



FY 2014

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

AND

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM

COMPLIANCE REVIEW REPORT

OF THE

ALBUQUERQUE INTERNATIONAL AIRPORT

ALBUQUERQUE, NEW MEXICO

REPORT ISSUED: APRIL 9, 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 by Disadvantaged Business Enterprises 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. 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 airports that had 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 airports classified as primary airports by the National Plan of Integrated Airport Systems (NPIAS). Part 23 is mandated by 49 U.S.C. 47107(e) and addresses the airport 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 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 airport concessions and DOT-assisted contracts in the Department's highway, transit, and airport 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 Albuquerque International Sunport (ABQ/Sunport/Airport) 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 finding 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. Three 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 airport's DBE and ACDBE Programs. This review focused only on the operations of the Sunport. We sent a letter to ABQ notifying it of the planned on-site review. In the notification letter we requested that the airport send us certain information and respond to questions.

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

- A. Airport 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 airport'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. Airport 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.

According to FAA AIP grant history, in the most recent three years, the FAA awarded the Sunport six Airport Improvement Program (AIP) grants for the planning and development of public-use airports that are included in the NPIAS. This review focused on active FAA funded projects funded the by following grants:

- 2013
 - \$9,077,735 Rehabilitate Taxiway [Taxiway A Phase 2]
 - \$483,584 VALE Infrastructure [eGSE charging stations]
- 2012
 - \$659,745 Rehabilitate Taxiway [TAXIWAY A PHASE 1], Rehabilitate Taxiway [Taxiway E Sealcoat]
 - \$3,389,237 Energy Efficiency Equipment/Infrastructure
- 2011
 - \$8,275,767 Construct Apron
 - \$1,765,424 VALE Infrastructure

A site visit has been conducted, as noted below:

Review Conducted By FAA Staff: Dolores Leyva & Gene Roth	Site Visit Date(s): April 7 – 9, 2014
Airport Staff : Cara MacNinch, DBELO; Jack D. Scherer, Associate Director Planning & Development; Jessica Dickman, Operations Manager; Mike Provine, MolzenCorbin; and Debi Dodge, MolzenCorbin.	

DESCRIPTION OF THE ALBUQUERQUE INTERNATIONAL SUNPORT:

The Albuquerque International Sunport is owned by the City of Albuquerque and operated by the City's Aviation Department. It is the largest commercial airport in the state of New Mexico. It is comprised of 2,200 acres and is located 5 miles southeast of downtown Albuquerque. The airport is a renowned facility that serves over six million travelers per year. The passenger facility of the Sunport include a terminal complex with more than 600,000 square feet of interior space, including 22 air carrier aircraft gates as well as one regional/commuter gate area.

The Sunport is classified as a medium hub primary airport by the NPIAS. It has two principal runways for air carrier use. Runway 8-26, the primary air carrier/military runway is 13,775 feet long and 300 feet wide. Runway 3-21 is a crosswind air carrier runway and it 10,000 feet long and 150 feet wide. The primary general aviation aircraft runway is 12-30 and is 6,000 feet in length and 150 feet in width.

The Sunport primarily serves an origination-destination air traffic market, with approximately 90% of the passengers using the Sunport to begin or end their trips in the Albuquerque area and other parts of the state. It is serviced by seven major national commercial passenger airlines, American, Delta, Frontier, JetBlue, Southwest, United, US Airways, and one commuter airline, New Mexico Airlines. In 2012, passenger activity included 2,704,305 enplanements and 2,677,918 deplanements.

