



# Federal Aviation Administration

## FY-2012 MONITORING & ENFORCEMENT COMPLIANCE REVIEW REPORT

Airport Name: LINCOLN AIRPORT - Lincoln, Nebraska	Review Date(s): Tuesday, May 15, 2012
Review Conducted By FAA Staff: Patricia Wright and Gene Roth	
Areas Reviewed: MONITORING & COMPLIANCE <input checked="" type="checkbox"/> CONCESSIONS <input checked="" type="checkbox"/> CONSTRUCTION	
Airport Staff: Jon Large, Deputy Director of Engineering and John Wood, Executive Director	

**Purpose:** Review of monitoring and enforcement aspect of your DBE and ACDBE programs. 49 CFR 26 and 49 CFR 23 requires that you implement appropriate mechanisms to ensure compliance with the parts' requirements by all program participants. You are required to set forth these mechanisms as part of your Disadvantaged Business Enterprise (DBE) Program and Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program.

*This compliance review is not to directly investigate whether there has been discrimination against disadvantaged business by the grant recipients or its sub-recipients, nor to adjudicate these issues on behalf of any party.*

### SECTION 1 - Title 49 CFR Part 26 – Construction

#	Question	Response	Observations/Comments	Compliance Issue
1	Did the airport distribute its DBE Policy Statement? (§ 26.23)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBE Policy is posted to website only. Will work with Department of Roads to use their outreach agency list for future distribution of policy statement and goals.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
2	Does the airport make reasonable efforts to use DBE financial institutions? (§ 26.27)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Not aware of any in market area or in the State. Recommended that DBELO physically check the UCP database to ensure availability status.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
3	Does the airport encourage prime contractors on DOT assisted contracts to make use of DBE financial institutions? (§ 26.27)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If DBE financial institutions are available, Sponsor will encourage primes to make use of them.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
4	Is the DBELO present during the bid openings for FAA funded projects? (§ 26.25)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO attends all pre-bid and bid openings. DBELO has direct and independent access to Airport Authority's Executive Director.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
5	Does the airport verify that the Letters of Intent are included in the bid package? (§ 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	LOIs are reviewed upon bid opening. DBELO states airport has not had opportunity for GFE review in recent years; all bidders have met their goals.  Plan says bids are considered "responsive" yet process is to accept subcontractor participation documents after award.  Recommend DBELO review 26.53(b)(3): At your discretion, the	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended

