



Federal Aviation Administration

FY-2012 MONITORING & ENFORCEMENT COMPLIANCE REVIEW REPORT

Airport Name: Ted Stevens Anchorage International Airport	Review Dates: May 7-8, 2012
Review Conducted By FAA Staff: Keturah Pristell and Dolores Leyva	
Areas Reviewed: MONITORING & COMPLIANCE <input checked="" type="checkbox"/> CONCESSIONS <input checked="" type="checkbox"/> CONSTRUCTION	
Airport Staff: Mark O'Brien, Chief Contracts Officer and statewide DBELO; Grace San-Miguel Morfield, Regional Civil Rights Manger; Javier Robinson, Concessions Manager; Mike Craig, Regional Contract Compliance Officer; James Lomardo, Project Manager; Cynthia Lasina, Resident Engineer; and Bryner Chen, Cinnabon/Yogurtland Owner.	

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 program has a marketing flyer (card) that covers DBE, ADA, and Title VI notices. It is distributed at public meetings. It is also posted on the airport and state DOT 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	ANC plans to investigate the availability of DBE institutions as part of their DBE Program updates.	<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	ANC plans to encourage the use of any DBE financial institutions, if any.	<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	ANC follows has a process in place which allows the Civil Rights Office to review the GFE documents if the contractor fails to meet the DBE goal.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
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	ANC follows a "responsible" bid process, allowing for a five (5) day period, as required by AK state law. They verify commitment with the use of their Form 25-326, "Prime Contractor's Written DBE Commitment".	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input 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	DBE subcontract information is reviewed by the Regional Contracting Officer.	<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	ANC has a process in place to review and approve DBE substitutions and replacements. The process has not been updated to meet recent regulation changes. ANC staff was reminded of the recent Regulation updates on termination for "good cause," timelines, and requirements associated with termination of a DBE subcontractor listed in response to 26.53(b)(2) or an approved substitute. ANC staff plans to make the necessary updates.	<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	ANC indicated that it compares the DBE commitments to the DBE payments after each project for verification purposes. The Civil Rights manager does this through the monthly commitment forms reviews. The office Research Analyst cross references and reconciles the payments each month. The information is fed up to the yearly reports. Prime firms are held to their commitments—there have not been significant change orders as of yet.	<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	ANC has developed commercially useful function forms that captures site monitoring questions and provides documentation. Previously used form was updated to include more detail.	<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, 26.55)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ANC has developed commercially useful function forms that captures site monitoring questions and provides documentation. Previously used form was updated to include more detail.	<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	ADOT&PF indicated that site visit duties are delegated to the local contracting office resident engineer staff. ANC staff indicated that site visit monitoring is an ongoing process and generally the DBELO is brought into the process if/when flags arise. The airport performs site visit to verify the CUF of each DBE subcontractor. We recommend that ANC continues to perform frequent visits as necessary to verify DBE Program compliance. The staff did indicate that they know the DBE and Prime firms very well and can almost immediately tell when something is awry; in such an instance they perform more regular reviews and notify the ANC Civil Rights manager. Regional contract compliance officers first initiate the yearly review and complete the commercially useful function form, it is	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Enhancement Recommended

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			<p>forwarded to the resident engineer for filing and distribution to the Research Analyst that supports the Civil Rights staff reporting mechanisms.</p> <p>Since many monitoring and enforcement duties are delegated. We requested that ANC to update their organizational chart with specific titles that feed data to the DBELO. Each title on the chart will include a summary of duties performed for the sake of clarity. A copy will be added to their DBE Program. ANC staff was reminded of the recent Regulation update requiring the "written certification" that the work sites are being monitored. The airport was reminded to keep site visit documentation on file.</p>	
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	This information is covered under the CUF form.	<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	This information is covered under the CUF form.	<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	This information is covered under the CUF form.	<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	<p>ANC indicated that they verify contracts between prime contractors and sub-contractors. There are two ways—a copy of the subcontract is reviewed or the contractor self-certification form is required. ADOT&PF will update the self-certification process to include the language required by the regulatory updates.</p> <p>ANC staff was reminded of the recent Regulation update requiring "written certification" that the contract records have been reviewed. ANC plans to update its forms to include the "written certification" requirement. We also recommend that ANC staff reviewing the contracts is aware of what to look for or to submit the DBE section to DBELO for review.</p>	<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	The ANC Civil Rights Research Analyst performs these data reviews and uses the information to ensure timely reporting as per Part 26 regulations. The Civil Rights manager reviews the reports for submission annually.	<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	Each and every contractor and subcontractor is audited yearly via the commercially useful function form (site visit) processing.	<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 prompt payment mechanisms in place? (§ 26.29)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ANC has a process in place to verify information on a monthly basis as well as final close out. If an issue arises, ANC Civil Rights manager is able to intervene.	<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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	ANC prefers to report data using the provided forms. We have recommended that they begin utilizing DOORS.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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	ANC has a current report on file pending final review and approval.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

Notes:

~DBE "Goals" numbers are evaluated every six months to ensure that goals are not exceeded and that they are being met. In prior years, Race Conscious efforts were suspended due to goals being met, but they were reinstated in FY2010.

