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Sawyer International Airport

ACDBE Concession ACDBE Program

August 5, 2019

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POLICY STATEMENT

Section 26.1. 23 Objectives/Policy Statement

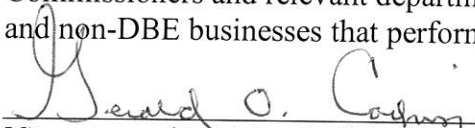
The Sawyer Int'l Airport has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Sawyer Int'l Airport is a primary airport and has received federal funds authorized for airport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

It is the policy of the Sawyer Int'l Airport to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

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

The airport manager or designee has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the ACDBE Liaison Officer 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 Sawyer Int'l Airport in its financial assistance agreements with the Department of Transportation.

Sawyer Int'l Airport has disseminated this policy statement to the Marquette County Board of Commissioners and relevant departments. The airport has also distributed this statement to DBE and non-DBE businesses that perform work for Marquette County dba Sawyer Int'l Airport.


[Signature of Recipient's Chief Executive Officer]

Date August 5, 2019

SUBPART A – GENERAL REQUIREMENTS

Section 23.1 Objectives

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

Section 23.3 Definitions

The Sawyer Int'l 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

The Sawyer Int'l Airport is a primary airport and the sponsor of federal airport funds authorized for airport development after January 1988 that was authorized under Title 49 of the United States Code.

Section 23.9 Non-Discrimination Requirements

The Sawyer Int'l 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 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its ACDBE program, the Sawyer Int'l 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 Sawyer Int'l Airport acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

The Sawyer Int'l Airport will include the following assurances in all concession agreements and management contracts it executes with any firm:

1. "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.
2. "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 Sawyer Int'l Airport will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107 and 2 CFR parts 180 and 1200.

The Sawyer Int'l Airport will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

The Sawyer Int'l Airport's compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The following enforcement actions apply to firms participating in the Sawyer Int'l Airport's ACDBE program:

1. For a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
2. For a firm that, in order to meet ACDBE goals or other AC/DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
3. DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
4. DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the [*Sponsor's*] ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review Sawyer Int'l Airport's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the airport sponsor's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by the Sawyer Int'l Airport may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

SUBPART B – ACDBE PROGRAMS

Section 23.21 ACDBE Program Updates

The Sawyer Int'l Airport is a non-hub primary airport required to have an ACDBE program.

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

Until Sawyer Int'l Airport's new ACDBE program is submitted and approved, we will continue to implement our ACDBE program that was in effect previously, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at Sawyer Int'l Airport.

When the Sawyer Int'l Airport makes significant changes to its ACDBE program, we will provide the amended program to the FAA for approval prior to implementing the changes.

Section 23.23 Administrative Provisions

Policy Statement: The Sawyer Int'l Airport is committed to operating its ACDBE program in a nondiscriminatory manner.

Sawyer Int'l Airport's Policy Statement is elaborated on the first page of this program.

ACDBE Liaison Officer (ACDBELO): We have designated the following individual as our ACDBELO: Airport Manager or designee.

Duane R. DuRay
906-346-3308 ext. 222
dduray@mqtco.org

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Sawyer Int'l Airport complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Marquette County Administrator 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 additional staff including Marquette County Civil Counsel 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 the program;
3. Works with all departments to set overall annual goals;
4. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and race-conscious contract specific goals) and monitors results;
5. Analyzes Sawyer Int'l Airport's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Advises on ACDBE matters and achievement.
8. Participates with the legal counsel and others to determine concessionaire compliance with good faith efforts; and
9. Acts as liaison to the State of Michigan Uniform Certification Program (UCP) as a non-certifying member.

Directory: The publicly-available Michigan Unified Certification Program (UCP) Disadvantaged Business Enterprise (DBE) Directory, which is maintained by the Michigan Department of Transportation, is used by the Airport as the sole ACDBE/DBE Directory of certified firms. The Michigan UCP DBE Directory is available on-line at:

<https://mdotjboss.state.mi.us/MUCPWeb/search.htm>

The UCP will ensure that the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The UCP will make any changes to the current directory entries necessary to meet the requirements of this paragraph.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The Sawyer Int'l Airport will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)). Sawyer Int'l Airport will encourage ACDBE participation in all of the Requests for Proposals for concessions opportunities and will also inform the public of concession opportunities by posting them on the airport web site.

The Sawyer Int'l Airport will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))

The Sawyer Int'l Airport's overall goal methodology and a description of the race-neutral measures it will use to meet the goals are described in Section 23.25 and Attachment 4 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If the Sawyer Int'l Airport projects that race-neutral measures alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 4 and 5 of this plan. (23.25(e))

The Sawyer Int'l Airport will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))

The Sawyer Int'l Airport will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25(g)).

