



AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM

Amended February 2025



POLICY STATEMENT

SECTION 23.1, 23.23 - OBJECTIVES / POLICY STATEMENT

The Yuma County Airport Authority, Inc. (YCAA or Airport), sponsor of Yuma International Airport (NYL), has established an Airport Concession Disadvantage Business Enterprise (ACDBE) Program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Airport has received federal funds authorized for airport development (authorized under Title 49 of the United States Code). The Airport has signed grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the Airport to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also Airport policy to engage in the following actions on a continuing basis:

1. Ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance.
2. Create a level playing field on which ACDBEs can compete fairly for opportunities for concessions.
3. Ensure that the Airport's ACDBE program is narrowly tailored in accordance with applicable law.
4. Ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs.
5. Help remove barriers to the participation of ACDBEs in all types of concessions activities at the Airport.
6. Promote the use of ACDBEs in all types of concessions activities at the Airport.
7. Encourage the development of firms that can compete successfully in the marketplace outside the ACDBE program.
8. Make appropriate use of the flexibility afforded to recipients of federal financial assistance in establishing and providing opportunities for ACDBEs.

Gen Grosse, Property and Community Relations Manager, has been delegated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Ms. Grosse 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 Airport in its financial assistance agreements with the DOT.

The Airport has disseminated this policy statement to the YCAA and all the components of its organization. By way of the Airport's website, this statement has been distributed to ACDBE and non-ACDBE concessionaire communities in the YCAA area.



Gladys D. Brown, CM, CAE
Airport Director

21 FEBRUARY 2025

Date

SUBPART A – GENERAL REQUIREMENTS

SECTION 23.1 - OBJECTIVES

The objectives are found in the policy statement on the first page of this program.

SECTION 23.3 - DEFINITIONS

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

SECTION 23.5 - APPLICABILITY

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

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

The Airport 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

The Airport 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.

SUBPART B – ACDBE PROGRAM

SECTION 23.21 - ACDBE PROGRAM UPDATES

As a nonhub primary airport, the Airport is required to have an ACDBE program. As a condition of eligibility for FAA financial assistance, the Airport will submit its ACDBE overall goals to the FAA every three years on October 1 for the following three federal fiscal years. The Airport does not have to submit regular updates of the ACDBE program document as long as the document and program remain in compliance. When significant changes are made to the ACDBE program, an amended program will be submitted to the FAA for approval prior to implementing the changes.

SECTION 23.23 - ADMINISTRATIVE PROVISIONS

POLICY STATEMENT

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

It is the policy of the Airport to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. The Airport is not aware of any DBE financial institutions doing business in the community at this time. The Airport encourages prime contractors to investigate such institutions through the Business Programs Office (www.osdbu.dot.gov/financial/stlp.cfmm). The Federal Reserve Board website (www.federalreserve.gov) can be used to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center Database.

ACDBE LIAISON OFFICER (ACDBELO)

The following individual has been designated as the ACDBE Liaison Officer for the Airport:

Gen Grosse
Property & Community Relations
Yuma International Airport
2191 E. 32nd Street, Suite 218
Yuma, AZ 85365
928-726-5882 x2211
gen@yumairport.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Airport complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Airport Authority President concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is included in **Attachment 1** of 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 four (4): Airport Manager, Project Manager, Chief Financial Officer and Legal 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 DOT.
2. Reviews third-party contracts and purchase requisitions for compliance with the ACDBE 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 and monitors results.
6. Analyzes the Airport's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Airport Director on ACDBE matters and achievement.
9. Determines concessionaire compliance with good faith efforts.
10. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Acts as the Airport's liaison to the Arizona Unified Certification Program (UCP)

DIRECTORY

The Airport is a non-certifying member of the Arizona UCP. The UCP maintains a directory identifying all firms eligible to participate as ACDBEs, which contains all the elements required by §23.31 and §26.31.