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

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
1	Did the airport disseminate its DBE Policy Statement? (49 CFR 26.23)	YES	There's no record of the policy statement associated with the existing DBE program document. RECOMMENDED CORRECTIVE ACTION: ABQ should include the policy statement in its updated DBE program and distribute to all pertinent parties. To assist in the dissemination, ABQ should consider posting the DBE Policy Statement on its website.	YES	7/11/14
2	Does the airport have a DBELO in place who has direct, independent access to the Airport Director/CEO concerning DBE program matters and do you have adequate staff to administer the program? (49 CFR 26.25)	YES	Ms. Cara MacNinch is the current DBELO; she has direct independent access on DBE matters to the Director of Aviation. The organizational chart will be updated to reflect the direct independent access. <u>Recommended Enhancement:</u> We recommend that the updated organization chart be submitted as an attachment to its updated program as required under #25.	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)	NO	As the DBELO, Ms. MacNinch is responsible for ensuring that the DBE firms are not discriminated against.	NO	N/A
4	Does the airport 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	ABQ reviewed the availability of DBE financial institutions as required. <u>Recommended Enhancement:</u> We recommend that the airport reviews the availability as part of the process of updating its DBE Program.	NO	N/A
5	Is the DBELO present during the bid openings for FAA funded projects? (49 CFR 26.25)	NO	ABQ outsources its contract administration. MolzenCorbin is currently serving as contract administrator. A representative of MolzenCorbin is present during the bid opening. MolzenCorbin works closely with the Ms. MacNinch and informs her of any DBE issues that may arise.	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
			<u>Recommended Enhancement:</u> We recommend that Ms. MacNinch be present during some of the bid openings so that the DBE community identifies her as the liaison officer and the main point of contact for the Airport's DBE program.		
6	Does the airport 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	ABQ uses the Letter of Intent form to verify compliance. <u>Recommended Enhancement:</u> We recommend that the updated DBE program clarify whether the airport processes its bids for DOT-assisted contracts for which a contract goal has been established under sealed bid procedures, as a matter of responsiveness, any time before it commits to the performance of the contract by the bidder/offeror, as a matter of responsibility.	NO	N/A
7	Does the airport confirm DBE certification prior to awarding the contract? (49 CFR 26.53)	YES	ABQ verifies DBE certification prior to awarding the contract.	NO	N/A
8	In situations where a DBE contract goal has been established, does the airport 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	Bid documents are reviewed by MolzenCorbin, which informs the DBELO of any issues. The DBELO reviews and approves good faith effort reviews.	NO	N/A
9	Does the airport have mechanisms in place to ensure that work committed to DBEs at contract award is actually awarded to DBEs? (49 CFR 26.37)	YES	ABQ verifies the list of subcontractors submitted with the bid document as well as the list of subcontractors submitted prior to the award of the contract. ABQ also verifies pay estimates as well as weekly payroll to ensure that work committed to specific DBE's at the time of contract award is actually awarded to those same DBEs.	NO	N/A
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	ABQ uses the review of the pay estimates to verify goal progress as well as overall goal accomplishments.	NO	N/A
11	Does the airport have mechanisms in place to verify that the DBEs are managing their work, utilizing their own work forces,	YES	MolzenCorbin's project manager participates in weekly/biweekly project meetings and conducts weekly site	NO	N/A

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	equipment, and materials? (49 CFR 26.37)		visits to the work sites. A Construction Observer visits the sites on a daily basis and reports on the progress of the projects as well as who is completing the work. This information gets reported to the DBELO upon request.		
12	Does airport staff conduct regular construction site visits and verify that the DBEs are performing a commercially useful function? (49 CFR 26.37)	YES	MolzenCorbin's Project Manager and Construction Observer conduct regular site visits. They verify the firms who are scheduled to perform the work and who actually performing the work <u>Recommended Enhancement:</u> We recommend that ABQ implements a monitoring process that includes the use of standard forms to properly document the DBE performance observations during the site visits.	NO	N/A
13	During the construction site visits, does the airport verify that business names on equipment and vehicles are not covered with paint or magnetic signs? (49 CFR 26.37)	NO	ABQ relies on overall signage requirements to ensure fraud is not taking place. Firms that typically participate on projects at this Airport have worked here before. According to staff, they are very familiar with the firms and their work. <u>Recommended Enhancement:</u> We recommend that ABQ implements a monitoring process that includes the use of standard forms to properly document the DBE performance observations during the site visits.	NO	N>A
14	During the construction site visits, does the airport verify who employs the workers on site? (49 CFR 26.37)	YES	MolzenCorbin's Project Manager works very closely with the firms participating on the projects. Employment of workers is verified on a random basis. <u>Recommended Enhancement:</u> We recommend that the ABQ implements a monitoring process that includes the use of standard forms to properly document the DBE performance observations during the site visits.	NO	N/A
15	Does the airport 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	ABQ does not have a mechanism which provides for written certification that contracting records are being reviewed and work sites are being monitored.	YES	7/11/14

