



Federal Aviation Administration

FY-2012 MONITORING & ENFORCEMENT COMPLIANCE REVIEW REPORT

Airport Name: SAN ANTONIO INTERNATIONAL AIRPORT (SAT)	Review Date(s): FEBRUARY 22 - 23, 2012
Review Conducted By FAA Staff: DOLORES LEYVA and RICKY WATSON	
Areas Reviewed: MONITORING & COMPLIANCE <input checked="" type="checkbox"/> CONCESSIONS <input checked="" type="checkbox"/> CONSTRUCTION	
Airport Staff: Frank Miller, Aviation Director; Rodrigo Rogriguez, Contract Compliance/ DBE Contract Compliance Manager; Lisa Brice, Small Business Program Manager; Bernard Murphy, Sr. Management Analyst; Linda Gutierrez, Senior Concessions Specialist; Susan St. Cyr, Planning & Development Manager	

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	SAT distributes its Policy Statement to the various local chambers, minority advocate groups, and its City Council. This DBE Policy Statement is also posted on their website.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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	SAT is unaware of any DBE financial institutions within their market area. However, SAT staff plans to investigate the availability and explore ways to incorporate the distribution of this information.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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	Following the investigation of the availability, SAT plans to share the information with pertinent prime contractors.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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 participates in all outreach events and pre-bid meetings. SAT has a process in place to allow for the DBE paperwork to be reviewed for Good Faith Efforts (GFE) post bid opening. The Planning and Development Division forwards DBE compliance documents to the DBE Compliance group as part of their bid document review distribution process. SAT DBE Compliance staff reviews the documentation and makes a recommendation on the GFE evaluation.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
			Furthermore, on the issue of DBE Liaison Officer's duties and responsibilities, one key aspect required is that this person has direct and independent access to the Chief Executive Officer concerning DBE Program matters. SAT's DBE Program indicates that the DBE Liaison Officer reports directly to the Airport Director. However the organizational chart does not reflect this reporting relationship. We recommend that all documents, available to general public, including organizational chart, Policy statement and DBE Program clearly display this direct and independent access.	
5	Does the airport verify that the Letters of Intent are included in the bid package? (§ 26.53)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	SAT has identified a process which allows for the letter of intent to be submitted five days after notification of apparent award. We recommend that SAT revisits its process to request that all documents be submitted at the time of bid. This change will allow for consistency and diminish the potential for fraud.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended
6	Does the airport confirm DBE certification prior to awarding the contract? (§ 26.53)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT has a good verification process in place to ensure that information is complete, accurately, and adequately.	<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	<p>SAT has a good monitoring system in place which allows the DBE Compliance group to closely monitor the contracts. Work committed and awarded is verified and matched against the monthly pay estimates.</p> <p>SAT staff was reminded that 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.</p>	<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	SAT's current monitoring system includes the monitoring of payments made to DBEs.	<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.XX)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT verifies this information through scheduled and unscheduled site visits of construction.	<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.XX)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT's DBE compliance staff verifies this information during random site visits to the construction sites.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
11	Does the airport conduct random construction sites visits? (§ 26.37)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT has dedicated staff familiar with the projects on hand as well as the DBE program requirements. Regular random visits are conducted as part of their monitoring process. SAT staff was reminded that recent Regulation update requires the "written certification" that the work sites are being monitored. SAT 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 more specific details.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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	SAT DBE monitoring process includes specific details of the items they verify. The DBE compliance staff appears to be very familiar with the projects on hand and the DBE subcontractors working on specific projects.	<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.XX)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT DBE monitoring process includes specific details of the items they verify. The DBE compliance staff appears to be very familiar with the projects on hand and the DBE subcontractors working on specific projects.	<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	SAT DBE monitoring process includes randomly questioning employees during the work site visits. SAT DBE compliance staff appears to be very familiar with the projects on hand and the DBE subcontractors working on specific projects.	<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT has a good monitoring system in place which allows the DBE Compliance staff to closely monitor the contracts. SAT staff was reminded that recent Regulation update requires the "written certification" that the contract records have been reviewed. SAT plans to update its forms to include the "written certification" requirement.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended
16	Does the airport review monthly DBE participation reports? (§ 26.29)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT has a good monitoring system in place which allows the DBE Compliance group to closely monitor the contracts. This allows for prompt payment verification and tracking of DBE participation.	<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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	SAT has not identified the need for this type of verification, since they are familiar with the projects on hand and the DBE subcontractors working on specific projects. SAT staff has been advised to incorporate this requirement as part of their verification process as necessary depending on contract type	<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	SAT incorporates contract clauses to meet this requirement. This aspect is further monitored with the review of pay estimates.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
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	SAT has a good tracking system which enables them to submit the report and required.	<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	SAT is aware of this requirement. SAT staff was reminded to the need to monitor and adjust the overall goals to address any changes in circumstances.	<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	SAT is operating under an approved ACDBE Program, an update has been submitted to FAA for review.	<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	SAT distributes its Policy Statement to the various local chambers minority advocate groups. It also presents it to its City Council. This ACDBE Policy statement is also posted on their website.	<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	A key requirement of the ACDBE Liaison Officer's duties and responsibilities is that this person has direct and independent access to the Chief Executive Officer concerning ACDBE Program matters. SAT's ACDBE Program indicates that the ACDBE Liaison Officer reports directly to the Airport Director. However the organizational chart does not reflect this reporting relationship. We recommend that all documents, available to general public, including organizational chart, Policy statement and ACDBE Program clearly display this direct and independent access.	<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	SAT has a good monitoring system in place which allows the ACDBE Compliance staff to closely monitor the contracts including the inclusion of specific clauses.	<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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	SAT has identified a Responsible Process and verifies the data and documents as required.	<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	SAT has a good verification process in place to this required documentation is verified.	<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	SAT has a good verification process in place to ensure that information is complete, accurately, and adequately.	<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	SAT's ACDBE compliance staff verifies this information during random site visits to the concession locations.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
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	SAT has a good monitoring system in place which allows the ACDBE Compliance staff to closely monitor the contracts including the inclusion of specific clauses.	<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	SAT has a good monitoring system in place which allows the ACDBE Compliance staff to closely monitor the contracts including the inclusion of specific clauses.	<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	SAT has dedicated staff familiar with the concession locations as well as the ACDBE program requirements. Regular random visits are conducted as part of their monitoring process.	<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	SAT ACDBE Compliance group reviews this type of information during their random concession site visits.	<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	SAT ACDBE Compliance group reviews this type of information during their random concession site visits. They appear to be very familiar with the concession locations and the associated management staff.	<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	SAT has a good monitoring system in place which allows the ACDBE Compliance group to closely monitor the gross sales reports. They work closely with the Properties & Business Development Division to track and monitor the required reports.	<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	SAT has a good tracking system which enables them to submit the report and required.	<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	ACDBELO and support staff has direct access to the DOT DOORS program. Their tracking mechanism allows for timely submission of the required report.	<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	SAT has not received any complaints. SAT should consider developing a written complaint process to be made available to the general public. This will allow for consistent handling of any complaints. This type of documentation is extremely beneficial during an official FAA complaint investigation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT has processed the recommended reviews of its Joint Venture agreements in accordance with the Joint Venture Guidance.	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAT submitted the Long Term and exclusive in accordance with Regulation requirements.	<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		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