SECTION 23.25 - ENSURING NON-DISCRIMINATORY PARTICIPATION OF ACDBES

The Airport will not use set-asides or quotas as a means of obtaining ACDBE participation, will seek ACDBE participation in all types of concession activities, and 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 Airport will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions and other covered activities (23.25(a)):

- The Airport will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and administration of opportunities for concessions covered by Part 23 on the basis of sex, race, color, or national origin.
- The Airport's overall goal methodology and a description of the race-neutral measures it will take to meet annual ACDBE goals are described in Section 23.25 of this program. The goals are set consistent with the requirements of Subpart D.
- The Airport will require businesses subject to ACDBE goals (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent

practicable, through direct ownership arrangements with ACDBEs. The Airport will not use set-asides or quotas as a means of obtaining ACDBE participation.

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport may 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. Examples of race-conscious measures the Airport may implement, as needed, include but are not limited to:

1. Establishing concession-specific goals for particular concession opportunities.
 - a. In setting concession-specific goals for concession opportunities other than car rental, the Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 Airport 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 6.53. apply with respect to concession-specific goals.
- 2. Encourage 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 Airport 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 Airport has created a small business element to provide for the structuring of concession opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

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

The Airport 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

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

The Airport will submit an annual 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 the information described in the Uniform Report of ADDBE Participation.

The Airport will create and maintain an active participants list and enter it into a system designated by the FAA. The Airport will collect the following information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities.

- Firm name
- Firm address, including zip code
- Firm's status as an ACDBE or non-ACDBE
- Race and gender information for the firm's majority owner
- NAICS code applicable to each scope of work the firm sought to perform in its bid
- Age of the firm
- Annual gross receipts of the firm

The Airport 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 Airport 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.

SECTION 23.29 - COMPLIANCE AND ENFORCEMENT PROCEDURES

The Airport will take the following monitoring and enforcement mechanisms to ensure compliance with Part 23.

- The Airport will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program so that DOT can take the necessary steps as provided in §26.107.
- In the Airport's reports of ACDBE participation to the FAA, the Airport will show both commitments and attainments as required by the DOT reporting form.
- The Airport will implement monitoring and enforcement mechanisms to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. The mechanisms are provided in **Attachment 3** of this program.
- The Airport will consider similar action under the Airport's own legal authorities, including responsibility determinations in future contracts.

SUBPART C – CERTIFICATION AND ELIGIBILITY

SECTION 23.31 - ACDBE PROGRAM UPDATES

The Airport is a non-certifying member of the Arizona Unified Certification Program (UCP) and relies upon the UCP's determinations of certification eligibility. Arizona 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 Arizona UCP members make all certification decisions based on the facts as a whole.

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

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

Arizona Department of Transportation
Business Engagement and Compliance Office
1801 W. Jefferson #101, MD154A
Phoenix, AZ 85007
(602) 712-7761
Fax: (602) 712-8429
DBECertification@azdot.gov
<https://azdot.gov/business/business-engagement-and-compliance>

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](#). Any individual who has a personal net worth (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

Certifying members of Arizona UCP 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, certifying Arizona UCP

members 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, certifying Arizona UCP members 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. Certifying Arizona UCP members will review those persons' résumés and/or work histories, and maintain a complete audio recording of the interviews. Certifiers 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 certifying Arizona UCP member 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.
8. Require applicants for ACDBE certification to complete and submit an appropriate application form, except as otherwise provided in §26.85 of Part 26.
9. In reviewing the Declaration of Eligibility required by §26.83(j), Certifying Arizona UCP members 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).

Certifying Arizona UCP members will use the Uniform Certification Application found in Part 26 of this chapter without change. If Arizona UCP seeks to supplement the form by requesting specified additional information consistent with Part 23 and Part 26, the Arizona UCP will first seek written approval of the concerned Operating Administration.

Certifying Arizona UCP members will require every applicant to clearly 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.

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

SECTION 23.41 - OVERALL GOALS

The Airport will establish two separate overall ACDBE goals: one goal for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period, and the Airport will review the goals annually to ensure the goals continue to fit the Airport's circumstances. The Airport will report any significant overall goal adjustments to the FAA.

