

CITY OF REDMOND – REDMOND MUNICIPAL AIRPORT ACDBE PROGRAM

POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

The City of Redmond has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR part 23. The City of Redmond is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The City of Redmond has signed airport grant assurances that it will comply with 49 CFR part 23.

It is the policy of The City of Redmond 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 our airport that receives 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;
6. To promote the use of ACDBEs in all types of concessions activities at our airport;
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 our airport that receives DOT financial assistance in establishing and providing opportunities for ACDBEs.

The Airport Business Coordinator has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, The Airport Business Coordinator-ACDBELO 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 City of Redmond in its financial assistance agreements with the Department of Transportation.

The City of Redmond has disseminated this policy statement to the City Manager and all the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area through our website,

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www.flyrdm.com and by making it available to all parties requesting a copy from the Airport Business Coordinator-DBE/ACDBE Liaison Officer.

Keith Witcosky, City Manager

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

The City of Redmond will use terms in this program that have the meaning defined in Section 23.3 and part 26 Section 26.5 where applicable.

Section 23.5 Applicability

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

Section 23.9 Non-discrimination Requirements

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

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

The City of Redmond 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 causes those businesses to similarly include the statements in further agreements.

Section 23.11 Compliance and Enforcement

The City of Redmond 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

The City of Redmond is the operator of one primary and small-hub airport and is required to have an ACDBE program. This ACDBE program is applicable to the following airport(s):

- Redmond Municipal Airport

The program applies to the Redmond Municipal Airport and the City of Redmond will submit a goal methodology for the Redmond Municipal Airport.

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

Section 23.23 Administrative Provisions

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

The City of Redmond 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. The City of Redmond will also encourage prime concessionaires to use such institutions.

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

Felila Sumanas Narotski
Airport Business Coordinator-DBE/ACDBE Liaison Officer
2522 S.E. Jesse Butler Circle, # 17-Airport Admin Office
Redmond, OR 97756
Phone: 541-504-3086
Email: felila.narotski@flyrdm.com

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

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

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works 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 the City of Redmond's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the City Manager on ACDBE matters and achievement.
9. Plans and participates in ACDBE training seminars.
10. Acts as liaison to the Unified Certification Program (UCP) in Oregon.
11. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Directory: The State of Oregon 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

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

The City of Redmond will seek ACDBE participation in all types of concession activities.

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

- 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) Whenever 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 the City of Redmond'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 steps to foster ACDBE participation in concessions, such as introducing non-ACDBE concessionaires to the Oregon Certification Office for Business Inclusion and Diversity programs.

The City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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.

The City of Redmond 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

The City of Redmond 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. The City of Redmond acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

The City of Redmond 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/dbe-and-acdbe-program-reporting-requirements-recipients>

Section 23.27 Reporting

The City of Redmond 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.

The City of Redmond 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) The City of Redmond will create and maintain active participants list information and enter it into a system designated by the FAA. The City of Redmond will collect the following information about ACDBEs 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.

(Sample form in attached to this Program)

:

The City of Redmond 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. The City of Redmond 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. The City of Redmond, 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

The City of Redmond 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 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

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

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

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

<https://www.oregon.gov/biz/programs/cobid/pages/default.aspx>

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

The City of Redmond will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, The City of Redmond 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, the City of Redmond 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. The City of Redmond will review those persons' résumés and/or work histories. The City of Redmond will maintain a complete audio recording of the interviews. The City of Redmond 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 The City of Redmond 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), The City of Redmond 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 The City of Redmond.

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).

The City of Redmond will use the Uniform Certification Application found in part 26 of this chapter without change. If The City of Redmond 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.

The City of Redmond 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 COUNTING

Section 23.41 Overall Goals

The City of Redmond will establish two separate overall ACDBE goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the sponsor will review the goals annually to make sure the goal continues to fit the sponsor's circumstances. The City of Redmond 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, The City of Redmond 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, The City of Redmond is not required to develop and submit an overall goal for concessions other than car rentals. The City of Redmond understands that "revenue" means total revenue generated by concessions, not the revenue received by the airport from concessions agreements.