Section 23.27 Reporting

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

Beginning _____, Sawyer Int'l Airport will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

Section 23.29 Compliance and Enforcement Procedures

The Sawyer Int'l Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. Sawyer Int'l Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. Sawyer Int'l Airport will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. Sawyer Int'l Airport will provide a monitoring and enforcement mechanism to ensure that the concession or work committed to ACDBEs at contract award or subsequently

(i.e., as the result of modification to the contract) is actually performed by the ACDBEs to which the work was committed.

4. Sawyer Int'l Airport will implement a mechanism that will provide for a running tally of actual ACDBE attainments (e.g., revenues earned by or payments actually made to ACDBE firms), including a means of comparing these attainments to commitments. In our reports of ACDBE participation to DOT, we will show both commitments and attainments, as required by the DOT unified reporting form.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31

Sawyer Int'l Airport accepts the certification of the Michigan Unified Certification Program (MUCP). New applicants expressing interest in becoming certified are directed to the MUCP. MUCP will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs.

The Michigan UCP's directory of eligible DBEs specifies whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of part 23, or both.

Section 23.35 The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million.

We recognize that Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth (PNW) does not include the following:

1. The individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
2. The individual's equity in his or her primary place of residence; and
3. Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual's ACDBE business) to a maximum of \$3 million.

The effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (23.3)

An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Any person who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group otherwise presumed to be disadvantaged. (See 23.3 - *Personal Net Worth* definition and 23.35)

Sawyer Int'l Airport 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, we 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 our concessions program. We are not obligated to certify a part 26 DBE as an ACDBE if the firm does not perform work relevant to our concessions program. (23.37).

We recognize that the provisions of part 26, sections 26.83(c) (2-6) do not apply to certifications for purposes of part 23. We will follow the provisions of 23.39 (a) through (i). We will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. We will analyze the ownership of stock of the firm, if it is a corporation. We will analyze the bonding and financial capacity of the firm. We will determine the work history of the firm, including any concession contracts or other contracts it may have received. We will 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. We will obtain a statement from the firm of the types of concessions it prefers to operate or the type of other contracts it prefers to perform. We will ensure that the ACDBE firm meets the applicable size standard. (23.39(a)(b)).

We acknowledge that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. We recognize that the eligibility of Alaska Native Corporations (ANC) owned firms for purposes of part 23 is governed by part 26 section 26.73(h). (23.39(c) (d)).

We will use the certification standards of part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i))

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, we may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. We will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification. (23.39(e))

We will use the Uniform Application Form found in appendix F to part 26 with additional instruction as stated in 23.39(g).

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

The Sawyer Int'l Airport 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. We will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding 3 years do not exceed \$200,000, we need not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, we need not submit an overall goal for concessions other than car rentals. We understand that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

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 Sawyer Int'l 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 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.

Section 23.45 Overall Goals

The sponsor is a, nonhub primary airport and as a condition of eligibility for FAA financial assistance, the sponsor will submit its overall goals according to the following schedule:

Primary Airport Size	Region	Due Date	Period Covered	Next Goal Date
Non-Hubs	All Regions	October 1, 2019	2017/2018/2019	October 1, 2019 (2020/2021/2022)

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. (23.45i)

The airport will establish overall goals in accordance with the 2-Step process as specified in section 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 airport will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by ACDBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data we relied on can be found in Attachment 4 to this program.

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data we relied on can be found in Attachment 5 to this program.

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

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in Attachments 4 and 5 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

Concession Specific Goals (Also include this language in the DBE goal attachment) (23.25 (c)(e)(1)(iv))

The Sawyer Int'l Airport will use concession specific goals to meet any portion of the overall goals it does not project being able to meet using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. We will require

businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.)

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

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the Sawyer Int'l Airport will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (23.25(e) (1)(i))

If the concession specific goal applies to purchases and/or leases of goods and services, the Sawyer Int'l Airport will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e) (1)(ii))

Good Faith Efforts on Concession Specific Goals (23.25(e) (1)(iii), (iv))

To be eligible to be awarded a concession that has a concession specific goal; bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. (23.25(e) (1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 26. The procedures applicable to 49 CFR Sections 26.51 and 26.53, regarding contract goals apply to the Sawyer Int'l Airport's concession specific goals. Specifically:

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The Sawyer Int'l Airport's ACDBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

Sawyer Int'l Airport will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

In our solicitations for concession contracts for which a contract goal has been established, we will require the following:

1. Award of the contract will be conditioned on meeting the requirements of this section;
2. All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
 - (i) The names and addresses of ACDBE firms that will participate in the contract;
 - (ii) A description of the work that each ACDBE will perform. To count toward meeting a goal, each ACDBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each ACDBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use an ACDBE sub-concession whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed ACDBE firm that it is participating in the contract in the kind and amount of work provided in the prime concessionaire's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each ACDBE and non-ACDBE sub-concession quote submitted to the bidder when a non-ACDBE sub-concession was selected over an ACDBE for work on the contract; and
3. Sawyer Int'l Airport will require that the bidder/offeror present the information required by paragraph (b)(2) of this section under sealed bid procedures, as a matter of responsiveness, or with initial proposal, under contract negotiation procedures;

Administrative reconsideration (26.53(d))

Within 7 business days of being informed by Sawyer Int'l Airport that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

ACDBELO
125 G Avenue
Gwinn MI 49841
Phone: (906) 346-3308
FAX: (906) 346-3309

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. Sawyer Int'l Airport will send the bidder/offeror a written decision on

reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when an ACDBE is replaced on a concession (26.53(f))

The Sawyer Int'l Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. We will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the concessionaire to obtain our prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

Sawyer Int'l Airport will provide such written consent only if Sawyer Int'l Airport agree, for reasons stated in our concurrence document, that the prime concession has good cause to terminate the ACDBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed ACDBE sub-concession fails or refuses to execute a written contract;
2. The listed ACDBE sub-concession fails or refuses to perform the work of its sub-concession in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the ACDBE sub-concession to perform its work on the sub-concession results from the bad faith or discriminatory action of the prime contractor;
3. The listed ACDBE sub-concession fails or refuses to meet the prime concession's reasonable, non-discriminatory bond requirements.
4. The listed ACDBE sub-concession becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed ACDBE sub-concession is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. We have determined that the listed ACDBE subcontractor is not responsible;
7. The listed ACDBE sub-concession voluntarily withdraws from the project and provides to us written notice of its withdrawal;
8. The listed ACDBE is ineligible to receive ACDBE credit for the type of work required;
9. An ACDBE owner dies or becomes disabled with the result that the listed ACDBE concession is unable to complete its work on the contract;
10. Other documented good cause that we have determined compels the termination of the ACDBE sub-concession. Provided, that good cause does not exist if the prime concession seeks to terminate an ACDBE it relied upon to obtain the contract so that the prime concession can self-perform the work for which the ACDBE concession was engaged or so that the prime contractor can substitute another ACDBE or non-ACDBE concession after contract award.

Before transmitting to Sawyer Int'l Airport its request to terminate and/or substitute an ACDBE sub-concession, the prime concession must give notice in writing to the ACDBE sub-concession, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime concession must give the ACDBE five days to respond to the prime concession's notice and advise us and the concessionaire of the reasons, if any, why it objects to the proposed termination of its sub-concession and why we should not approve the prime concession's action. If required in a particular case as a matter of public necessity (*e.g.*, safety), we may provide a response period shorter than five days.

The Sawyer Int'l Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its work on a concession with another certified ACDBE. These good faith efforts shall be directed at finding another ACDBE to perform at least the same amount of work under the concession contract as the ACDBE that was terminated, to the extent needed to meet the concession contract goal that we established for the procurement. The good faith efforts shall be documented by the concessionaire. If we request documentation from the concessionaire under this provision, the concessionaire shall submit the documentation to us within 7 days, which may be extended for an additional 7 days if necessary at the request of the concessionaire, and the recipient shall provide a written determination to the concessionaire stating whether or not good faith efforts have been demonstrated.

Sawyer Int'l Airport will include in each prime concession contract the contract clause required by § 26.13(b) stating that failure by the concessionaire to carry out the requirements of this part is a material breach of the contract and may result in the termination of the concession contract or such other remedies set forth in that section that we deem appropriate if the prime concessionaire fails to comply with the requirements of this section.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the Sawyer Int'l Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of ____ percent of (*annual gross receipts; value of leases and/or purchases of goods and services*) has been established for this concession. The concession firm shall make good faith efforts, as

defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit the following information: (1) the names and addresses of ACDBE firms and suppliers that will participate in the concession, (2) A description of the work that each ACDBE will perform; (3) The dollar amount of the participation of each ACDBE firm participating; (4) Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal; (5) Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and (6) If the contract goal is not met, evidence of good faith efforts.

Section 23.53 Counting ACDBE Participation for Car Rental Goals

Sawyer Int'l Airport 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

Sawyer Int'l Airport will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.55.

Section 23.57 (b) Goal shortfall accountability. If the awards and commitments on our 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:

1. Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
2. 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;

Section 23.61 Quotas or Set-asides

Sawyer Int'l Airport will not use quotas or set-asides as a means of obtaining ACDBE participation.

