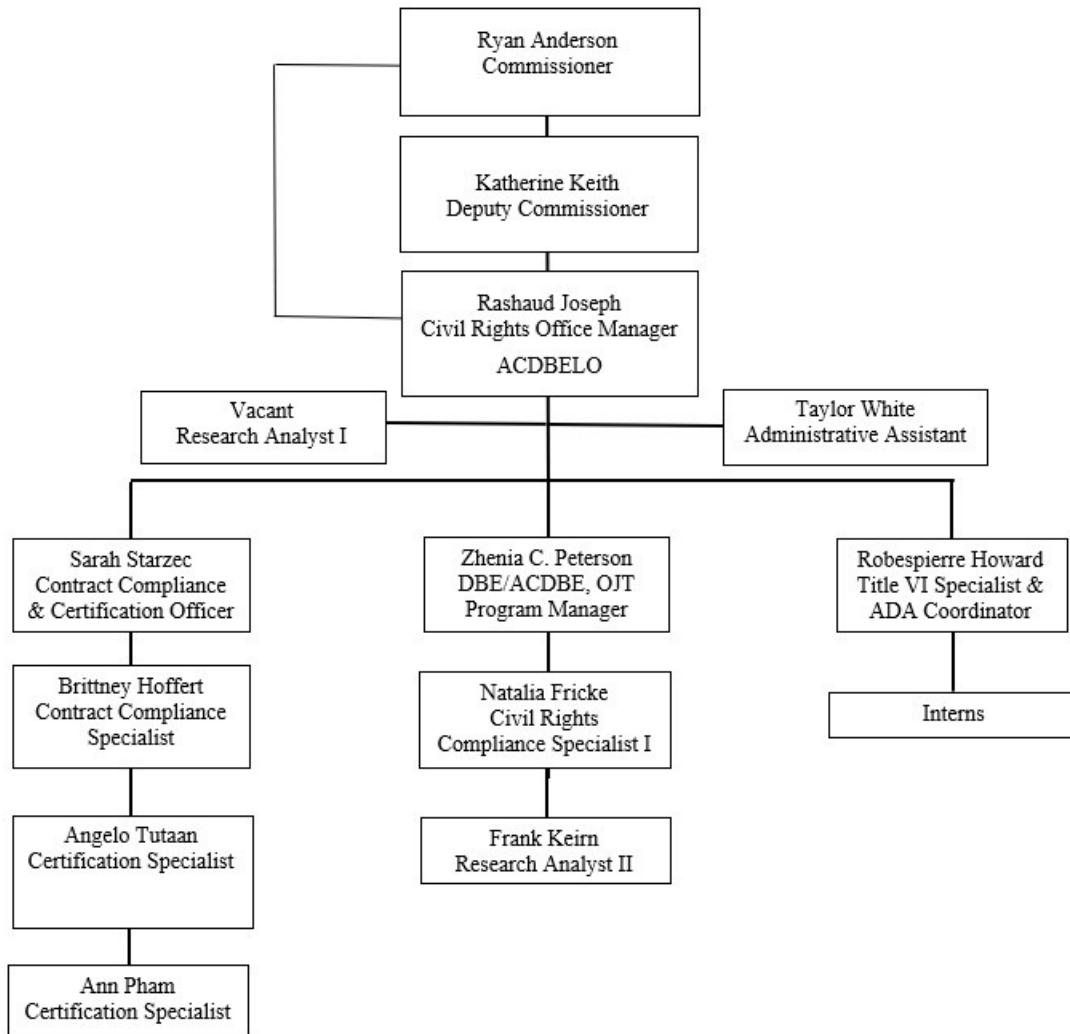
ATTACHMENTS

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

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Attachment 1

Organizational Chart



Attachment 2

Alaska DOT&PF Directory of Certified DBE/ACDBE Firms

<https://dot.alaska.gov/cvlrts/directory.shtml>

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Attachment 3

Sample Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to AS 36.30.640(4); and
3. 49 CFR 23.29, part 26 (§§26.101 and 26.105 through 26.109)

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

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

Alaska DOT&PF will implement various mechanisms to monitor program participants to ensure they comply with Part 23, including, but not limited to the following: Alaska DOT&PF will insure the insertion of the following provisions into concessions agreements and management contracts:

- 1) The Concessionaire shall submit the **quarterly** certified activity report in a form that is acceptable to the State and that reflects the Concessionaire's Gross Revenues for the Food & Beverage Facility broken out by any State-approved Percentage Fee category for both the previous calendar month and for the Agreement year-to date in terms of United States of America currency. DBE Gross Revenues shall be clearly and separately identified.
- 2) State Policy: It is State of Alaska policy that DBEs have the maximum opportunity to participate in the performance of Airport concession contracts.
- 3) This Agreement is subject to the applicable requirements of the United States Department of Transportation's regulations, 49 CFR Part 23, Subpart E. The Concessionaire will not discriminate against any business owner because of the owner's race, color, religion, national origin, sex, age, or disability in connection with the award or performance of any concession subcontract or other arrangement covered by 49 CFR Part 23, Subpart E. In addition, the Concessionaire will include the previous two sentences in any subsequent concession subcontract or other arrangement that it enters into and require those businesses to similarly include the same language in any further subcontracts.
- 4) The Concessionaire will comply with all applicable laws and regulations that concern the fair and equitable treatment of DBEs now in effect or which may subsequently take effect during this Agreement. The Concessionaire will include a provision to this effect in any subcontract or other DBE participation arrangement the Concessionaire enters into under this Agreement.

The Alaska DOT&PF will implement our compliance and monitoring procedures as follows:

- 1) The ACDBELO and CRO staff will conduct trainings and provide ongoing guidance on Part 23 to airport and leasing staff.
- 2) The ACDBELO and CRO staff will monitor ACDBE participation on an annual and ongoing basis.
- 3) Written certification of contract, lease, joint venture, and other concession-related agreements will be reviewed.
- 4) The ACDBELO and CRO staff will conduct regular meetings with airport and leasing staff.
- 5) The ACDBELO and CRO staff will include airport concessionaires, and airport and leasing staff, in our yearly DBE training conference.

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Attachment 4

Overall Goal Calculation for Concessions Other Than Car Rentals

Name of Recipient: Wiley Post - Will Rogers Memorial Airport (BRW)

Goal Period: FY 2023 – 2024 – 2025 (October 1, 2022 through September 30, 2025)

Overall Three-Year Goal: 1.00% to be accomplished through 0.00% RC and 1.00% RN

Methodology used to Calculate Overall Goal:

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

Market Area

The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and in which the firms which receive the substantial majority of concessions-related revenues are located. It has been determined that the market area for BRW will be Nationwide.

Alaska DOT&PF has determined that its market area for concessions other than car rental is as follows.

Type of Concession	Company	City	State	Nationwide
News/Gifts – 453220				XX
Vending Machine Operator-445132				XX
Advertising-541810				XX
Hotels and Motels – 721110				XX
Food & Beverage – 722511				XX

Base of Goal

To calculate the base of the goal **Wiley Post - Will Rogers Memorial Airport (BRW)** 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.

Management Contract or Subcontract

Wiley Post - Will Rogers Memorial Airport (BRW) will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator AND the denominator) and to the base from which the airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator.

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

Fiscal Year	Non-Car Concessions Revenue (Gross Receipts)
2020	\$507,413
2021	\$699,088
2022	\$649,139

The **Wiley Post - Will Rogers Memorial Airport (BRW)** estimates that revenues to existing concessions will grow by 3% over the next three years due to increased passenger traffic in the State of Alaska.

Example:

Prior year (2022): \$649,139 + 3% growth (\$19,474) = \$668,613 (2023 projected)

Goal period:

(2023) \$668,613 + 3% (\$20,058) = \$688,671

(2024) \$688,671 + 3% (\$20,660) = \$709,331

(2025) \$709,331 + 3% (\$21,280) = \$730,611

\$688,671+ \$709,331+ \$730,611 = **\$2,128,613** is the Alaska DOT&PF's base of the goal for non-car rental concessions.

The concession opportunities anticipated during this goal period are:

Food and Beverage, Advertising, News and Gifts, and Public-Use Lounge with estimated gross receipts of **\$2,128,613**.

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

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

Goal Calculations

Step 1:

The Step 1 figure was calculated as follows.

The data source used was the Alaska AUCP directory and the US Census Bureau data.

Concession Activity	NAICS Code	ACDBE Firms	All firms	% Availability
News and Gifts	453220	471	19,220	2.45%
Vending Machine Operators	445132	110	3,243	3.39%
Advertising	541810	293	14,962	2.00%
Hotels and Motels	721110	11	56,920	0.02%
Food and Beverage	722511	981	257,282	0.38%
Totals		1,866	351,627	0.53%

When we divided the numerator by the denominator, we arrived at the Step 1 figure for our overall goal for non-car rental concessions of: 0.53%

Step 2:

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

In order to reflect as accurately as possible, the ACDBE participation we would expect in the absence of discrimination we have adjusted our base figure by 0.47%. Our overall goal for non-car rental concessions is 1.00%

The data used to determine the adjustment to the base figure was as follows.