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

Section 23.43 Consultation in Goal Setting

The City of Redmond 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, The City of Redmond 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 :

49 CFR Part 23 Primary Airports – 3-Year Overall ACDBE Goals Due: October 1

Airport Size	Region	Due	Period Covered	Next Goal Due
Small Hubs	All	2024	2025/2026/2027	2027 (2028/2029/2030)

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.

The City of Redmond 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).

The City of Redmond 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 The City of Redmond’s goals have not been correctly calculated or the justification is inadequate, the FAA may, after consulting with us, adjust the overall goal or race-conscious/race-neutral “split.” In such a case, the adjusted goal is binding on The City of Redmond.

Section 23.53 Counting ACDBE Participation for Car Rental Goals

The City of Redmond will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.53.

Section 23.55 Counting ACDBE participation for Concessions Other than Car Rentals

The City of Redmond 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;

The City of Redmond is NOT a CORE 30 nor designated by the FAA, therefore:

- 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 The City of Redmond’s analysis and corrective actions including, but not limited to, modifications to our overall goal methodology, changes in our race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

The City of Redmond 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:

- The City of Redmond 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
- The City of Redmond 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, the City of Redmond will use any means authorized by part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

Section 23.73 Privately-Owned or Leased Terminal Buildings

The City of Redmond 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

The City of Redmond 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.

The City of Redmond 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 the City of Redmond's plan for meeting the standards of paragraph (c) of § 23.75.

To obtain FAA approval of a long-term exclusive concession agreement, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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, the City of Redmond 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 the City of Redmond, or the authority of any State or local government or The City of Redmond 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.

