



FY 2014

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

AND

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM

COMPLIANCE REVIEW REPORT

OF THE

**Alaska Department of Transportation & Public Facilities
Anchorage, AK**

REPORT ISSUED: May 16, 2014

PREPARED BY THE

FEDERAL AVIATION ADMINISTRATION

OFFICE OF CIVIL RIGHTS

U.S. Department of Transportation Federal Aviation Administration

JURISDICTION AND AUTHORITIES

The Federal Aviation Administration (FAA) Office of Civil Rights is authorized by the Secretary of the U.S. Department of Transportation (DOT) to conduct civil rights compliance reviews. Reviews are undertaken to ensure compliance of applicants, recipients, and sub-recipients with 49 CFR, Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and 49 CFR, Part 23 Participation of Disadvantaged Business Enterprise in Airport Concessions, referenced in this report as Part 26 and Part 23, respectively. Also, specific sections of the programs are referenced using the nomenclature (23.xx) and (26.xx) in this document.

Part 26 requirements apply to recipients of DOT funds under certain programs including airport funds under 49 U.S.C. 47101 et seq., including 47113. The program is narrowly tailored under the law. It is designed to allow firms that meet certain eligibility standards to compete fairly, to remove barriers to DBE firms seeking to participate in DOT-funded programs, to assist in developing firms that can compete in the marketplace outside of the DBE program, and to provide flexibility to recipients of federal funds in creating opportunities for DBE firms.

Part 23 requirements apply to Sponsors that received a grant for airport development at any time after January 1988 that was authorized under Title 49 of the United States Code. The requirements under this part apply to those Sponsors classified as primary Sponsors in the National Plan of Integrated Sponsor Systems (NPIAS). Part 23 is mandated by 49 U.S.C. 47107(e) and addresses the Sponsor concessions disadvantaged business enterprises (ACDBEs) at airports receiving funds under the Airport Improvement Program (AIP). The requirements of this part became effective April 21, 2005 and have been revised several times.

OBJECTIVES

The purposes of Part 26 and Part 23 as stated in the regulations are:

- To ensure nondiscrimination in the award and administration of Sponsor concessions and DOT-assisted contracts in the Department's highway, transit, and Sponsor financial assistance programs.
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law.
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in airport concessions and DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program.
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

SCOPE OF REVIEW

This review process is a high level examination of Alaska Department of Transportation & Public Facilities' (Sponsor) compliance with Parts 26 and 23. Unlike a comprehensive audit where testing and extensive examination of records are normal procedures, this compliance review is designed to maximize available resources in assessing an organization's general understanding and implementation of procedures to meet requirements. Some areas may be more heavily scrutinized than others based on review findings of other recipients, recently released guidance or final rules, or reports that FAA may have received about a specific sponsor's compliance.

To maximize the effectiveness of this review, FAA has identified regulatory requirements prior to the review that have higher priorities in the review process. The review also compared the actual implementation of the Part 26 and Part 23 requirements with the written descriptions found in the DBE and ACDBE programs and reviewed contract files, internal documents, and information from contractors and subcontractors. Interviews were conducted with Sponsor officials. Four focus group sessions were held with prime contractors, subcontractors, prime concessionaires, ACDBE firms, and other relevant personnel.

REVIEW PROCESS

The review process began with a desk review of the Sponsor's DBE and ACDBE Programs. This review focused only on the operations of the Sponsor. We sent a letter to the Sponsor notifying it of the planned on-site review. In the notification letter we requested that the Sponsor send us certain information and respond to questions.

Documents reviewed to verify compliance of requirements under 49 CFR Part 26:

- A. Sponsor organization chart, showing DBELO's position.
- B. Records documenting monitoring of contracts with DBE participation.
- C. Bid documents.
- D. Records documenting work site visits.
- E. Copy of Sponsor's approved DBE Triennial Goal.
- F. Records documenting Good Faith Effort reviews.
- G. Copy of DBE accomplishment reports for the most recent three years.
- H. List of all active FAA funded projects.
- I. List of active FAA funded projects that have DBE participation, identifying DBE goal and actual contract percentage achieved to date.
- J. Sample of an FAA funded contract.
- K. Sample of a contract that includes a DBE goal requirement.
- L. Sample of a DBE sub-contract agreement.