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

Sawyer Int'l Airport will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. Sawyer Int'l Airport will use any means authorized by part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

Section 23.75 Long-Term Exclusive Agreements

Sawyer Int'l Airport 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 longer than 5 years. We understand that an "exclusive" agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, we will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

Section 23.79 Geographic Preferences

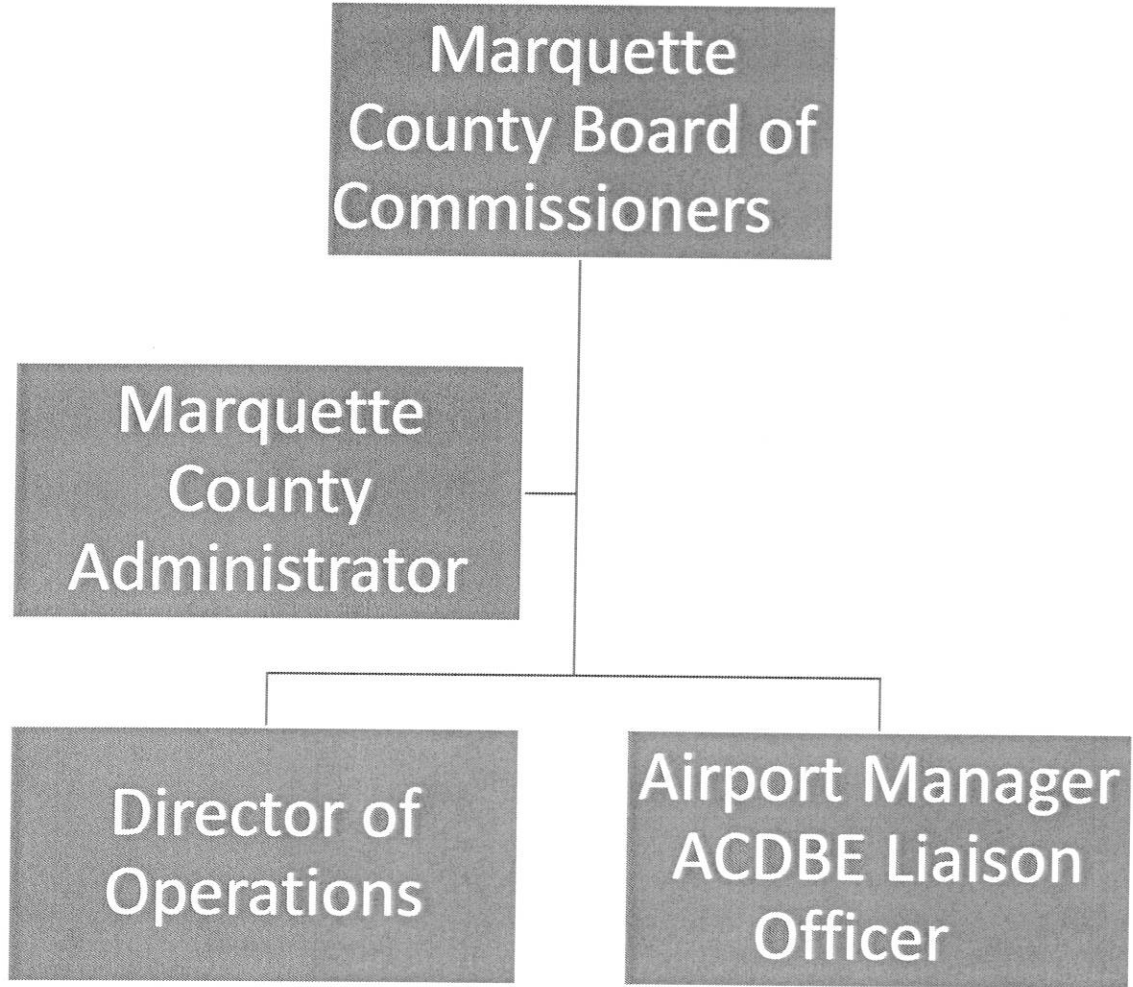
Sawyer Int'l Airport will not use a "local geographic preference", i.e., any requirement that gives an ACDBE located in the Marquette County region an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory (or website link)
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race- Conscious Participation
Attachment 5	Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race- Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of ACDBEs Eligibility
Attachment 9	State's UCP Agreement
Attachment 10	Regulations: 49 CFR Part 23
Attachment 11	Goals and Elements for Privately-Owned or Leased Terminal Buildings

Attachment 1

Organizational Chart



Attachment 2

Michigan DBE Directory

<https://mdotjboss.state.mi.us/MUCPWeb/search.htm>

Attachment 3

Monitoring and Enforcement Mechanisms

The Sawyer Int'l Airport has several remedies available 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;
2. Similar action pursuant to Michigan revised Statutes