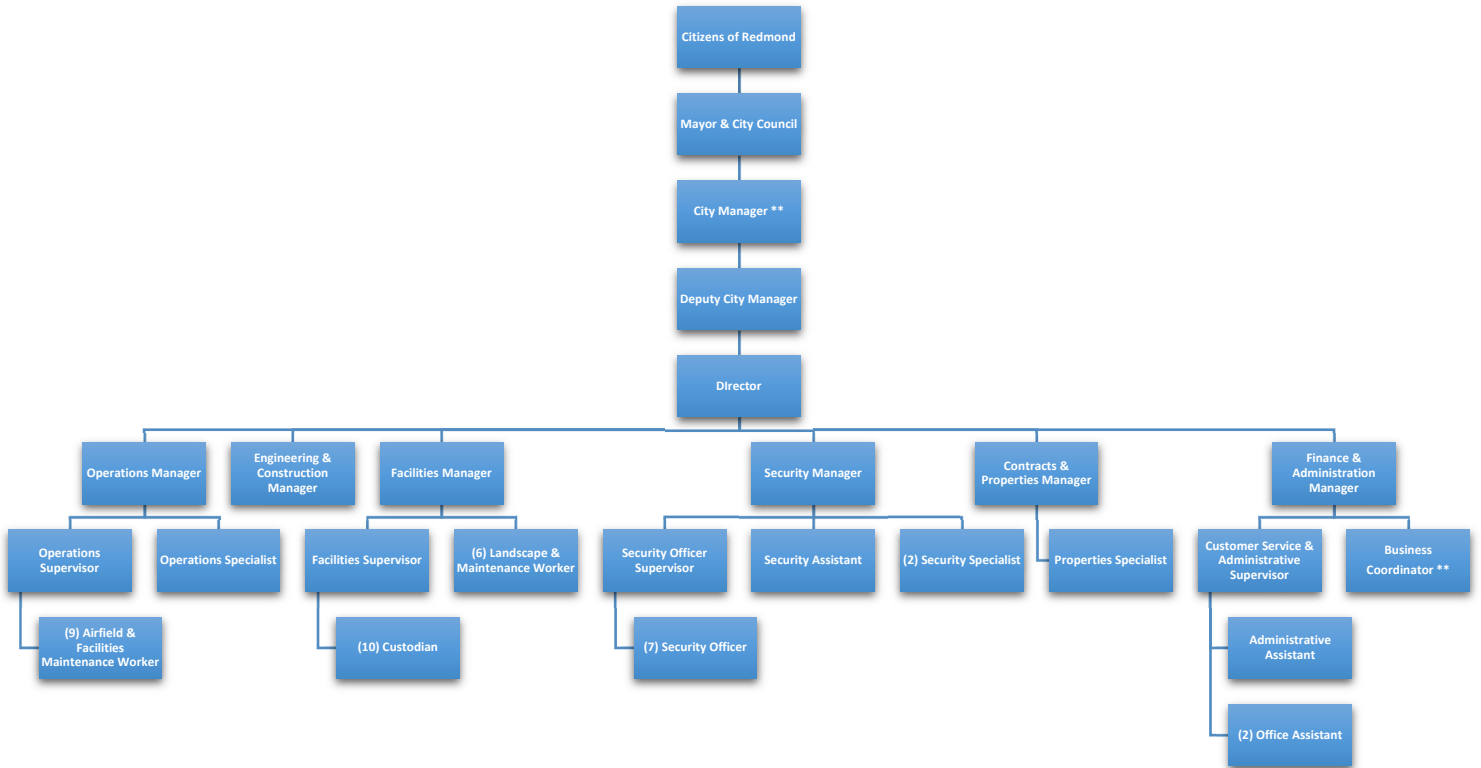
Section 23.79 Geographic Preferences

The City of Redmond 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	Overall Goal Methodology – Concessions Other Than Car Rental <i>[Provided for illustrative purposes. Goal methodologies should be submitted in FAA Civil Rights Connect according to the established schedule, independent of the ACDBE program document.]</i>
Attachment 5	Overall Goal Methodology – Car Rental <i>[Provided for illustrative purposes. Goal methodologies should be submitted in FAA Civil Rights Connect according to the established schedule, independent of the ACDBE program document.]</i>
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

Attachment 1



** The direct access is for DBELO/ACDBELO activity only

Attachment 2

Oregon Directory of Certified DBE/ACDBE Firms

To obtain the list of Oregon certified ACDBEs, contact:

Business Oregon – An Oregon State Agency
775 Summer St., NE, Suite 200
Salem, Oregon 97301
Phone : 503-986-0123

Or visit the website of the Certification Office for Business Inclusion and Diversity (COBID) of the Oregon Business Development Department at:

<https://www.oregon.gov/biz/programs/cobid/pages/default.aspx>

and:

COBID Certified Vendor Directory at:

<https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>

Attachment 3

Sample Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;

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

1. We will insert the following provisions into concessions agreements and management contracts:

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

2. We will implement our compliance and monitoring procedures as follows:

We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed, contracting records, and monitored work sites for this purpose.

Attachment 4

Overall Goal Calculation for Concessions Other Than Car Rentals

Goal methodologies are to be submitted in FAA Civil Rights Connect according to the established schedule, independent of the ACDBE program document.

Attachment 5

Overall Goal Calculation for Car Rentals

Goal methodologies are to be submitted in FAA Civil Rights Connect according to the established schedule, independent of the ACDBE program document.

Attachment 6

Demonstration of Good Faith Efforts - Forms 1 and 2

Form 1 and 2 will be included with solicitation documents *for purposes of assessing bidder/respondent good faith efforts should be included with solicitation documents.*

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

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession request for proposal specification 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

Attachment 7

ACDBE Certification Application Form

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

Edina Haislip-COBID Program Manager
Business Oregon – An Oregon State Agency
775 Summer St. NE, Suite 200
Salem, OR 97301
Phone: 503-986-0123
Email: Edina.Haislip@biz.oregon.gov

Or visit the website of the Certification Office for Business Inclusion and Diversity (COBID) of the Oregon Business Development Department at:

<https://www.oregon.gov/biz/programs/cobid/pages/default.aspx>

A copy of the Application Form and instructions can be found at the following website:

<https://oregon4biz.diversitysoftware.com/>

ATTACHMENT 8

State's UCP Agreement

A copy of the State of Oregon UCP Agreement can be found at the following website:

<https://cdn.portofportland.com/pdfs/UCP%20Agreement.pdf>

1. The 2017 signed UCP Agreement
2. Oregon Business Development Department-Division 200 Certification Procedures

COBID Program Manager
Business Oregon – An Oregon State Agency
775 Summer St. NE, Suite 200
Salem, OR 97301
Phone: 503-986-0123

Or visit the website of the Certification Office for Business Inclusion and Diversity (COBID) of the Oregon Business Development Department at:

<https://www.oregon.gov/biz/programs/cobid/pages/default.aspx>

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>

Attachment 10

Small Business Element

The following are the objectives/strategies the City of Redmond will use to comply with the requirements of § 23.26.