Documents reviewed to verify compliance of requirements under 49 CFR Part 23:

- A. Sponsor organization chart, showing ACDBELO's position.
- B. Copy of your approved ACDBE Triennial Goal.
- C. Records documenting Good Faith Effort reviews.
- D. Copy of ACDBE accomplishment reports for the most recent three years.
- E. List of all active concession contracts.
- F. List of all active concession contracts that have ACDBE participation, identifying ACDBE goal and actual contract percentage achieved to date.
- G. Copy of the top three revenue generating concession contracts.
- H. Copy of two recent Request For Proposals
- L. Complete listing of all concession contracts including start date, end date, possible contract extensions, total potential term including possible extensions.

Description of Sponsor

The Alaska Aviation System is the largest system in North America. Alaska has 403 public-use land-based airports, 43 heliports, and approximately 736 recorded landing areas. Pilots land on many of the thousands of lakes and gravel bars across the state where no constructed facility exists. The Alaska Department of Transportation and Public Facilities owns and operates 254 state airports including Fairbanks and Anchorage International Airports.

TED STEVENS ANCHORAGE INTERNATIONAL AIRPORT- ANC

Ted Stevens Anchorage International Airport has a proportionately greater role as a link with the rest of the world, when compared to other U.S. airports of its size. There is so much activity that involves tourists, international air cargo, and Alaskans living outside Anchorage; the airport has about three times the passenger arrivals and nearly 50 times the cargo arrivals of airports in cities with similar population.

Over five million passengers fly through the Anchorage airport annually. ANC is classified as a Medium – Hub Primary Airport with 2.3 million enplanements in CY2012. Passengers boarded direct flights that originated in Anchorage traveling to 136 different destinations in Alaska, the U.S., and internationally.

ANC is a vital gateway for trade and commerce between North America and Asia. Alaska is the equidistant to Tokyo, New York, and Frankfurt. Freighters carry maximum cargo payloads and refuel in Alaska, which in turn creates lower costs and access to imported goods for American household. 71% of all Asia bound cargo from the U.S. and 82% of all U.S. bound cargo from Asia transit through ANC. The airport is ranked #2 in

North America for volume of cargo handled and #5 in the world for cargo throughput. Over 40 cargo airlines serve over 40 worldwide destinations providing the ultimate in connectivity between Asia and North America.

ANC's economic impact is huge contributing more than 9,000 jobs directly and almost 6,500 indirect jobs to the Municipality of Anchorage, earning \$1 billion in income. That's 1 in 10 jobs in Anchorage.

The 4,612 acre complex that comprises ANC includes three runways over 10,600 ft. long (longest runway – 12,400 ft), 768 acres of airfield pavement, and is operational 24 hours per day with no slot restrictions or curfews. The airport completed a terminal redevelopment project in 2009 that included the addition of the new C Concourse. There are 16 retail outlets (several with multiple airport storefronts), 12 food and beverage outlets (including three with 24 hour service), and 6 car rental companies.

FAIRBANKS INTERNATIONAL AIRPORT - FAI

As Alaska's second busiest airport, Fairbanks International Airport serves as a hub for more than 50 communities in Interior and Northern Alaska that rely upon air freight, mail, and commuter services. The airport also plays a role in the state's tourism industry. FAI serves as an alternate for ANC; equipped to handle any size and type aircraft, anytime, with state-of-art landing systems and terminal facilities. FAI is classified as a Small – Hub Primary Airport with 450,436 enplanements in CY2012. FAI's economic impact is significant, accounting for approximately 1 in 20 jobs in Fairbanks.

The FAI completed a terminal area development project in 2009 that received recognition as one of the world's "[9 Beautiful New Airport Terminals.](#)" FAI is located in Alaska's 2nd most populated city, which is the smallest U.S. market with non-stop passenger service to Europe, Asia, and Canada. There are currently 13 concessionaires located in the airport facility, 6 of which are classified as car rental businesses

RURAL AIRPORTS

Aviation touches all aspects of life in rural Alaska, and is a basic mode of transportation because Alaska is huge and approximately 82% of Alaskan communities are not served by roads. Most of the time there is no practical alternative. Alaska has six times as many pilots per capita and 16 times as many aircraft per capita when compared to the rest of the United States. Rural Aviation covers all Alaskan airports except the Ted Stevens Anchorage International Airport and Fairbanks International Airport. The Alaska Department of Transportation & Public Facilities owns and operates 252 rural airports comprised of 172 gravel strips, 44 paved, 35 seaplane bases, and 1 heliport.