Documents Reviewed:
<ul style="list-style-type: none"> • 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 San Antonio International Airport (SAT) 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.

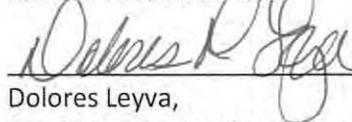
The main purpose of this compliance review was to examine the compliance of the "Monitoring and Enforcement" aspect of the recipient's DBE Program and ACDBE Program. In examining SAT monitoring and enforcement forms and practices, SAT should be commended for taking proactive efforts to strengthen their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

- Serious consideration was given on the unbundling of the "Acoustical Treatment Program". This consideration increased opportunities for the participation of small business/DBEs which aligns with the objectives of the DBE program in leveling the playing field
- SATs electronic approval process ensures the approval of the DBELO, as required, for any contract changes affecting the DBE subcontractors.
- SAT has incorporated great monitoring process which includes project tracking, random site visits, and report verification.
- Great collaboration with the Properties & Business Development Division as well as Planning & Development Division to ensure DBE Program compliance.

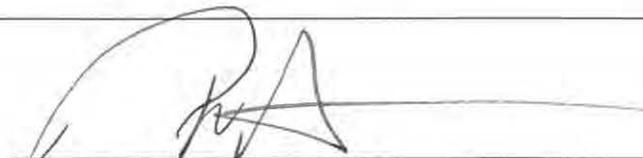
Area(s) requiring your attention, if any, have been noted as "Enhancement Recommended" under the Compliance Issue column under each specific question. Please ensure to correct any deficiencies as identified in each section.

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>