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			RECOMMENDED CORRECTIVE ACTION: ABQ should develop and implement a mechanism to meet this requirement. A description of the process and any associated forms should be submitted to FAA for review by the set deadline.		
16	Does the airport review monthly DBE participation reports? (Provide copy of sample report) (49 CFR 26.37)	YES	ABQ uses its pay estimates and certified payrolls records to review DBE participation..	NO	N/A
17	Does the airport randomly verify who orders and pays for the necessary supplies being used by the DBE subcontractor? (49 CFR 26.37)	NO	ABQ requires a copy of the invoice the supplier submitted to the prime as part of the pay estimate. RECOMMENDED CORRECTIVE ACTION: ABQ should develop a process to include verification of who is actually purchasing the supplies. A description of the process and any associated forms should be submitted to the FAA for review by the set deadline.	YES	N/A
18	Does the airport 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	ABQ uses the City's prompt payment clause, which requires that the Prime contractor pays the subcontractor within 21 days of receipt of payment which meets the regulation requirement of 30-day or less.	NO	N/A
19	In the case of post-award terminations, pre-award deletions or substitutions of DBE firms, does the airport verify that the DBE has been notified AND given time to respond before approving the termination/ substitution? (49 CFR 26.53)	YES	ABQ has not updated its existing process nor DBE program to incorporate this requirement. RECOMMENDED CORRECTIVE ACTION: ABQ should develop a process for the review and approval of post-award terminations, pre-award deletions or substitution of DBE firms to ensure DBE firms are notified before it approves any termination, deletion, or substitution. This process should be included in the updated DBE program. A description of the process and any associated forms should be submitted to FAA for review by the set deadline.	YES	7/11/14
20	Before approving a termination and/or substitution of a DBE subcontractor, does the airport verify the documented good cause	YES	ABQ has not updated its existing process nor DBE program to incorporate this requirement.	YES	7/11/14

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	that compels the termination of the DBE subcontractor? (49 CFR 26.53)		RECOMMENDED CORRECTIVE ACTION: ABQ should develop a process for the review and approval of post-award terminations, pre-award deletions or substitution of DBE firms to include the verification of "Good Cause." This process should be included in the updated DBE program. A description of the process and any associated forms should be submitted to FAA for review by the set deadline.		
21	Does the airport submit its Uniform Report on DBE participation? (49 CFR Part 26.11 and Appendix B)	YES	Review of the recent three-year record history shows that the Airport has submitted reports as required. ABQ has submitted a revised report for FY-2012.	NO	N/A
22	Was the airport required to prepare a DBE goal accountability report for fiscal year 2012? (49 CFR 26.47)	NO	According to the records, ABQ met its DBE goal and therefore was not required to prepare an accountability report.	NO	N/A
23	Has the airport implemented its Small Business element? (49 CFR 26.39)	YES	A copy of its small business element should be submitted as an attachment to its updated program as required under #25.	NO	N/A
24	Does the airport have a business development or mentor-protégé program? (49 CFR 26.35 and Appendix C/D)	NO	ABQ does not have a mentor-protégé program. The City relies on NMDOT to qualify DBE firms and relies on small business development centers located across the state for mentor-protégé programs.	NO	N/A
25	Does the airport have a current and approved DBE Program in place?	NO	ABQ's existing DBE program was last updated June 2000. RECOMMENDED CORRECTIVE ACTION: ABQ should develop an updated DBE program for review by the set deadline.	YES	7/11/14
26	Has the airport submitted its three year DBE goal and received concurrence with its methodology from the FAA.	YES	ABQ submitted its overall DBE goal as well as an update. The DBE goal update is under review.	NO	N/A
27	Other miscellaneous item		Contract Specifications Document: Document reviewed was extremely outdated. RECOMMENDED CORRECTIVE ACTION: ABQ should update its contract specifications document to ensure it is current and incorporates all 49 CFR Part 26 updates. This should include specific contract clauses and references to the regulation. A copy of the updated document should be submitted to FAA for review by the set deadline.	YES	7/11/14