As an economic engine for the State of Alaska, Alaska's aviation industry contributes \$3.5 billion dollars and over 47,000 jobs to the state's economy. Aviation is a critical component of the state's economy and the vitality of Alaska's communities.

The Division of Statewide Aviation prepares policies, procedures, and programs to develop, construct, operate, and manage these rural public airports.

According to the Sponsor's grant history that it provided during the review, in FY 2011-2013, the FAA awarded the Sponsor, Airport Improvement Program (AIP) grants for the planning and development of public-use airports that are included in the NPIAS for the following project:

SEE ATTACHED

A site visit has been conducted, as noted below:

Review Conducted By FAA Staff:	Gene Roth , Sophia Soler, and Elizabeth Newman (Observer)	Site Visit Date(s):	May 12-13, 2014
Sponsor Participants:			
Mary Siroky, Dennis Good, Sean Skibbie, Norma M. Lucero, Lori Zirkle, Adam Marks, Mike Cray, Anmei Goldsmith, James Bauman, Javier Robinson, Debra Herrick, Theresa Harvey.			

FINDINGS: SECTION 1 - Title 49 CFR Part 26 – AIRPORT CONSTRUCTION

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
1	Did the Sponsor disseminate its DBE Policy Statement? (49 CFR 26.23)	YES	The Sponsor stated that the policy statement was disseminated via the sponsors website	NO	N/A
2	Does the Sponsor have a DBELO in place who has direct, independent access to the Director/CEO concerning DBE program matters and do you have adequate staff to administer the program? (49 CFR 26.25)	YES	The DBELO and has direct, independent access to the commissioner. The Sponsor does have the discretion to assign the DBELO position to someone that has direct, independent access to the commissioner on DBE program related matters and the DBELO does not necessarily have to have direct and independent access on all matters.	NO	N/A
3	Is the DBELO responsible for ensuring that DBEs are not discriminated against in the award and administration of FAA funded contracts and subcontracts? (49 CFR 26.25)	YES		NO	N/A
4	Does the Sponsor make reasonable efforts to use DBE financial institutions as well as encourage prime contractors on DOT assisted contracts to make use of DBE financial institutions? (49 CFR 26.27)	YES	The Sponsor also conducts certification activities and is not aware of any DBE financial institutions.	NO	N/A
5	Is the DBELO present during the bid openings for FAA funded projects? (49 CFR 26.25)	NO	The DBELO does not normally attend bid openings.	NO	N/A
6	Does the Sponsor verify written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment? (49 CFR 26.53)	YES	The Sponsor requires a letter of intent signed by the DBE.	NO	N/A
7	Does the Sponsor confirm DBE certification prior to awarding the contract? (49 CFR 26.53)	YES	The Sponsor confirms DBE certification prior to awarding the contract as part of its matter of responsibility review.	NO	N/A
8	In situations where a DBE contract goal has been established, does the Sponsor ensure that all DBE information is complete and accurate and adequately documents the bidder's good faith efforts before committing to the performance of the contract by the bidder? (49 CFR 26.53)	YES	The Sponsor uses the letter of intent for this purpose.	NO	N/A
9	Does the Sponsor have mechanisms in place to ensure that work committed to DBEs at contract award is actually awarded to DBEs? (49 CFR 26.37)	YES	The Sponsor confirms that work committed to DBEs at contract award is actually awarded to DBEs through its progress payment process.	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
10	Do the mechanisms 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? (49 CFR 26.37)	YES	Monthly reports are required from the primes and reviewed by the Sponsor staff.	NO	N/A
11	Does the Sponsor have mechanisms in place to verify that the DBEs are managing their work, utilizing their own work forces, equipment, and materials? (49 CFR 26.37)	YES	The Sponsor has a Commercially Useful Function (CUF) form that is uses to verify that the DBEs are managing their work, utilizing their own work forces and equipment. However, the program document does not detail the frequency or other steps that the sponsor takes to monitor projects.	YES	7/1/14
12	Does Sponsor staff conduct regular construction site visits and verify that the DBEs are performing a commercially useful function? (49 CFR 26.37)	YES	The Sponsor staff (project engineers) monitors all projects and verifies that the DBEs are performing a commercially useful function and documents the site visit using a CUF form.	NO	N/A
13	During the construction site visits, does the Sponsor verify that business names on equipment and vehicles are not covered with paint or magnetic signs? (49 CFR 26.37)	YES	Sponsor CUF form indicates that it checks that the DBE firm name and certification number is displayed on the trucks.	NO	N/A
14	During the construction site visits, does the Sponsor verify who employs the workers on site? (49 CFR 26.37)	YES	The CUF Form could be revised or enhanced to ask the specific question of the employees of the DBE firm.	NO	N/A
15	Does the Sponsor have a monitoring mechanism in place that provides a written certification that contracting records are being reviewed and work sites are being monitored? (49 CFR 26.37)	NO	The Sponsor stated that it does review contracting records as part of the project closeout process however does not provide written certification of that process as part of its DBE program.	YES	7/1/14
16	Does the Sponsor review monthly DBE participation reports provided by the Prime other than progress payment reports? (Provide copy of sample report) (49 CFR 26.37)	NO	Does the payment report discuss what the DBE did on the project to date?	YES	7/1/14
17	Does the Sponsor randomly verify who orders and pays for the necessary supplies being used by the DBE subcontractor? (49 CFR 26.37)	NO	The Sponsor stated that it did randomly verify but did not to provide an example.	YES	7/1/14