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			bidder/offeror must present the information required by paragraph (b)(2) of this section—  (i) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or  (ii) At any time before you commit yourself to the performance of the contract by the bidder/offeror, as a matter of responsibility.	
6	Does the airport confirm DBE certification prior to awarding the contract? (§ 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Currently accepts copy of DBE certificate as proof of certification status. Recommend DBELO physically check UCP database on each firm.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
7	Does the airport have mechanisms in place to ensure that work committed to DBEs at contract award is actually awarded to DBEs? (§§ 26.37, 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO was reminded of the recent Regulation updates on termination for “good cause” and timelines and requirements associated with termination of a DBE subcontractor listed in response to 26.53(b)(2) or an approved substitute.  DBELO literally goes on airport project sites daily and verifies work committed to DBEs is being performed by DBEs.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
8	Does the mechanism provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. (§ 26.11)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Recommend to DBELO to incorporate running tally into monthly payment process.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
9	Does the airport have mechanisms in place to verify that the DBEs are managing their work, utilizing their own work force, equipment, and materials? (§ 26.37)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO does daily site visits and relies on engineering department’s and/or consultant’s Field Observation Reports that names contractors on site and details work being done by each firm. Airport should add signature line to Field Observation Reports.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
10	Does the airport verify that the DBEs are performing a commercially useful function? (§ 26.37, 26.55)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO verifies through daily project site visits that DBEs are doing work they were contracted to do.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
11	Does the airport conduct random construction sites visits? (§ 26.37)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO was reminded of the recent Regulation update requiring “written certification” that the work sites are being monitored. Airport Authority plans to update its forms to include the “written certification” including signature of the person conducting the work site inspection and expand on the narrative to allow for specific details.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
12	During the construction site visits, does the airport verify that business names on equipment and vehicles are not covered with paint or magnetic signs? (§ 26.37)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO and engineering staff conduct daily site visits. Airport was reminded to be diligent about potential for fraud including talking to individual employees about whom they work for.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
13	During the construction site visits, does the airport verify whether the DBE owner is present at job sites? (§ 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO states that owners are not always at site – depending on type of work or stage of work they’re in. DBELO may request owner to meet at site, if necessary.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
14	During the construction site visits, does the airport verify who employs the workers on site? (§ 26.55)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DBELO is intimately aware of contractors and types of work they do. Recommend periodic brief survey-type questioning of workers on site.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
15	Does the airport verify contracts between prime contractors and DBE subcontractors? (§ 26.53)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DBELO was reminded of the recent Regulation update requiring "written certification" that the contract records have been reviewed. DBELO plans to update its forms to include the "written certification" requirement. DBELO was also reminded that subcontracts must also include standard DOT contract clause language. Copies of subcontracts will be requested and reviewed on all future federally-funded contracts.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
16	Does the airport review monthly DBE participation reports? (§ 26.29)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Will implement and begin reviewing reports and attaching them to progress payment forms.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
17	Does the airport randomly verify who orders and pays for the necessary supplies being used by the DBE subcontractor? (§ 26.55)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Will add this step to monitoring process and will scrutinize invoices and talk to DBEs about supply purchases, as appropriate.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
18	Does the airport have prompt payment mechanisms in place? (§ 26.29)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	All subs must be paid within 30 days. DBELO will check on retainage policy for both primes and subs.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
19	Does the airport submit its Uniform Report on DBE participation to the DOORS system? (§ 26.11)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Some difficulties with DOORS input but reports are up to date. Administrative Assistant inputs reports and DBELO verifies data.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
20	Is the airport required to prepare a DBE goal accountability report? (§ 26.45, §26.45)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Airport always meets its DBE goals, therefore no report is required. Reminded DBELO that goal may be re-evaluated throughout the year in order to make adjustments.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

Documents Reviewed:
<ul style="list-style-type: none"> <li>• Airport's DBE Program</li> <li>• Airport's DBE Triennial Goal</li> <li>• Forms: <ul style="list-style-type: none"> <li>Final DBE Confirmation Form      Field Observation Report</li> <li>Payroll Records                      Letters of Intent</li> <li>Utilization Statement              Site Visit Reports</li> </ul> </li> <li>• Template of a sample FAA funded contract.</li> <li>• Sample template of a contract that includes a DBE goal requirement.</li> </ul>