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

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENDED CORRECTIVE ACTION (if Any)	Compliance Issue	Action Due Date
1	Has the airport's ACDBE program been approved by FAA? (49 CFR 23.23)	YES	ABQ's ACDBE program was approved in June 2009. RECOMMENDED CORRECTIVE ACTION: ABQ should submit an updated ACDBE program incorporating all recent changes to regulation by the set deadline.	YES	7/11/14
2	Did the airport distribute its ACDBE Policy Statement? (49 CFR 23.23)	YES	ABQ distributed its ACDBE policy statement with its ACDBE program in 2009. <u>Recommended Enhancement:</u> We recommend ABQ redistributes its ACDBE policy statement once program is updated, to assist in the dissemination, ABQ should consider posting the ACDBE Policy Statement on its website.	NO	N/A
3	Does the airport have an ACDBELO in place who has direct independent access to the Airport Director/CEO concerning DBE program matters? (49 CFR 23.23)	YES	Ms. Cara MacNinch is the current ACDBELO, she has direct independent access on DBE matters to the Director of Aviation. <u>Recommended Enhancement:</u> We recommend that the updated organization chart be submitted as an attachment to its updated program as required under finding #1.	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)	NO	As the DBELO, Ms. MacNinch is responsible for ensuring that the ACDBE firms are not discriminated against.	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)	NO	ABQ submitted an updated Organization Chart with its written response to the compliance review questionnaire. <u>Recommended Enhancement:</u> We recommend the ABQ submit an updated organization chart noting the direct independent access to the highest ranking official along with its updated ACDBE program.	NO	N/A
6	Does the airport include enforcement provisions in concession agreements? (49 CFR 23.29)	NO	The general Termination clause included in the agreement applies to ACDBE provisions.	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
7	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? (49 CFR 23.29)	NO	<p>The RFP document does not include forms to verify that the prime or master concessionaire and ACDBE have entered into a written commitment prior to submitting a response to an RFP.</p> <p>RECOMMENDED CORRECTIVE ACTION: ABQ should update its RFP template to include forms, similar to the letter of intent, to verify written commitment between ACDBE and prime concessionaire. Sample form should be submitted to FAA for by the set deadline.</p>	YES	7/11/14
8	Does the airport confirm ACDBE certification prior to awarding the contract? (49 CFR 23.29)	YES	<p>The ACDBELO verifies ACDBE certification prior to the award of the concession agreement and on an annual basis.</p> <p>Please note that 23.55(i) states as follow: "If a firm has not been certified as an ACDBE in accordance with the standards in this part, do not count the firm's participation toward ACDBE goals".</p> <p>Recommended Enhancement: We recommend that ABQ verifies that all firms that it counts towards its ACDBE participation report are certified as ACDBEs not DBEs.</p>	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)	NO	<p>ABQ does not establish ACDBE contract goals. The Airport is currently operating under a race & gender-neutral environment and sets an overall goal for non-car rental concessions and an overall goal for car rental concessions.</p>	NO	N/A
10	In situations where an ACDBE concession contract goal has been established, does the airport 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)	NO	<p>The RFP reviewed included forms documenting ACDBE participation as well as good faith effort forms.</p> <p>Recommended Enhancement: We recommend that ABQ reviews its current forms to ensure that the good faith effort is not a requirement when an opportunity does not carry a specific ACDBE contract goal.</p>	NO	N/A
11	Does the airport have a monitoring mechanism in place that provides a written certification that contracting records are being reviewed and work	NO	<p>ABQ conducts regular visits to the locations and reviews concession agreements. The reviews are not officially documented.</p>	YES	7/11/14