1. Objective/Strategies

- (1) Establish a race-neutral small business set-aside for certain concession opportunities, such as the non-car rental concession opportunities. The rationale includes consideration of size and availability of small businesses to operate the concession.
- (2) Consider the concession opportunities available through all types of concession models (stationary stands or kiosks, mobile stands, digitals, trailers, etc.)
- (3) On concession opportunities that do not include ACDBE contract goals, prime concessionaires will be encouraged to provide subleasing opportunities of a size that small businesses, including ACDBEs, can reasonably operate. Concessionaires will be required to demonstrate which subleasing opportunities they identified. They will also be required to alert the City of Redmond so the City of Redmond can conduct or support outreach activities to showcase the opportunity.
- (4) Identify alternative concession contracting approaches to facilitate the ability of small businesses, including ACDBEs, to compete for and obtain direct leasing opportunities, such as short-term leases for pop-up locations supported by the City of Redmond, concessionaires, or both.

2. Definition

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

Disadvantaged Business Enterprise (DBE):

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

- where socially and economically disadvantaged individuals own at least a 51% interest; or in the case of a corporation, in which 51% of the stock is owned by one or more such individuals;

- whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it;
- whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) as described in 49 CFR Part 23;
- has been certified as DBE by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID) in accordance with 49 CFR Part 23.

Airport Concession:

- A business, located on an airport that is engaged in the sale of consumer goods or services to the traveling public under an agreement with an airport, another concessionaire, or the owner or lessee of an airport terminal, if other than the airport;
- A business conducting one or more of the following covered activities, even if it does not maintain an office, store, or other business location on an airport as long as the activities take place on the airport: Management contracts and subcontracts, a web-based or other electronic business in a terminal or which passengers can access at the terminal, an advertising business that provides advertising displays or messages to the public on the airport, or a business that provides goods and services to concessionaires.

Airport Concession Disadvantaged Businesses Enterprise (ACDBE):

A for-profit airport concession small business concerns (as defined by the Small Business Administration)

- where socially and economically disadvantaged individuals own at least a 51% interest; or in the case of a corporation, in which 51% of the stock is owned by one or more such individuals;
- whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it;
- whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) as described in 49 CFR Part 23;
- has been certified as DBE by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID) in accordance with 49 CFR Part 23

3. Verification

The City of Redmond will diligently attempt to minimize fraud and abuse in the small business element of its ACDBE program by verifying program eligibility of firms through steps delineated in the section 23.39 besides through the utilization of Oregon Certification Office for Business Inclusion and Diversity (COBID)-Certified Vendor Directory website:

<https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>

Monitoring/Record Keeping

- The City of Redmond 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;
- Records of concessionaires' gross revenues and purchases from DBEs are kept per the State of Oregon document retention rules and regulations.
- Actively attend and/or participate in the supplier diversity and small business enterprises outreach events.

4. Assurances

The City of Redmond sets the following assurances:

- The ACDBE Program, including its small business element is not prohibited under State law;
- Certified ACDBEs that meet the size criteria established under the ACDBE Program are presumptively eligible to participate this small business element of the ACDBE Program;
- There are no geographic preferences or limitations imposed on any concession opportunities included in this small business element of the ACDBE Program;
- There are no limits on the number of concession opportunities awarded to firms participating in this small business element of the ACDBE Program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
- The City of Redmond will take reasonable efforts to encourage those minority and women owned firms that are eligible for ACDBE certification to become certified; and
- This small business element of the ACDBE Program is open to small businesses regardless of their location.