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

1. Suspension or debarment proceedings pursuant to 49 CFR part 23 and 2 CFR parts 180 and 1200
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

The Sawyer Int'l Airport will implement various mechanisms to monitor program participants to ensure they comply with Part 23, including, but not limited to the following:

1. All participants are hereby notified that pursuant to Title 49 Code of Federal Regulations, United States Department of Transportation, Part 26 and the ACDBE Participation Program for Sawyer Int'l Airport must affirmatively ensure that, in any contract entered into with the Sponsor; ACDBEs will be afforded equal opportunity to participate in sub-concession activities. It is the policy of Sawyer Int'l Airport to ensure that ACDBEs, as defined in Part 23/Part 26, have an equal opportunity to receive and participate in FAA-assisted contracts. It is further the policy of Sawyer Int'l Airport to ensure nondiscrimination in the award and administration of FAA-assisted contracts. We will insert the following provisions into concessions agreements and management contracts:
2. All contracts between Sawyer Int'l Airport and a concessionaire will contain an appropriate provision to the effect that failure by the concessionaire to comply with Sawyer Int'l Airport ACDBE Program constitutes a breach of contract, exposing the concessionaire to a potential termination of the contract or other appropriate remedy, including withholding of funds, until such time as the concessionaire complies with all the ACDBE requirements of this program. Sawyer Int'l Airport may impose liquidated damages, contract suspension, or even contract termination in accordance with Michigan law. We will implement the following additional monitoring and compliance procedures:
3. In contracts with ACDBE contract goals, proposals submitted which do not meet the ACDBE contract goals, and which do not show that a meaningful good faith effort was made to achieve the stated goals, will be considered nonresponsive, and the proposer will be notified of the deficiency and given opportunity to appeal to the Administrative

Reconsideration Official (49 CFR 23). Proposer will not be eligible for award of the contract until the appeal procedures are complete. The Administrative Reconsideration Official will make the determination on the sufficiency of the good faith efforts.

4. Sawyer Int'l Airport reserves the right to reject any or all bids, or to re-advertise for bids. A submittal will not be considered responsive unless the proposer complies with Title 49 Code of the Federal Regulations, Part 23, and Sawyer Int'l Airport's ACDBE Program.
5. Sawyer Int'l Airport will require primes to make good faith efforts to replace an ACDBE sub-concession that is terminated, or fails to complete its work on the contract for any reason with another ACDBE sub-concession. If an ACDBE sub-concession is terminated, or fails to complete its work on the contract for any reason, the prime must notify the Sponsor immediately. These good faith efforts shall be directed at finding another ACDBE to perform at least the same amount of work under the contract as the ACDBE that was terminated, to the extent needed to meet the established contract goal. Sawyer Int'l Airport must first approve all substitutions prior to contract award and during contract performance in order to ensure that the substitute firms are eligible ACDBEs.
6. Sawyer Int'l Airport will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26. 109.

Attachment 4

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

Amount of Goal *(submit if average annual gross receipts exceed \$200,000)*

Name of Recipient:

Sawyer Int'l Airport, County of Marquette (SAW)

Goal Period: FY-2019-2020-2021 – October 1, 2019 through September 30, 2021

Overall Three-Year Goal:

2.27% to be accomplished through 1.52% RC and .75% RN

Methodology used to Calculate Overall Goal:

The following is a summary of the method we used to calculate this goal:

The method used to calculate the relative availability of DBEs ('base figure') for 'Step 1' of the process (see 26.45(c)) is as follows. The base figure is a percentage figure calculated by dividing a number representing available DBEs (5) by a number representing all available firms (110).

The data sources used to derive the numerator and denominator in the calculation: there were 5 DBEs in our Directory and 110 total firms in the following NAICS codes and following Counties found in the Census Bureau's County Business Pattern (CBP) database.

Counties: Baraga, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menoninee

Work will include Airport Runway Construction (237310) and professional engineering services (541330).

	Directory	NAICS
237310-Airport Runway Construction	5	72
541330 - Engineering Serv.	0	38
All	5	110

Base figure= **4.55%**

Weighting of the base figure is done with respect to both the NAICS category amounts and the geographic location of projects. Due to the lower amount of DBEs in the northern part of the state, yet the larger portion of funds spent there, the actual weighting is distributed by utilizing the base figure in each district where the project is located. See the attached State Block Grant Program Summary.

Engineering is affected heavily in Michigan due to the influence of the automobile industry. The automotive industry relies on mechanical, electrical, computer, and robotic engineering which were counted with the "Engineering Services" category in the NAICS. These types of businesses do not perform civil engineering for airports which is needed for the listed projects. The data has been weighted by as much as 85% in those influenced areas of the state.

