



Federal Aviation Administration

FY-2012 MONITORING & ENFORCEMENT COMPLIANCE REVIEW REPORT

Airport Name: Miami International Airport (MIA) Review Date(s): March 15-16, 2012
 Review Conducted By FAA Staff: Gene Roth and Dolores Leyva
 Areas Reviewed: MONITORING & COMPLIANCE CONCESSIONS CONSTRUCTION
 Airport Staff: Milton Collins, Abebe Teclé, Yolanda Bielovucic, Mindy Eisenberg, and Miguel Southwell

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	The airport should update its DBE Program to include recent updates to Part 26. The organizational chart should also be updated to indicate the DBELO's direct and independent access to the airport director.	<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	Airport reports no DBE financial institutions in the area.	<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	Airport reports no DBE financial institutions in the area.	<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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The DBELO and department staff reviews all bids for compliance with the DBE Program, project goals, and good-faith efforts in accordance with airport processes.	<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	The DBELO and department staff reviews all bids for compliance with the DBE Program, project goals, and good-faith efforts in accordance with airport processes.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
6	Does the airport confirm DBE certification prior to awarding the contract? (§ 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The DBELO and department staff reviews all bids for compliance with the DBE Program, project goals, and good-faith efforts in accordance with airport processes.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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	Compliance staff reviews monthly utilization reports and tracks and approves changes as necessary. Compliance staff was reminded of 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
8	Do 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
10	Does the airport verify that the DBEs are performing a commercially useful function? (§ 26.37)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<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	Compliance staff has processes in place for monitoring compliance with requirement. Compliance staff was reminded of recent Regulation update requires the "written certification" that the work sites are being monitored. Staff plans to update its forms to include the "written certification" including signature of the person conduction the work site inspection and expand on the narrative to allow for more 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	Compliance staff has processes in place for monitoring compliance with requirement.	<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? (§ 26.37)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
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	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
15	Does the airport verify contracts between prime contractors and DBE subcontractors? (§ 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement. Staff was reminded that recent Regulation update requires the "written certification" that the contract records have been reviewed. Staff plans to update its forms to include the "written certification" requirement.	<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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	Compliance staff has processes in place for monitoring compliance with requirement.	<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	Compliance staff has processes in place for monitoring compliance with requirement.	<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Airport has met its projects goals and a DBE goal accountability report was not required for fiscal year 2011.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

Documents Reviewed:

- Airport's DBE Program
- Airport's DBE Triennial Goal
- FY-2011 DBE Goal accountability report.
- Forms:
 - DBE Substitution Request
 - Contract Monitoring Form
 - Good Faith Effort Review
 - Site Visits
 - Monthly DBE Participation
- Template of a sample FAA funded contract.
- Sample template of a contract that includes a DBE goal requirement.
- Sample template of a DBE sub-contract agreement.

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The airport should plan to update its ACDBE Program to include updates expected to Part 23 in the next few months.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
2	Did the airport distribute its ACDBE Policy Statement? (§§ 23.1, 23.23)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The organizational chart should also be updated to indicate the DBELO's direct and independent access to the airport director.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
4	Does the airport include enforcement provisions in concession agreements? (§ 23.29)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
7	Does the airport confirm ACDBE certification prior to awarding the contract? (§ 23.29)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
11	Does the airport conduct concession sites visits regularly? (§ 23.29)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
14	Does the airport verify gross sales reports accounting for ACDBE participation? (§ 23.XX)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement.	<input type="checkbox"/> Yes <input checked="" 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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement. Airport reported that it performed a review of the joint venture contracts in place when FAA issued new guidance and made any necessary adjustments.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

	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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
19	Does the airport have Long Term (5+ years) and Exclusive contract(s) currently in place? (§ 23.75)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Compliance staff has processes in place for monitoring compliance with requirement. Airport was reminded of current rule regarding the definitions of long-term exclusive contracts and the pending stakeholder review of upcoming guidance.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

Documents Reviewed:

- Airport's ACDBE Program
- Airport's ACDBE Goal
- FY-2011 DBE Goal accountability report.
- Forms: ACDBE Substitution Request; ACDBE Concession Agreement Monitoring Form; Good Faith Effort Review, Site Visits Forms, Monthly DBE Participation Tracking.
 - Template of a sample ACDBE concessionaire agreement.
 - Template or sample of Long Term and Exclusive Concession Agreement
 - Sample template of a contract that includes a ACDBE goal requirement.

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 Miami International 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.

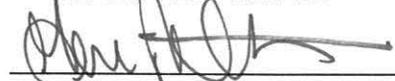
The main purpose of this compliance review was to examine the compliance of the "Monitoring and Enforcement" aspect of the recipient's DBE Program and ACDBE Program. In examining Miami International Airport's monitoring and enforcement forms and practices, Miami International Airport should be commended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

- Having a proactive and detailed monitoring and compliance processes in place for both Part 23 and Part 26 contracts.
- The airport has developed a number of comprehensive checklists and acknowledgement forms that are used in its compliance monitoring.

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/

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>