There is no historical ACDBE data to reference to make an adjustment to the Step 1 base figure, however, Alaska DOT&PF feels it can achieve a slightly higher ACDBE goal during the 3-year period because additional ACDBE firms are expected to be certified in the market area. Therefore, the Alaska DOT&PF is increasing its Step 1 base figure by 0.47% for a total overall goal of 1.00% for FY-2025-2027.

Wiley Post – Will Rogers Memorial Airport (BRW) believes this adjusted goal figure will accurately reflect ACDBE non-car rental concession participation that can be achieved during this 3-year period.

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PUBLIC PARTICIPATION

All stakeholders are hereby invited to an opportunity for information and public comment at the upcoming **BRW (Wiley Post-Will Rogers Memorial Airport) FAA ACDBE Goal Methodology FFY2023-2025 Public Participation Meeting**. In accordance with [49 CFR Part 23, Section 23.43](#), the Civil Rights Office (CRO) of the State of Alaska Department of Transportation & Public Facilities (DOT&PF) invites public participation in the Federal Aviation Administration (FAA) Airport Concession Disadvantaged Business Enterprise (ACDBE) Goal Methodology for Federal Fiscal Years (FFY) 2023-2025.

- The purpose of this Public Participation Stakeholders Consultation Meeting is to educate stakeholders about the goal-setting process, good faith efforts, reporting, and compliance. We encourage stakeholders to share any barriers to participating in federally funded projects, the impact of discrimination on opportunities for ACDBE firms, and suggestions for increasing opportunities for all firms, including ACDBE firms.
- The objective of this meeting is to engage with minority and women's groups, community organizations, trade associations, concessionaires, and other relevant officials or organizations that may have valuable information concerning the availability of disadvantaged businesses.

For FFY2023-2025, Alaska DOT&PF has the following:

- Overall three-year goal for car rental concessions: **1.00%** to be accomplished through **0.00% RC** and **1.00% RN**
- Overall three-year goal for concessions other than car rentals: **1.00% to be accomplished through 0.00% RC and 1.00% RN**

The Alaska DOT&PF, Civil Rights Office **invites** all interested parties to participate in this important consultation to **discuss the ACDBE goal and methodology and to provide feedback and insights**. Join us for the Public Participation Stakeholders Consultation **Meeting on Friday, July 26, 2024, at 9:00 AM AKST** to hear more information. During this meeting you can make comments and ask questions.

- Register here:
https://us06web.zoom.us/meeting/register/tZcsceGgri0rG9weew_MLKgcKLnjej8bdve1
- Registration due by Friday, July 26 at 8:00 AM AKST

Can't join us but still want to submit a comment? Here are some options:

- Email comments to dbegoalmethodology@alaska.gov
- Submit comments via Fax at 907-269-0847
- Mail comments to:
 - Alaska Department of Transportation and Public Facilities
 - ATTN: Civil Rights Office
 - 2200 E 42nd Ave, Anchorage, AK 99508/P.O. Box 196900, Anchorage, AK 99519

Questions? Please contact the State of Alaska DOT&PF Civil Rights Office at:

- Phone: 907-269-0846
- Email: dbegoalmethodology@alaska.gov
- ACDBE Website: <https://dot.alaska.gov/cvlrts/acdbe.shtml>
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Breakout of Estimated Race-Neutral & Race Conscious participation

Wiley Post - Will Rogers Memorial Airport (BRW) will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The primary measure **BRW** will use to encourage race-neutral participation is the active implementation of our race-neutral small business element that is required by § 23.26. The small business element is detailed in **BRW** FAA-approved ACDBE Program Plan.

We estimate that, in meeting our overall goal of **1.00%**, we will obtain **1.00%** from race-neutral participation and **0%** through race-conscious measures.

1. *The extent that you've exceeded your ACDBE goals in the past – show the numbers.*
2. *ACDBE participation on concession leases that did not have ACDBE goals.*
3. *Extent of your race-neutral business assistance efforts.*

The Alaska Department of Transportation and Public Facilities (Alaska DOT&PF) Office of Civil Rights has consistently enacted comprehensive outreach efforts targeting minority and disadvantaged communities to educate and create awareness of opportunities and encourage certification in those trades that commonly do business with the DOT and aviation communities.

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 and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation in a concession opportunity that does not have an ACDBE goal; ACDBE participation that exceeds 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 and report accordingly.