The market area depends on the type of work and the size of the proposed contract or subcontract. For heavy construction and electrical work the market area is reduced for smaller jobs due to the relative cost of transportation of equipment. For this program Airport - Runway Construction classification was evaluated for each MDOT district as the market area, which are roughly fifty mile radius areas.

For professional services the district market areas were utilized for small jobs (\$50,000 to \$200,000 prime), and 200 miles for larger jobs (greater than \$200,000 prime contracts)

Adjustment of base figure.

Due to the probability that the contractors listed in the Census Business Patterns (CBP) are not all interested in airport work as reflected in the directory contractors, the base figure needs to be analyzed.

Recent data of accomplishments was utilized for calculating and establishing the race neutral goal.

<u>Year</u>	2016	2017	Average
<u>Goal data</u>	2.27%	2.27%	2.27%
<u>Accomplishment data</u>	0.00%	0.13%	0.07%

There has not been enough recent historical data on DBE participation available to make an adjustment to the Step 1 base figure; therefore, Marquette is adopting the Step 1 base figure as the overall goal for this three-year goal period.

The overall goal is: 2.27%

Process

The County of Marquette submits its overall goal to DOT on or near August 1 every three years.

Before establishing the overall goal each year, the County of Marquette will consult with its agent, MDOT, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the County of Marquette efforts to establish a level playing field for the participation of DBEs.

The MDOT consults with its statewide DBE Advisory Committee that is comprised of minority and women business owners, as well as non-DBE business owners. This group meets quarterly and the resulting comments will be documented and distributed.

Following this consultation, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection at the MDOT internet website for 30 days following the date of the notice, and the County of Marquette and DOT will accept comments on the goals for 45 days from the date of the notice. Notices will appear in the periodicals listed in Attachment B.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The County of Marquette will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The County of Marquette uses the following race-neutral means to increase DBE participation:

We estimate that, in meeting our overall goal of 2.27 %, we will obtain 0.75% from race-neutral participation and 1.52% through race-conscious measures.

Further monitoring will be done to evaluate the race neutral calculations for next year.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

-- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures;

--and DBE participation on a subcontract to a prime contract that had no DBE requirement or 0% goal.

The state level information regarding disparity studies and other pertinent barriers is focused at the Michigan Department of Transportation (MDOT). MDOT conducted a statewide disparity study at the beginning of its DBE program in the early eighties. Since then MDOT has been the only department at the state level to certify DBEs for federal qualification of grants. The above data has been accumulated by the MDOT.

There are no disparity studies available that would affect airports. Further, we are not aware of any evidence pertaining to barriers affecting opportunities for DBEs to form, grow, and compete.

Organizations in the Lansing area and statewide were contacted and had no usable input to offer regarding the program or the goal. These organizations included the Small Business Administration. Since the construction contracts and the professional services contracts are not bid locally, but on a statewide basis, the Michigan Department of Transportation will extend its search for input on a statewide basis, utilizing the resources of MDOT.

The MDOT, on behalf of the airport(s), consults with its statewide DBE Advisory Committee that is comprised of minority and women contractors, business owners and organizations, as well as non-DBE contractors and business owners. These discussions include the availability of disadvantaged and non- disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts to establish a level playing field.

Contacts requesting review and comments were made regarding programs and goals with the organizations on Attachment E. This list consists of DBE and non-DBE consultant and contractors as well as contractor organizations.

Consultations with the above mentioned DBE organizations will be held within sixty days to review the 2016 program and the status of the 2015 program. Public notice of the plan and goal in newspapers, trade magazines, and the internet has resulted in no comments being received.

Please see attachment B for a list of periodicals.

Race-neutral measures that are part of this program include, through the utilization of the MDOT, Office of Equal Opportunity, include:

Providing technical assistance and other services through MDOT's DBE semi-annual workshops;

Ensuring the inclusion of DBEs and other small business, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; and provision of information in languages other than English,

Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability;

Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

Ensuring distribution of the DBE directory, through print, to all interested contractors statewide and in other states;

Contract Goals (26.51)

The Sawyer Int'l Airport will use contract goals to meet any portion of the overall goal the Sawyer Int'l Airport does not expect to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

The recipient does not intend to use any race-conscious means of obtaining DBE participation other than contract goals.