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	sites are being monitored? (49 CFR 23.29)		RECOMMENDED CORRECTIVE ACTION: ABQ should develop and implement a mechanism to meet this requirement. A description of the process and any associated forms should be submitted for review to FAA by the set deadline.		
12	Does the airport verify that the work committed to ACDBEs is actually performed by the ACDBEs? (49 CFR 23.29)	YES	The ACDBELO visits the locations and works closely with the concessionaires. There's no official documentation to verify review. RECOMMENDED CORRECTIVE ACTION: ABQ should develop and a process to meet this requirement. A description of the process should be documented in the updated ACDBE Program. The updated program and any associated forms should be submitted to FAA for review by the set deadline.	YES	7/11/14
13	Does the airport prohibit prime or master concessionaires from terminating ACDBE firms for convenience? (49 CFR 23.29)	YES	ABQ only has one joint venture agreement where this requirement would apply. The general Termination clause included in the agreement applies to ACDBE provisions not allowing for any changes without ABQ's approval.	NO	N/A
14	Does the airport require prime or master concessionaires include administrative remedies if a prime or master concessionaire fails to comply with ACDBE requirements? (49 CFR 23.29)	NO	The general contract clauses included in the agreement apply to ACDBE provisions.	NO	N/A
15	In the case of post-award terminations, pre-award deletions, or substitutions of ACDBE firms, does the airport verify that the ACDBE has been notified AND given time to respond before approving the termination/substitution? (49 CFR 23.29)	YES	The existing ACDBE program does not include this recent update to the regulation. ABQ does not have a documented process in place addressing this requirement. RECOMMENDED CORRECTIVE ACTION: ABQ should develop and a process to meet this requirement. A description of the process should be documented in the updated ACDBE Program. The updated program and any associated forms should be submitted to FAA for review by the set deadline.	YES	7/11/14
16	Before approving a termination and/or substitution of a DBE subcontractor, does the airport verify the documented good cause that compels the termination of the DBE subcontractor? (49 CFR 23.29)	YES	The existing ACDBE program does not include this recent update to the regulation. ABQ does not have a documented process in place addressing the verification of good cause in the case of a termination and/or substitution of an ACDBE.	YES	7/11/14

#	QUESTION/REGULATION REFERENCE	Response	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue	Action Due Date
			RECOMMENDED CORRECTIVE ACTION: The process developed in response to question #16 should include verification for good cause.		
17	Does the airport conduct concession sites visits regularly? (49 CFR 23.55)	YES	Ms. MacNinch and her staff visit the locations as needed.	NO	N/A
18	During the concession site visits, does the airport verify general managers and to whom they report? (49 CFR 23.55)	YES	The information is verbally verified during site visits but not officially documented.	YES	7/11/14
19	Does the airport verify that the ACDBE is actively managing the concession locations(s)? (49 CFR 23.55)	YES	RECOMMENDED CORRECTIVE ACTION: ABQ should develop and implement a mechanism to meet this requirement. A description of the process and any associated forms should be submitted to FAA for review by the set deadline.		
20	Does the airport verify gross sales reports accounting for ACDBE participation? (49 CFR 23.55)	YES	Ms. MacNinch verifies gross sales information on an annual basis.	NO	N/A
21	Does the airport submit its Uniform Report on ACDBE participation? (49 CFR 23 Appendix A)	YES	Ms. MacNinch submits annual participation reports as required by the regulation. Recommended Enhancement: We recommend that a revised FY-2013 ACDBE participation report be submitted no later than <u>June 11, 2014</u> .	NO	N/A
22	Has the airport received any complaints alleging that it was not complying with ACDBE regulations in the past three years?	NO	ABQ has not received any complaints regarding ACDBE program non-compliance.	NO	N/A
23	Does the airport have any joint venture agreements currently in place? If YES, please answer the following:	YES	ABQ has one joint venture concession, Hudson-Garza Albuquerque, J.V. Retail Concession, in place. The agreement has not been reviewed for compliance.	YES	6/11/14
	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?	NO	RECOMMENDED CORRECTIVE ACTION: ABQ should review the agreement to verify compliance with the FAA Joint Venture Guidance. Records documenting the review should be submitted to the FAA by the set deadline.		
	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?	NO			