If average annual concession revenue for car rentals over the preceding three-year period do not exceed \$200,000, the Airport is not required to develop and submit an overall goal for car rental concessions. Likewise, if the average annual concession revenues for non-car rental concessions over the preceding three-year period do not exceed \$200,000, the Airport need not submit an overall goal for concessions other than car rentals. The Airport understands that "revenue" means total revenue generated by concessions, not the fees received by the Airport from concessions agreements.

The Airport'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 Airport 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 that could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Airport's efforts to increase participation of ACDBEs.

When submitting overall goals, the Airport will identify the stakeholders with whom were consulted 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 Airport 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 annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit an appropriate adjustment to the overall goal to the FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity.

The Airport will establish overall goals in accordance with the two-step process as specified in §23.51. After determining the total gross receipts for 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 Airport’s jurisdiction to determine if an adjustment to the Step 1 “base figure” is necessary so that the goal accurately reflects the ACDBE participation the Airport 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 Airport 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 Airport’s goals have not been correctly calculated or the justification is inadequate, the FAA may, after consulting with the Airport, adjust the overall goal or race-conscious/race-neutral split. In such a case, the adjusted goal is binding on the Airport.

SECTION 23.53 - COUNTING ACDBE PARTICIPATION FOR CAR RENTAL GOALS

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

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

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

SECTION 23.55 - COUNTING ACDBE PARTICIPATION FOR CONCESSIONS OTHER THAN CAR RENTALS

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

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

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

SECTION 23.57 - GOAL SHORTFALL ACCOUNTABILITY

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

- Analyze in detail the reasons for the difference between the overall goal and awards and commitments in that fiscal year.
- Establish specific steps and milestones to correct the problems identified in the overall goal-setting methodology to enable the Airport to fully meet the goal for the new fiscal year. If needed, a goal amendment for the ongoing triannual goal period will be prepared and submitted to the FAA for approval.
- In the event the Airport does not meet the criteria of this section, YCAA will retain the analysis and corrective actions in Airport records for three years and make it available to the FAA, on request, for review.

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

The Airport 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 the ACDBE program in good faith if any of the following occur:

- The Airport 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.
- The Airport does not fully implement:
 - The corrective actions to which were committed.

- Conditions that FAA has imposed following review of our analysis and corrective actions.
- If information coming to the attention of FAA demonstrates that current trends make it unlikely that the Airport will achieve ACDBE awards and commitments that would be necessary to meet the overall goal at the end of the fiscal year, the FAA may require the Airport to make further good faith efforts, such as modifying the 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

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

SUBPART E – OTHER PROVISIONS

SECTION 23.71 - EXISTING AGREEMENTS

If permitted by the existing agreement, the Airport will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

SECTION 23.73 - PRIVATELY-OWNED OR LEASED TERMINAL BUILDINGS

The Airport will pass through applicable provisions of Part 23 to any private terminal owner or lessee via the Airport's agreement with the owner or lessee. The Airport will ensure that the owner or lessee complies with Part 23 and 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 Airport will not enter into a long-term exclusive agreement for concessions without prior approval of the FAA Regional Civil Rights Office. The Airport understands that a "long-term" agreement is one having a term of or more than ten (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 (10) years. The Airport understands 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 Airport 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 into a long-term and exclusive agreement.
2. The FAA approves the Airport's plan for meeting the standards of paragraph (c) of §23.75.

To obtain FAA approval of a long-term exclusive concession agreement, the Airport will submit the following information to the FAA. The items in numbers (1) through (3) below will be submitted at least 60 days before the solicitation is released, and items in numbers (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 Airport 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 Airport 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 Airport 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 Airport, or the authority of any state or local government or recipient to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with Part 23.

SECTION 23.79 - GEOGRAPHIC PREFERENCES

The Airport will not use a local geographic preference. For the 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 the Airport.