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
18	Does the Sponsor have prompt payment mechanisms in place and ensures retainage is given to all subcontractors upon substantial completion of their work on the project? (49 CFR 26.29)	YES	The Sponsor has an 8-day prompt payment requirement and a retainage policy to ensure retainage is given to all subcontractors upon substantial completion of work. However, during our focus group meetings with DBE subcontractors it became very apparent that is not working as intended in all cases. It appeared that the challenges that the DBEs were experiencing were limited to one prime contractor. The Sponsor should revisit its policies on prompt payment and retainage to ensure that they achieve the intended outcomes including enforcement provisions.	YES	7/1/14
19	In the case of post-award terminations, pre-award deletions or substitutions of DBE firms, does the Sponsor verify that the DBE has been notified AND given time to respond before approving the termination/ substitution? (49 CFR 26.53)	YES	The Sponsor is in compliance with the proper termination requirements in 26.53 and details the process in it G-120 spec document.	NO	N/A
20	Before approving a termination and/or substitution of a DBE subcontractor, does the Sponsor verify the documented good cause that compels the termination of the DBE subcontractor? (49 CFR 26.53)	YES		NO	N/A
21	Does the Sponsor submit its Uniform Report on DBE participation? (49 CFR Part 26.11 and Appendix B)	YES		NO	N/A
22	Was the Sponsor required to prepare a DBE goal accountability report for fiscal year 2013? (49 CFR 26.47)	YES	The sponsor did not meet its goal and should have prepared a DBE goal accountability report for fiscal year 2013. FAA asks for a copy and will review and provide feedback once it is submitted.	YES	6/1/14
23	Has the Sponsor implemented its Small Business element? (49 CFR 26.39)	YES	The Sponsor has a small business program element approved by FHWA but has not utilized it to date.	NO	N/A
24	Does the Sponsor have a business development or mentor-protégé program? (49 CFR 26.35 and Appendix C/D)	NO		NO	N/A

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
25	Does the Sponsor have a current and approved DBE Program in place? (49 CFR 26.21 and 26.37)	YES	FHWA approved the sponsors DBE Program. The monitoring portion was incomplete and program stated the Title VI and Part 21 monitoring portion would be submitted at a later date. However, this should be Part 26 monitoring practices and must be developed and submitted to FAA for review and coordinated approval by FHWA and FTA immediately.	YES	6/1/14
26	Has the Sponsor submitted its three-year DBE overall goal and received concurrence with its methodology from the FAA. (49 CFR 26.45)	YES	The sponsor has an approved DBE overall goal in place through FY14. The sponsor will prepare new goal methodology for FY15-16 and submit to FAA for review and approval by 8/1/14. This will be a two year overall goal to get sponsor back on the correct timetable.	NO	N/A
27	Other miscellaneous item: The FAA has concerns with the sponsors use and application of work categories rather than the typical NAICS code availability analysis of projects. FAA will discuss the matter with USDOT as well as its good faith efforts procedures with USDOT. The same also applies to the \$1 Million threshold for setting goals on projects.	N/.A	Follow-up item	N/A	7/1/14