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24	Does the airport have Long Term (5+ years) and Exclusive contract(s) currently in place? (49 CFR 23.75)	NO	<p>ABQ's advertising contract is a Long-Term, Exclusive contract. According to Ms. MacNinch, the Airport obtained FAA approval when the contract was awarded in 2005. The term of the agreement is for ten years with one additional three-year option.</p> <p><u>Recommended Enhancement:</u> We recommend that Ms. MacNinch submits correspondence to the FAA documenting the events leading to current status of the agreement. Required correspondence should be submitted to FAA no later than June 11, 2014.</p>	NO	N/A
25	If the airport has current Long Term and Exclusive contracts in place, were these contracts submitted to the FAA for approval? (49 CFR 23.75)	NO			
26	Does the airport have an ACDBE business development or mentor-protégé program? (49 CFR 26.35 and Appendix C/D)	NO	ABQ does not have an ACDBE mentoring program.	NO	N/A
27	Was the airport required to prepare submit an ACDBE goal accountability report for fiscal year 2012? (49 CFR 26.47 ^{23.57})	NO	ABQ was not required to prepare a goal accountability report for FY-2012 or FY-2013.	NO	N/A
28	Additional compliance area(s).		<p>RFP Document: Document reviewed revealed that ABQ includes local preference section as a requirement both in the response and evaluation.</p> <p>Note that 23.79 states as follow: "As a recipient you must not use a local geographic preference. For purposes of this section, a local geographic preference is any requirement that gives an ACDBE located in one place (e.g., your local area) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport".</p> <p>RECOMMENDED CORRECTIVE ACTION: A copy of the updated document should be submitted to FAA for review by the set deadline.</p>	YES	7/11/14

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 Albuquerque International Sunport (ABQ/Sunport/Airport) 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 discretionary 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 Airport's compliance with the DBE Program and ACDBE Program. Observations and comments have been registered in each area that was examined.

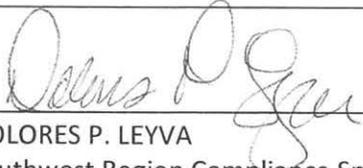
Area(s) requiring your attention, if any, have been noted as a Compliance Issue under each specific question, corrective must be taken by each set deadline. To supplement this year's review, we conducted focus group meetings with prime contractors, DBEs, master/prime concessionaires, as well as ACDBEs. 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 are very content with the way ABQ is administering its DBE and ACDBE program. They expressed that staff is responsive to their comments and concerns. However, participants also noted that they would like more information about the program to be readily available, possible on the Sunport's website, as well as the opportunity to review and comment on the proposed DBE and ACDBE program goals.

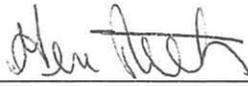
Based on the findings, we have designed specialized technical assistance to focus on the following areas of concern:

- Development of ACDBE & DBE Goal Methodology.
- End of the year Accomplishment Reporting.

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."

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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>