Race Conscious Measures

Goal Period: From 10/1/2018 to 9/30/2021

2.27%= Adjusted Race Conscious Goal: 1.52%
 Race Neutral Goal: 0.75%
 Overall DBE Goal: 2.27%

Methodology for Establishing Contract Goal:

	Federal \$ Amount	Federal DBE Portion	DBE
Project Items - DBE participation required			
Prof. Serv.	\$643,823	\$45,068	7.00%
Construction	\$3,954,123	\$60,103	1.52%
Equipment - SRE-Snow Plow	\$585,000	\$0	0.00%
Non-AIP & PFC items	N/A	N/A	
Land - less consultant	N/A	\$0	0.00%
Non contract:	\$0	\$0	0.00%
Subtotal:	\$4,772,856	\$60,103	1.52%
Total Amount:	\$4,772,856	\$60,103	1.52%

PROFESSIONAL SERVICES:

<u>Item</u> <u>Description</u>	Federal	Federal	
	<u>\$ Amount</u>	<u>\$ DBE</u>	<u>DBE %</u>
Plans and Design, Supervision & Inspection Consultant	\$208,733	\$0	0.0%
Real Estate	\$0	\$0	0.0%
Total	\$208,733	\$0	

CONSTRUCTION:		Federal	Federal	Contract
Description		\$ Amount	DBE \$\$	DBE %
Fire Suppression Hangar design	2019	see above	\$0	0.00%
Hangar Expansion 664	2019	\$5,734,003	\$130,162	2.27%
Hangar 661,664,665 HEF	2020	\$1,525,128	\$34,620	2.27%
Hangar Fire Suppression	2020	\$1,216,195	\$27,608	2.27%
Hangar Improvement 61,62,62	2020	\$2,168,970	\$49,236	2.27%
Airfield Painting design	2020	\$20,000	\$0	0.00%
Airfield Painting	2021	\$200,000	\$4,540	2.27%
CBR	2021	\$165,000	\$0.00	0.00%
	Totals	\$10,864,293	\$246,166	2.27%

PUBLIC PARTICIPATION

Consultation: Section 23.43.

The MDOT, on behalf of the airport(s), consults with its statewide DBE Advisory Committee that is comprised of minority and women contractors, business owners and organizations, as well as non-DBE contractors and business owners. These discussions include the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts to establish a level playing field.

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

The Sawyer Int'l Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Sawyer Int'l Airport uses the following race-neutral measures.

We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
5. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and

We estimate that, in meeting our overall goal of 2.27%, we will obtain .75% from race-neutral participation and 1.52% through race-conscious measures.

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

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

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

Section 23.45: Overall Goal Calculation for Car Rental Company Concessions

Amount of Goal

Name of Recipient:

Sawyer Int'l Airport, County of Marquette

Goal Period: FY-2019-2020-2021 – October 1, 2019 through September 30, 2021

Overall Three-Year Goal:

AMOUNT OF GOAL

The Sawyer Int'l Airport's overall car rental goal for the period October 1, 2019 and ending September 30, 2021 is the following: 0.0% of the total gross receipts of car rental operations at the Sawyer Int'l Airport. No new car rental concession opportunities anticipated for this time period.

Table 1: Gross receipts for car rentals concessions FY 2016- 2018

Fiscal Year	Concession Revenue
2016	\$1,786,272.98
2017	\$1,985,646.92
2018	\$2,252,823.76
Total	\$6,024,743.66

Base of Goal

To calculate the base of the goal, Sawyer Int'l Airport considered the previous 3 years of car rental expenditures/purchases and the projected potential car rental expenditures three years into the future, including upcoming new opportunities.

Methodology used to Calculate Overall Goal:

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

Goal Based on Goods and Services Purchases - Determination:

Goods and Services

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses at The Airport. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

Step 1:

The Airport determined the base figure for the relative availability of car rental ACDBEs. The base figure was calculated as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able car rental ACDBEs in the market area.}}{\text{All ready, willing and able car rental concession firms in the market area}}$$

The data source or demonstrable evidence used to derive the numerator was based on UCP Data showing the number of ACDBEs that are certified in the Marquette County.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal for car rental concessions of: 0.00%

Step 2:

After calculating a base figure of the relative availability of ACDBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal. In order to reflect as accurately as possible the ACDBE participation we would expect in the absence of discrimination we have adjusted our base figure by increasing it 0.00 percentage points. Our overall goal for car rental concessions is 0.00%.

The ACDBE participation for Sawyer Int'l Airport during previous years was 0.00%. Taking this average of the sum of the median Airport ACDBE participation and the current step 1 availability of 0.00% equals 0.00%

Consultation with Stakeholders

Sawyer Int'l Airport meets with stakeholders in an effort to increase ACDBE participation. Stakeholders consulted include: 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 sponsor's efforts to increase participation of ACDBEs.