FINDINGS: SECTION II - Title 49 CFR Part 23 – AIRPORT CONCESSIONS

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (if Any)	Compliance Issue	Action Due Date
1	Has the Sponsor's ACDBE program been approved by FAA? (49 CFR 23.23)	YES	The Sponsor has plan documents for ANC and FAI. The Sponsor may develop one plan that covers all primary airports. Currently there is not a plan in place for airports other than ANC and FAI.	YES	7/1/14
2	Did the Sponsor distribute its ACDBE Policy Statement? (49 CFR 23.23)	YES	The Sponsor stated that the policy statement is contained in RFP's and Sponsor will put it on the website.+	NO	N/A
3	Does the Sponsor have an ACDBELO in place who has direct independent access to the Sponsor Director/CEO concerning DBE program matters? (49 CFR 23.23)	YES	The ACDBELO and has direct, independent access to the Sponsor Commissioner. The Sponsor does have the discretion to assign the ACDBELO position to someone that has direct, independent access to the commissioner on ACDBE program related matters and the ACDBELO does not necessarily have to have direct and independent access on all matters.	NO	N/A
4	Is the ACDBELO responsible for ensuring that DBEs are not discriminated against in the award and administration of FAA funded contracts and subcontracts? (49 CFR 23.23)	YES		NO	N/A
5	Does the approved ACDBE program on file with FAA reflect the current organizational structure of the agency? (49 CFR 23.23)	YES		NO	N/A
6	Does the Sponsor include enforcement provisions in concession agreements? (49 CFR 23.29)	YES		NO	N/A
7	Does the Sponsor verify that the prime or master concessionaire and ACDBE have entered into a written commitment prior to submitting a response to an RFP/RFQ? (49 CFR 23.29)	YES	The Sponsor has one joint venture arrangement that began in 2000 and all other contracts are direct with ACDBEs. The sponsor would require a letter of intent if it planned to enter into a contract with a prime that had a joint venture or subcontracting arrangement.	NO	N/A
8	Does the Sponsor confirm ACDBE certification prior to awarding the contract? (49 CFR 23.29)	YES		NO	N/A
9	In situations where an ACDBE contract goal has been established, is the award of the concession contract conditioned on meeting the requirements of 49 CFR Part 23? (49 CFR 23.25)	YES	The sponsor requires meeting the goal or good faith efforts to meet the goal.	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
10	In situations where an ACDBE concession contract goal has been established, does the Sponsor ensure that all ACDBE information is complete and accurate and adequately documents the bidder's good faith efforts before awarding the concession contract? (49 CFR 23.29)	YES	There was some confusion if the ACDBEs were certified as DBEs or ACDBEs. The term that the certification entity used on the letter and certificate was DBE and the list of certified firms referred to them as FAA DBEs.	NO	N/A
11	Does the Sponsor have a monitoring mechanism in place that provides a written certification that contracting records are being reviewed and work sites are being monitored? (49 CFR 23.29)	YES	The sponsor does not have a formal ACDBE monitoring program in place.	YES	7/1/14
12	Does the Sponsor verify that the work committed to ACDBEs is actually performed by the ACDBEs? (49 CFR 23.29)	YES	The sponsor does not have a formal ACDBE monitoring program in place.	YES	N/A
13	Does the Sponsor prohibit prime or master concessionaires from terminating ACDBE firms for convenience? (49 CFR 23.25 and 23.29)	YES	The Sponsor only has one joint venture arrangement in place. The remainder are direct contracts with the Sponsor. The Sponsor would require the prime to follow proper termination procedures.	NO	N/A
14	Does the Sponsor include administrative remedies if a prime or master concessionaire fails to comply with ACDBE requirements? (49 CFR 23.25 and 23.29)	YES		NO	N/A
15	In the case of post-award terminations, pre-award deletions, or substitutions of ACDBE firms, does the Sponsor verify that the ACDBE has been notified AND given time to respond before approving the termination/substitution? (49 CFR 23.25 and 23.29)	YES		NO	N/A
16	Before approving a termination and/or substitution of a DBE subcontractor, does the Sponsor verify the documented good cause that compels the termination of the DBE subcontractor? (49 CFR 23.25 and 23.29)	YES		NO	N/A
17	Does the Sponsor conduct concession sites visits regularly? (49 CFR 23.29 and 23.55)	YES	The Sponsor conducts regular concession site visits; however, they are not focused on ACDBE monitoring. The sponsor must develop an ACDBE monitoring program including a written certification process to document the monitoring.	YES	7/1/14