ATTACHMENTS

Attachment 1 - YCAA Organizational Chart

Attachment 2 - Link to UCP Directory of Certified Firms

Attachment 3 - Active Participants List Collection Form

Attachment 4 - ACDBE Monitoring and Enforcement Mechanisms

Attachment 5 - Overall Goal Methodology: Concessions Other Than Car Rental

Attachment 6 - Overall Goal Methodology: Car Rental

Attachment 7 - Demonstration of Good Faith Efforts Forms

Attachment 8 - ACDBE Certification Application Link

Attachment 9 - State of Arizona UCP Agreement

Attachment 10 - Regulations: 49 CFR Part 23 Website Link

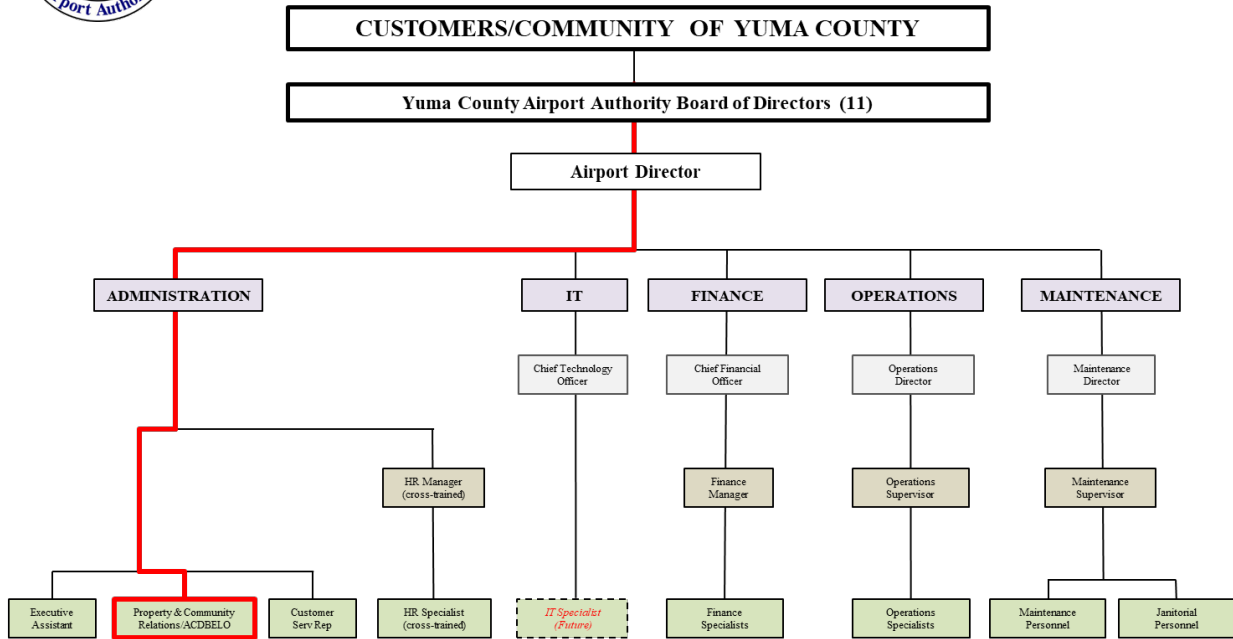
Attachment 11 - Small Business Element

ATTACHMENT 1

YCAA ORGANIZATIONAL CHART



Yuma International Airport Organizational Chart



Revised August 2020

ATTACHMENT 2

LINK TO UCP DIRECTORY OF CERTIFIED FIRMS

The Airport is a non-certifying member of the Arizona Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as ACDBEs, which contains all the elements required by §23.31 and §26.31. The UCP directory can be accessed at the following URL: <https://utracs.azdot.gov/Search>

ATTACHMENT 3

ACTIVE PARTICIPANTS LIST COLLECTION FORM

ACTIVE PARTICIPANTS LIST COLLECTION FORM FOR ACDBE IDENTIFICATION

Owner is required to obtain the following information from all firms that have participated or attempted to participate in airport concession activities and submitted proposals or initial responses to negotiated procurements.