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

Sawyer Int'l Airport will make every reasonable effort to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport will use the following race-neutral measures to increase ACDBE participation:

- i. Locate and identify ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
- ii. Notify ACDBEs of concession opportunities and encourage them to compete, when appropriate;
- iii. Ensure that competitors for concession opportunities are informed during pre-proposal meetings about how The Airport's ACDBE program will affect the procurement process;
- iv. Provide information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

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

In the absence of specific historic data on rental car DBE participation, Sawyer Int'l Airport's estimated breakout of race-neutral and race-conscious ACDBE participation for rental car was calculated by comparing available ACDBE opportunities using the Michigan UCP database with 2016 ACDBE participation from the rental car companies. Using the adjusted base goal of 0.00% it was determined that in exceeding this goal in 2016 by 0.00 percentage points, this would be the race-neutral participation and the remaining 0.00% would be attributed to race-conscious participation.

If race-neutral measures, standing alone, are not sufficient to meet an overall goal, the following race-conscious measures will be used to meet the overall goal:

- i. Establish concession-specific goals for particular concession opportunities;

- ii. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession; and
- iii. With prior FAA approval, other methods that takes a competitor's ability to provide ACDBE participation into account in awarding a concession.

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

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

Market Area

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

The Sawyer Int'l Airport has determined that its market area is within the County of Marquette.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

- The goal setting process used by recipients to establish their annual overall goal submitted to the operating administrations for approval must include "consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations" which could be expected to have information concerning the availability of ACDBEs and non-ACDBEs. This consultation process is also intended to gather information concerning the effects of discrimination on opportunities for ACDBEs, if present - and establishing a level playing field for the participation of ACDBEs.

- By definition, the process of consultation involves a scheduled face-to-face conference or meeting of some kind with individuals or groups of interested persons for the purpose of developing and/or assessing a proposed goal and methodology and seeking information or advice before a decision is made.
- Recipients should identify groups within their market that are likely to have information relevant to the goal setting process or that have a stake in the outcome of the process. Those groups should be contacted and invited to participate in a face-to-face exchange (which may occur at a public meeting) aimed at obtaining the kind of information set out in the regulation regarding establishing the overall ACDBE goal. Efforts should be made to engage in a dialogue with as many interested stakeholders as possible. An advisory committee may be one method of consultation (but not the exclusive method, since this could lead to a recipient talking only to the same people all the time). A description of the consultation process and its purpose should be provided to all invitees.
- The consultation is expected to occur before the proposed goal is established and prior to publication of the proposed overall goal for inspection and comment by the general public.
- The consultation process must be documented in the recipient's annual goal submission.

Prior to submitting this goal to the FAA, Sawyer Int'l Airport consulted with existing concessionaires themselves concerning the ACDBE goal process and opportunities to increase participation of ACDBEs. :

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

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

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

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

_____ The bidder/offeror (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/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by ACDBE firm:

The bidder/offeror is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ _____.

Affirmation

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each ACDBE subcontractor.)

Attachment 7

ACDBE Certification Application Form

Application can be found at:

<http://mdotjboss.state.mi.us/webforms/GetDocument.htm?fileName=0166A.pdf>

Attachment 8

Procedures for Removal of ACDBEs Eligibility

(a) Ineligibility complaints.

(1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in § 26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) Recipient-initiated proceedings. If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) DOT directive to initiate proceeding.

(1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) Hearing. When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under § 26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) Separation of functions. You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to

implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decisionmaker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (i.e., an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) Grounds for decision. You may base a decision to remove a firm's eligibility only on one or more of the following grounds:

(1) Changes in the firm's circumstances since the certification of the firm by therecipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information relevant to eligibility that has been concealed or misrepresented by the firm;

(4) A change in the certification standards or requirements of the Department since you certified the firm;

(5) Your decision to certify the firm was clearly erroneous;

(6) The firm has failed to cooperate with you (see § 26.109(c));

(7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see § 26.73(a)(2)); or

(8) The firm has been suspended or debarred for conduct related to the DBE program. The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

(g) Notice of decision. Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under § 26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding. Provided that, when sending such a notice to a complainant other than a DOT operating administration, you must not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.

(h) [Reserved]

(i) Status of firm during proceeding.

(1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) Effects of removal of eligibility. When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3)Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k)Availability of appeal. When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under § 26.89. issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count

ATTACHMENT 9

State's UCP Agreement

Located at: <https://mdotjboss.state.mi.us/webforms/GetDocument.htm?fileName=0166A.pdf>

Attachment 10

Regulations: 49 CFR Part 23

<https://www.ecfr.gov/cgi-bin/text-idx?SID=7d57da4319c5a595f3174a4a0cf9944b&node=pt49.1.23&rgn=div5>

Attachment 11

Goals and Elements for Privately-Owned or Leased Terminal Buildings

NOT APPLICABLE