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
18	Does the Sponsor verify that the ACDBE is actively managing the concession locations(s)? Including who the general managers are and to whom they report? (49 CFR 23.29 and 23.55)	YES	The Sponsor has one joint venture arrangement and all other contracts are direct contracts between the ACDBEs and the Sponsor. The sponsor conducts regular concession site visits; however, they are not focused on ACDBE monitoring. The sponsor must develop an ACDBE monitoring program including a written certification process to document the monitoring.	YES	7/1/14
19	Does the Sponsor verify gross sales reports accounting for ACDBE participation? (49 CFR 23.29 and 23.55)	YES		NO	N/A
20	Does the Sponsor submit its Uniform Report on ACDBE participation? (49 CFR 23 Appendix A)	YES		NO	N/A
21	Has the Sponsor received any complaints alleging that it was not complying with ACDBE regulations in the past three years?	NO		NO	N/A
22	Does the Sponsor have any joint venture agreements currently in place? If YES, please answer the following: (49 CFR Part 23 & JV Guidance)	YES	The Sponsor has one joint venture arrangement in place. The sponsor must review the joint venture agreement against FAA guidance on joint ventures from 2008 and bring joint venture into compliance if necessary.	YES	6/1/14
	a) Has the Sponsor 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?	NO			
	b) Did the Sponsor 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?	NO			
23	Does the Sponsor have Long Term (5+ years) and Exclusive contract(s) currently in place? (49 CFR 23.75)	YES	The sponsor has multiple long-term, exclusive arrangements in place at Ted Steven and Fairbanks that must be submitted to FAA for approval.	YES	7/1/14
24	If the Sponsor has current Long Term and Exclusive contracts in place, were these contracts submitted to the FAA for approval? (49 CFR 23.75)	YES			
25	Does the Sponsor have an ACDBE business development or mentor-protégé program? (49 CFR 23.25 and Part 26 Appendix C/D)	NO		NO	N/A
26	Was the Sponsor required to prepare submit an ACDBE goal accountability report for fiscal year 2013? (49 CFR 23.57)	YES	The FAA requests that the Sponsor submit its ACDBE goal accountability report for review and approval by FAA.	YES	6/1/14

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
27	Additional compliance area(s). Goal setting at primary airports and program document	N/A	The Sponsor has numerous primary airports that is owns. It has set goals on two of the primary airports- Ted Stevens and Fairbanks. The Sponsor does not believe that the other primaries have concessions that generate revenue of more than \$200,000 annually. FAA requests Sponsor to conduct a review of all other primary airports to ensure that is the case. Additionally, program document reflects outdated information certification and eligibility.	N/A	7/1/14

REVIEW SUMMARY

The Federal Aviation Administration (FAA) Office of Civil Rights would like to thank you for your participation in this FY 2014 DBE & ACDBE Compliance Review. We appreciate the substantial effort taken by Alaska Department of Transportation & Public Facilities in providing 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 FAA Office of Civil Rights periodically conducts reviews of grant recipients and sub-recipients in order to provide technical assistance, note best practices, identify areas for improvement, and ensure program compliance. This review has examined the Sponsor's compliance with the DBE Program and ACDBE Program. Observations and comments have been registered in each area that was examined as necessary.

Area(s) requiring your attention, if any, have been noted as a Compliance Issue under each specific question. Corrective actions must be taken by each set deadline. To supplement this year's review, we conducted focus group meetings with prime contractors, DBEs, master/prime concessionaires, as well as ACDBEs. The primary objective during these meetings was to evaluate the administration of the DBE and ACDBE program from the participants' perspective. We found that participants felt that the Sponsor has designed and implemented its DBE and ACDBE Programs consistent with the spirit and intent of 49 CFR Part 23 and 26. The DBEs and ACDBEs that we interviewed believed that the Sponsor's program did in fact level the playing field for them. However, the DBE participants and to some degree the Sponsor staff also noted that conduct of one of the construction primes was not consistent with the spirit of the program. The Sponsor should consider whether such conduct from a prime contractor is consistent with its contractual requirements especially in the areas of good faith efforts (possible bid shopping-11%), prompt payment, retainage, and bonding.

The FAA would like to remind the Sponsor that the firms and other individuals that we spoke with shouldn't be intimidated/retaliated against for their honesty and including what 49 CFR 26.109(d) states regarding intimidation and retaliation: If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

Based on the findings, we have designed specialized technical assistance to focus on the following areas of concern:

- DBE and ACDBE Program monitoring

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 Programs," 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>