Name of Business: _____

Business Address: _____

At time of proposal submittal, business ☐ is OR ☐ is not a certified ACDBE

Airport Concession Disadvantaged Business Enterprise (ACDBE) is defined as a firm seeking to operate as a concession that is a for-profit small business that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Race of Business' Majority Owner:

- | | | |
|---|--|--|
| <input type="checkbox"/> Black American | <input type="checkbox"/> Hispanic American | <input type="checkbox"/> Native American |
| <input type="checkbox"/> Asian-Pacific American | <input type="checkbox"/> Subcontinent Asian American | <input type="checkbox"/> Non-Minority |
| <input type="checkbox"/> Other | | |

Gender of Business' Majority Owner:

- ☐ Male ☐ Female

NAICS Code(s) Applicable to Concession Contract(s) the Business Seeks to Perform: _____

Age of Business:

- | | | |
|---|---|--------------------------------------|
| <input type="checkbox"/> Less than 1 year | <input type="checkbox"/> 1 – 3 Years | <input type="checkbox"/> 4 – 7 years |
| <input type="checkbox"/> 8 – 10 years | <input type="checkbox"/> More than 10 years | |

Annual Gross Receipts of Business:

- | | | |
|--|---|--|
| <input type="checkbox"/> Less than \$500,000 | <input type="checkbox"/> \$500,000 - \$1,000,000 | <input type="checkbox"/> \$1,000,001 - \$2,000,000 |
| <input type="checkbox"/> \$2,000,001 - \$5,000,000 | <input type="checkbox"/> Greater than \$5,000,000 | |

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

SIGNED AND DATED this _____ day of _____, 20_____

Authorized Signature _____ Print Name & Title _____

ATTACHMENT 4

ACDBE MONITORING AND ENFORCEMENT MECHANISMS

The Airport 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, as follows:
 - *The concessionaire shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The concessionaire shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of YCAA contracts. Failure by the concessionaire to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy, as the recipient deems appropriate.*
 - *The concessionaire shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of YCAA contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the owner deems appropriate, which may include, but is not limited to:*
 - 1) *Assessing sanctions*
 - 2) *Liquidated damages*
 - 3) *Disqualifying the concessionaire from future YCAA contracts*
2. Breach of contract action, pursuant to Arizona A.R.S. §12.552.
3. Arizona State Public Prompt Payment Regulations - Ariz. Rev. Stat. -§§34-221, 41-2576, 41-2577.

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

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26.
2. Enforcement action pursuant to 49 CFR Part 31.
3. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 5

OVERALL GOAL METHODOLOGY – CONCESSIONS OTHER THAN CAR RENTALS

The triennial ACDBE Goal and Methodology for concessions other than car rentals will be submitted as a separate document, according to the schedule identified in Part 23, Section 23.45.

ATTACHMENT 6

OVERALL GOAL METHODOLOGY – CAR RENTAL

The triennial ACDBE Goal and Methodology for car rental concessions will be submitted as a separate document, according to the schedule identified in Part 23, Section 23.45.

ATTACHMENT 7**DEMONSTRATION OF GOOD FAITH EFFORTS FORMS****FORM 1****AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
UTILIZATION**

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

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

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

Name of bidder/respondent firm: _____

By: _____
(Signature) (Date)

(Name - Print) (Title)

FORM 2
LETTER OF INTENT

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

Name of bidder/respondent's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of ACDBE firm: _____

Name & title of ACDBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Role to be performed by ACDBE firm:

Description of Work	NAICS Code(s)	Projected Dollar Amount / %	Joint Venture / Subtenant / Supplier*

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

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

By: _____
(Signature of Authorized Representative) (Date)

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

By: _____
(Signature of ACDBE's Authorized Representative) (Date)

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

(Submit this page for each ACDBE participant.)

ATTACHMENT 8

ACDBE CERTIFICATION APPLICATION LINK

The ACDBE Application Request for the State of Arizona can be found at the following website:

<https://utracs.azdot.gov/ACDBECertification/>

Applicants must create an account and login for ACDBE certification.

First-time applicants for ACDBE certification must complete and submit this certification application and related material to the certifying agency in Arizona and participate in an on-site interview conducted by that agency. In Arizona, ACDBE Certification applications are processed by the [Arizona Unified Certification Program](#) (UCP) which consists of [ADOT](#), the [City of Phoenix](#), and the [City of Tucson](#).

The U.S. Department of Transportation provides this [overview of the ACDBE certification process](#) for further guidance.