~There is an updated Disparity Study (for Part 26 only) pending since the last one was completed in FY2008. ANC and ADOT&PF are in the process to hiring a consultant. Cost is projected to be about \$600,000.

Documents Reviewed:

1. Airport's DBE Program
 2. ADOT&PF Organizational Chart
 3. Airport's DBE Triennial Goal
 4. FY-2011 DBE Goal accountability report.
 5. Sample of a current FAA funded prime contract with DBE provisions.
 6. Sample of a current FAA funded prime contract that includes a DBE contract goal/GFE requirement.
 7. Sample of a current DBE sub-contract agreement.
 8. DBE Substitution/Termination Documentation
- Forms: Contract Monitoring Form (commercially useful function form), DBE Utilization Report (what FAA calls the letter of intent), Prime Contractor Written DBE Commitment, and Monthly Summary of DBE Participation

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 checked="" type="checkbox"/> No	A current or previously approved ACDBE plan could not be located. However, the airport has a draft plan on file to be finalized within 90 days. A preliminary review indicates the airport is carrying out an ACDBE program that is sufficient and effective but that needs a formal plan and goal methodology documented. The ANC Concessions manager and the Civil Rights manager will work on goal methodology together then finalize the report by August 13, 2012 .	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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	Policy statement will be distributed once the ACDBE Program is completed.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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 checked="" type="checkbox"/> No	The draft ACDBE Program reflects Mark O'Brien as the ACDBE Liaison Officer. ANC plans to revisit the structure to determine whether or not this structure will work.	<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	ANC concession agreements include ACDBE enforcement provisions.	<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	ANC has no subcontracts.	<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	ANC has forms in place to review this information.	<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	This verification takes place internally.	<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	Through weekly site visits and monthly accounting audits.	<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	This is addressed via a clause in the Prime-Sub contract. The termination process mirrors that of the DBE Part 26 process.	<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	This process was identified in the Prime-Sub contract.	<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	The ANC Concessionaire manager performs regular site visits on an ongoing basis. This was confirmed in an interview with a food and beverage DBE firm owner operating in the airport on a daily basis. We have recommended that the concessions manager create a checklist style form to conduct a "paper review" quarterly solely for the sake of periodic documentation.	<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	It is apparent from interviews that the concessionaire manager has in depth knowledge of the concessions owners, site managers, and staff.	<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	The concessionaire manager does this through ongoing (almost daily) site visits. The concessionaire manager's office is located within the airport terminal so it is convenient to perform thorough reviews and visits on an ongoing and standard basis.	<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	An office accountant reports this data to the concessionaire manager on a monthly basis.	<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	ANC complies with this 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	ANC prefers to report data using the provided forms. We have recommended that they begin utilizing DOORS.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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	No complaints have been reported.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended

#	Question	Response	Observations/Comments	Compliance Issue
18	<p>Does the airport have any joint venture agreements currently in place? If YES, please answer the following: (§ 23.55 & FAA Joint Venture Guidance)</p> <p>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?</p> <p>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?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	18 a- We explained to ANC that documentation support is needed for this aspect.	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended</p>
19	Does the airport have Long Term (5+ years) and Exclusive contract(s) currently in place? (§ 23.75)	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	ANC has no long term exclusive contract. HMS Host exclusivity was taken out of its food and beverage contract in 2006. The decision was made because there was a need to expand variety and local "flavor" in the airport. The concessionaire manager wanted to add healthy competition to the airport's food and beverage options.	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Enhancement Recommended</p>
20	If the airport has current Long Term and Exclusive contracts in place, were these contracts submitted to the FAA for approval? (§ 23.75)	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		

Note: The airport has 14 total concession locations in the airport. There are 3 ACDBE owned concessions; also, there are 3 ACDBE suppliers being utilized by Prime concessionaires. Annual Concessions revenue is approximately \$600,000 per annum.

Documents Reviewed:
<ul style="list-style-type: none"> • Airport's ACDBE Program (Draft) • Airport's ACDBE Goal and FY2011 Accomplishment Report • Sample Joint Venture Agreement

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 Ted Stevens Anchorage International Airport in providing the requested information 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.

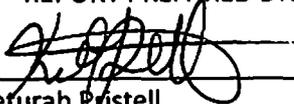
The main purpose of this compliance review was to examine the compliance of the "Monitoring and Enforcement" aspect of the recipient's DBE Program and ACDBE Program. In examining airport DBE/ACDBE monitoring and enforcement forms and practices, Ted Stevens Anchorage International Airport should be commended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

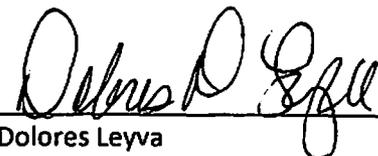
- ANC has implemented an internal compliance review process that aims at inspecting Prime contractor DBE utilization and DBE program engagement on a triennial basis.
- Good Faith Efforts forms and review process for Prime contractor or concessionaire compliance is thorough and very detailed.
- ANC civil rights staff works well with other internal offices 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 as soon as possible, or by date noted.

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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ASW Region Compliance Specialist

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>