Attachment 5

Overall Goal Calculation for Car Rentals

Name of Recipient: Wiley Post – Will Rogers Memorial Airport (BRW)

Goal Period: FY2023-2024-2025 – October 1, 2022 through September 30, 2025

Overall Three-Year Goal: 1.00%, to be accomplished through 0% RC and 1.00% RN

Methodology used to Calculate Overall Goal:

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

Goal Based on Goods and Services Purchases - Determination:

Upon review of the market, it appears that all or most of the goal is likely to be met through the goods and services from ACDBEs. There are no ACDBE rental car companies in the market area. **Wiley Post - Will Rogers Memorial Airport (BRW)** has therefore structured the goal entirely in terms of the purchase of goods and services.

Market Area

The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and in which the firms which receive the substantial majority of concessions-related revenues are located. **The market area for Wiley Post - Will Rogers Memorial Airport (BRW) is nationwide.**

Wiley Post - Will Rogers Memorial Airport (BRW) has determined that its market area for car rental goods and services is as follows.

Market Area:

Type of Concession	NAICS Code(s)	City	State	Nationwide
Tires	423130			XX
Insurance Services	524210			XX
Oil Change Services	811191			XX
Car Wash and Detailing	811192			XX

Base of Goal

To calculate the base of the goal, Alaska DOT&PF considered the previous 2 years of car rental expenditures/purchases and the projected potential car rental expenditures three years into the future, including upcoming new opportunities.

Expenditures for Previous 3 Years - Car Rental

Fiscal Year	Car Rental Expenditures/Purchases	% Growth
2021	478,775	
2022	574,792	20.05%

Alaska DOT&PF estimates expenditures will increase by 3% over the next three years due to increased passenger traffic as shown below.

Example:

Prior year (2022): \$574,792 + 3% growth (\$17,244) growth = \$592,036 (2023 projected)

(2023) \$574,792 + 3% (\$17,244) = \$592,036

(2024) \$592,036 + 3% (\$17,761) = \$609,797

(2025) \$609,797 + 3% (\$18,294) = \$628,091

\$592,036 + \$609,797 + \$628,091 = **\$1,829,924** is the Alaska DOT&PF's base of the goal for car rental concessions.

The following are not included in this base: concessions other than car rental.

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

Goal Calculations

Step 1:

The Step 1 figure was calculated as follows.

The data source used was the Alaska AUCP directory and the US Census Bureau data.

Concession Type	NAICS Code	ACDBE Firms	All Firms in Market Area	% of ACDBE Firms that may be available
Tires	423130	21	2,527	0.83%
Insurance Services	524210	68	135,100	0.05%
Oil Change Services	811191	17	8,694	0.20%
Car Wash	811192	123	19,463	0.63%
Total		229	165,784	0.14%

When we divided the numerator by the denominator, we arrived at the Step 1 figure for our overall goal for car rental concessions of: 0.14%.

Step 2:

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

In order to reflect as accurately as possible, the ACDBE participation we would expect in the absence of discrimination we have adjusted our base figure by 0.86%. Our overall goal for non-car rental concessions is 1.00%

The data used to determine the adjustment to the base figure was as follows.

There is no historical ACDBE data to reference to make an adjustment to the Step 1 base figure, however, Alaska DOT&PF feels it can achieve a slightly higher ACDBE goal during the 3-year period because additional ACDBE firms are expected to be certified in the market area. Therefore, the Alaska DOT&PF is increasing its Step 1 base figure by 0.86% for a total overall goal of 1.00% for FY-2023-2025.

Wiley Post – Will Rogers Memorial Airport (BRW) believes this **adjusted** goal figure will accurately reflect ACDBE car rental concession participation that can be achieved during this 3-year period.

Consultation:

Prior to submitting this goal to the FAA, **Wiley Post - Will Rogers Memorial Airport (BRW)** consulted with the following stakeholders:

All stakeholders are hereby **invited to participate** in an upcoming **BRW (Wiley Post-Will Rogers Memorial Airport) FAA ACDBE Goal Methodology FFY2023-2025 Public Participation Meeting**. In accordance with [49 CFR Part 23, Section 23.43](#), the Civil Rights Office (CRO) of the State of Alaska Department of Transportation & Public Facilities (DOT&PF) invites public participation in the Federal Aviation Administration (FAA) Airport Concession Disadvantaged Business Enterprise (ACDBE) Goal Methodology for Federal Fiscal Years (FFY) 2023-2025.

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- The objective of this meeting is to engage with minority and women's groups, community organizations, trade associations, concessionaires, and other relevant officials or organizations that may have valuable information concerning the availability of disadvantaged businesses.