ATTACHMENT 9

STATE OF ARIZONA UCP AGREEMENT

In compliance with 49 CFR Part 26, Section 26.81, Arizona has established a Unified Certification Program (UCP). Arizona Department of Transportation (ADOT) is the lead agency for the Arizona UCP. The Arizona UCP provides "one-stop shopping" to applicants for certification, such that an applicant is required to apply only once for a Disadvantaged Business Enterprise (DBE) or Airport Concessionaire Disadvantaged Business Enterprise (ACDBE) certification that is honored by recipient agencies in the state. Therefore, certifications by all Arizona UCP partner agencies are binding on all agencies receiving federal U.S. DOT funds in the State of Arizona.

The Arizona UCP is comprised of three certifying agencies: ADOT, the City of Phoenix, and the City of Tucson. These agencies are assigned statewide geographical areas for ACDBE certification application processing as follows:

- City of Phoenix: Firms located in Phoenix and greater Maricopa County, AZ.
- City of Tucson: Firms located in Tucson and greater Pima County, AZ.
- ADOT: All other cities and counties in the State of Arizona and all interstate certifications.

Arizona UCP Partners have assigned all ACDBE Certification application processing to the City of Phoenix. All three entities have signed an Operating Agreement to manage the certification program in a consistent manner.

More information on the Arizona UCP may be found at the following website: <https://utracs.azdot.gov/>

ATTACHMENT 10

REGULATIONS: 49 CFR PART 23 WEBSITE LINK

Regulation: 49 CFR Part 23 can be found at the following website:

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

ATTACHMENT 11

SMALL BUSINESS ELEMENT

OBJECTIVES/STRATEGIES

The Airport has established a race/gender neutral Small Business Participation Plan (SBPP) for Airport concession opportunities in compliance with 49 CFR Part 23.26. It is the policy of the Airport to ensure that small businesses, as defined by the Small Business Administration, have an equal opportunity to participate in concession opportunities at the Airport.

As part of this program element, YCAA will implement the following strategies:

- On concession opportunities that do not include ACDBE contract goals, encourage all concession models to provide subleasing opportunities of a size that small businesses, including ACDBEs, can reasonably operate. As appropriate, concessionaires will be encouraged to demonstrate which subleasing opportunities have been identified for potential ACDBE participation.
- Consider the concession opportunities available through all types of concession models.
- To meet the portion of the overall goal projected to be met through race-neutral measures, review and promote concession opportunities that are of a size that small businesses, including ACDBEs, can reasonably perform.

DEFINITION

For the purposes of this SBPP, a “small business” is one that is independently owned and operated, is organized for profit, is not dominant in its field, and does not exceed the cap on average annual gross receipts specified in 49 CFR Part 23, §23.33(b). The small business size standard by NAICS is defined in 13 CFR Part 121.201. All businesses meeting the criteria outlined in this element will be considered to be small businesses, without regard to race or gender.

VERIFICATION

The Airport uses the ADOT SBE Program's list of certified firms as the accepted list of SBEs within the State of Arizona. As part of the initial review of all bids, each of the ACDBE and SBE firms listed on the bidders list is checked against the ADOT Certified ACDBE and SBE Directories to verify eligibility. The Airport will accept ACDBE certification for participation in the Small Business Element.

MONITORING AND RECORD KEEPING

The Airport is required to track and report any participation by certified ACDBE's achieved through the Small Business Program, using the same reporting mechanisms implemented in the Airport's ACDBE Program. YCAA will report Airport ACDBE participation achieved through the Small Business Program annually utilizing the FAA's Uniform Report.

ASSURANCES

The Airport includes the following assurances as part of the Airport's SBPP.

1. The program is authorized under state law.

2. Certified ACDBEs that meet the size criteria established under this element are presumptively eligible to participate therein.
3. There are no local or geographic preferences or limitations imposed on any concession opportunities included in this SBPP.
4. There are no limits on the number of concession opportunities awarded to firms participating in this SBPP, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses.
5. The Airport will encourage minority and women owned firms that are eligible for ACDBE certification to become certified.