SECTION II - Title 49 CFR Part 23 – Concessions

#	Question	Response	Observations/Comments	Compliance Issue
1	Has the airport's ACDBE program been approved by FAA? (§ 23.51)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Airport does not have an ACDBE Plan or goals in place. Provided sample ACDBE Plan and will work with DBELO to create the plan and develop goal methodologies.</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
2	Did the airport distribute its ACDBE Policy Statement? (§§ 23.1, 23.23)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
3	Does the approved ACDBE program on file with FAA reflect the current organizational structure of the agency? (§ 23.23)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
4	Does the airport include enforcement provisions in concession agreements? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
5	Does the airport verify that the prime or master concessionaire and ACDBE have entered into a written commitment prior to submitting a response to an RFP/RFQ? (§ 23.11)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
6	Does the airport require a prime or master concessionaire have written confirmation from the ACDBE firm that it is participating in the contract? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
7	Does the airport confirm ACDBE certification prior to awarding the contract? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
8	Does the airport verify that the work committed to ACDBEs is actually performed by the ACDBEs? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
9	Does the airport prohibit prime or master concessionaires from terminating ACDBE firms for convenience? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
10	Does the airport require prime or master concessionaires include administrative remedies if a prime or master concessionaire fails to comply with ACDBE requirements? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
11	Does the airport conduct concession sites visits regularly? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
12	During the concession site visits, does the airport verify general managers and who they report to? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
13	Does the airport verify that the ACDBE is actively managing the concession locations(s)? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
14	Does the airport verify gross sales reports accounting for ACDBE participation? (§ 23.XX)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
15	Has the airport submitted its FY 2010 Uniform report on ACDBE participation to the FAA? (Appendix A to Part 23)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
16	Does the airport submit its Uniform Report on ACDBE participation to the DOORS system? (Appendix A to Part 23)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
17	Has the airport received any complaints alleging that it did not comply with the ACDBE regulations in the past three years? (§ 23.29)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
18	Does the airport have any joint venture agreements currently in place? If YES, please answer the following: (§ 23.55 & FAA Joint Venture Guidance) a) Has the airport undertaken an internal review of its joint venture agreements, if any, in order to verify that they are in compliance with the FAA Joint Venture Guidance? b) Did the airport make any change in the counting of ACDBE participation of the joint venture toward ACDBE goals as a result of its joint venture agreement reviews findings?	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
19	Does the airport have Long Term (5+ years) and Exclusive contract(s) currently in place? (§ 23.75)	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
20	If the airport has current Long Term and Exclusive contracts in place, were these contracts submitted to the FAA for approval? (§ 23.75)	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Documents Reviewed:
<ul style="list-style-type: none"> <li>• Airport's ACDBE Program</li> <li>• Airport's ACDBE Goal</li> <li>• FY-2011 DBE Goal accountability report.</li> <li>• Forms: ACDBE Substitution Request; ACDBE Concession Agreement Monitoring Form; Good Faith Effort Review, Site Visits Forms, Monthly DBE Participation Tracking.</li> <li>• Template of a sample ACDBE concessionaire agreement.</li> <li>• Template or sample of Long Term and Exclusive Concession Agreement</li> <li>• Sample template of a contract that includes a ACDBE goal requirement.</li> </ul>

## REVIEW SUMMARY

The Federal Aviation Administration (FAA) Office of Civil Rights would like to thank you for your participation in the FY 2012 DBE & ACDBE Compliance Review. We appreciate the substantial effort taken by Lincoln Airport in providing the numerous documents and meeting with the FAA team during this on-site visit. Your timely response and active participation was an essential element in the successful completion of this important initiative. The collective assessments made during the review have been incorporated into this report.

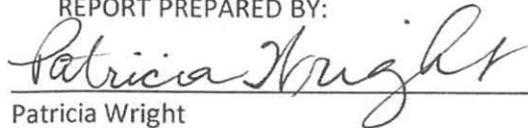
The main purpose of this compliance review was to examine the compliance of the "Monitoring and Enforcement" aspect of the recipient's DBE Program and ACDBE Program. In examining Lincoln Airport monitoring and enforcement forms and practices, Lincoln Airport should be commended for taking proactive efforts to strengthen their monitoring and enforcement process in the following areas:

- Field Observation Report
- Daily Site Visits
- 

Area(s) requiring your attention, if any, have been noted as "Enhancement Recommended" under the Compliance Issue column under each specific question. Please ensure to correct any deficiencies as identified in each section.

The FAA Office of Civil Rights looks forward to continuing to work with you in ensuring compliance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprise in Department of Transportation Financial Assistance Program," and 49 CFR Part 23, "Participation of Disadvantaged Business Enterprise in Airport Concessions."

REPORT PREPARED BY:



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### Recommended Resources:

FAA website, [http://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/fed\\_reg/](http://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/fed_reg/)

FAA dbE-Connect System, <https://faa.dbesystem.com/Default.asp?>

U.S. Department of Transportation Office of Small and Disadvantaged Business Utilization

<http://www.osdbu.dot.gov/DBEProgram/GuidanceforDBEProgramAdministrators/index.cfm>