For FFY2023-2025, Alaska DOT&PF has the following:

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- Overall three-year goal for concessions other than car rentals: **1.00%** to be accomplished through **0.00% RC** and **1.00% RN**

The Alaska DOT&PF, Civil Rights Office **invites** all interested parties to participate in this important consultation to **discuss the ACDBE goal and methodology and to provide feedback and insights**. Join us for the Public Participation Stakeholders Consultation **Meeting on Friday, July 26, 2024, at 9:00 AM AKST** to hear more information. During this meeting you can make comments and ask questions.

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- Submit comments via Fax at 907-269-0847
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We estimate that, in meeting our overall goal of **1.00%**, we will obtain **1.00%** from race-neutral participation and **0%** through race-conscious measures.

1. *The extent that you've exceeded your ACDBE goals in the past – show the numbers.*
2. *ACDBE participation on concession leases that did not have ACDBE goals.*
3. *Extent of your race-neutral business assistance efforts.*

The Alaska Department of Transportation and Public Facilities (Alaska DOT&PF) Office of Civil Rights has consistently enacted comprehensive outreach efforts targeting minority and disadvantaged communities to educate and create awareness of opportunities and encourage certification in those trades that commonly do business with the DOT and aviation communities.

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 and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation in a concession opportunity that does not have an ACDBE goal; ACDBE participation that exceeds 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 and report accordingly.

Attachment 6

Demonstration of Good Faith Efforts - Forms 1 and 2

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

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession in the following manner:

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

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

Legal name of bidder/respondent's firm: _____

Bidder/Respondent Representative:

Name & Title

Signature

Date

FORM 2: LETTER OF INTENT

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

Name of bidder/respondent's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of ACDBE firm: _____

Name & title of ACDBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Role to be performed by ACDBE firm:

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

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

The undersigned bidder/respondent is committed to utilizing the above-named ACDBE firm for the work described above. The total expected dollar value of this work is \$ _____. The bidder/respondent understands that if it is awarded the contract/agreement resulting from this

procurement, it must enter into an agreement ACDBE firm identified above that reflects the type and amount of participation listed. Bidder/respondent understands that upon submitting this form, it may not substitute or terminate the ACDBE listed above without following the procedures of 49 CFR Part 26, §26.53.

Date: _____
Signature of Bidder/Respondent's Authorized Representative

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

Date: _____
Signature of ACDBE's Authorized Representative

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

Submit this page for each ACDBE participant.

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Attachment 7

ACDBE Certification Application Form

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

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ATTACHMENT 8

State's UCP Agreement

Alaska DOT&PF UCP Agreement can be found here:

<https://dot.alaska.gov/cvlrts/forms/aucp-agreement.pdf>

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Attachment 9

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>

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Attachment 10

Small Business Element

1. Objective/Strategies

- (1) Establish a race-neutral small business set-aside for certain concession opportunities. **Alaska DOT&PF** is committed to promoting equitable opportunities for small businesses in airport concession activities. In accordance with the requirements of 49 CFR Part 23, Alaska DOT&PF will develop and establish a race-neutral small business set-aside program for certain concession opportunities. This initiative aims to ensure that small businesses have a fair chance to compete for and obtain concession contracts at State of Alaska-owned airports.
- (2) Alaska DOT&PF will consider the concession opportunities available through all types of concession models.
- (3) 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) Alaska DOT&PF will 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.
- Alaska small business size standard will be consistent with 49 CFR § 23.33.
- Personal Net Worth standards – should be consistent with 49 CFR Part 23 thresholds.
- All businesses meeting the criteria outlined in this element will be considered to be small businesses, without regard to race or gender.

3. Verification

The Alaska Department of Transportation & Public Facilities (DOT&PF) will diligently attempt to minimize fraud and abuse in the small business element of its ACDBE program by verifying the program eligibility of firms. The verification procedure will ensure the participation of all eligible small businesses. Additionally, Alaska DOT&PF may use other local and state certification programs or other programs that include race/gender/geographical considerations as conditions of the certification, as needed, to comply with the race-neutral requirements of §23.26. This multi-faceted approach ensures the integrity of the program while fostering a diverse and inclusive environment for all small businesses.

Monitoring/Record Keeping

- **Alaska DOT&PF** 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.

- **Alaska DOT&PF** will revise the existing tracking forms to increase accuracy in reporting and the monitoring process to regularly assess the effectiveness of the small business element, ensuring it meets its objectives and identifying any necessary revisions to comply with 49 CFR Part 23.

4. Assurances

- 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;
- **Alaska DOT&PF** 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.