



**FY 2014**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

**COMPLIANCE REVIEW REPORT**

**OF THE**

**The PENNSYLVANIA DEPARTMENT of TRANSPORTATION (PennDOT)**

**Bureau of Equal Opportunity**

**P.O. Box 3251**

**Harrisburg, PA 17105-3251**

**(717) 787-5891**

REPORT ISSUED: 05/22/2014

PREPARED BY: THE FEDERAL AVIATION ADMINISTRATION, OFFICE OF CIVIL RIGHTS DBE PROGRAM STAFF

# 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 Title 49 of the Code of Federal Regulations (CFR), Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs referenced in this report as Part 26 as it is commonly called. Also, specific sections of the programs are referenced using the nomenclature (26.xx) in this document.

Part 26 requirements apply to recipients of DOT funds under certain programs including airport funds under Title 49 United States Code (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.

## OBJECTIVES

The purposes of Part 26 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 PennDOT's compliance with Part 26. 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 requirements with the written descriptions found in the DBE program plan document, reviewed contract files, internal documents, and information from contractors and subcontractors. Interviews were conducted with sponsor officials. Two focus group sessions were held with construction prime contractors & subcontractors and other relevant personnel.

## REVIEW PROCESS

The review process began with a desk review of the airport's DBE program. This review focused only on the operations of the sub-recipient airports of PennDOT and the administrative procedures of PennDOT itself—this includes UCP certification procedures. We sent a letter to PennDOT notifying the DBE Liaison Officer (DBELO) of the planned review. In the notification letter we requested that the airport send us certain information and respond to questions. After the desk review was complete, the DBELO was sent a confirmation notification of the previously tentative on-site review.

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

- A. Airport organization chart, showing DBELO's position.
- B. Documentation of outreach to local airports and stakeholders.
- C. Copy of the DOT's DBE Triennial Goal.
- D. Copy of the DOT's approved Small Business Element.
- E. List of all active FAA funded projects.
- F. List of active FAA funded projects that have DBE participation, identifying DBE goal and actual contract percentages.
- G. Sample of an FAA funded contract.
- H. Sample of a contract that includes a DBE goal requirement.
- I. Sample of a DBE sub-contract agreement.

RESCENT GRANTS FROM THE FAA AIRPORTS DIVISION

According to FAA Airport Improvement Program (AIP) grant history provided by the FAA's Airports Division, in the most recent three years the FAA awarded PENNDOT 16 itemized AIP grants for the planning and development of public-use airports that are included in the NPIAS under the Pennsylvania State Block Grant program. This review focused on active FAA funded projects funded the by following grants:

- 2013

EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		67	\$5,439,155.00	\$5,439,155.00	\$0.00	\$0.00	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		69	\$1,466,064.00	\$0.00	\$1,466,064.00	\$0.00	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		68	\$2,683,158.00	\$2,683,158.00	\$0.00	\$0.00	Non primary development projects in state block grant program

- 2012

EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		63.00	\$5,550,000.00	\$5,550,000.00	\$0.00	\$0.00	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		64.00	\$5,075,800.00	\$5,075,800.00	\$0.00	\$0.00	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		65.00	\$150,000.00	\$150,000.00	\$0.00	\$0.00	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		66.00	\$868,500.00	\$0.00	\$868,500.00	\$0.00	Non primary development projects in state block grant program

- 2011

EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		55	\$ 1,339,084	\$ 1,339,084	\$ -	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		57	\$ 2,010,335	\$ 2,010,335	\$ -	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		62	\$ 2,557,251	\$ 707,083	\$ 1,850,168	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		61	\$ 1,176,331	\$ -	\$ 1,176,331	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		59	\$ 1,647,457	\$ 1,647,457	\$ -	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		56	\$ 4,560,000	\$ 4,560,000	\$ -	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		58	\$ 1,140,000	\$ 1,140,000	\$ -	\$ -	Non primary development projects in state block grant program
EA	HAR	PA	*PAB	Pennsylvania State Block Grant Program		60	\$ 367,850	\$ -	\$ 367,850	\$ -	Non primary development projects in state block grant program

A site visit has been conducted, as noted below:

Site Visit and Review Conducted By FAA Staff: Keturah Pristell & Nancy Cibic

Site Visit Dates: May 20-22, 2014

PennDOT Staff Participants:

Jocelyn I. Harper, PennDOT BEO Director

Dustin Hobaugh PennDOT DBE/Title VI Division Chief

Dwan Lee, PennDOT DBE Program Administrator

Jennie Granger , Penn DOT Bureau of Aviation Director

Robin Sukley, PennDOT Bureau of Aviation, Chief of Planning Division

Harrison Brooks , PennDOT Bureau of Aviation Budget, Fiscal and Grants Manager

Trista Maurer, PennDOT BEO Certification Specialist

Jeanie Daniels, Penn DOT Office of Chief Counsel Lead Investigator

## DESCRIPTION OF PENNDOT

The State of Pennsylvania is what is generally called a “Block Grant State” in the DBE/AIP programs. States that participate in the State Block Grant Program assume responsibility for administering AIP grants at airports classified as "other than primary" airports — that is, non-primary commercial service, reliever, and general aviation airports. There are 41 airports under the auspices of PennDOT in total. Flight service at the airports include both commercial and commuter business. Within the Block Grant program, each state is responsible for determining which locations will receive funds for ongoing project administration. Title 14 CFR Part 156 contains program requirements. In Pennsylvania, PennDOT is responsible for the state’s Block Grant Program administration. PennDOT’s Bureau of Aviation (BOA) is actively involved in promoting, developing and preserving Pennsylvania’s airport system; the bureau administers the Block Grant Program and two other grant programs as per State Act 164 of 1984 authorization. Under this authority, the bureau provides assistance to all of these particular 41 public airports, including those that are privately-owned. Pennsylvania’s responsibilities under this law are to preserve, upgrade, and, when possible, build new airport facilities. PennDOT is the largest AIP grant recipient in state of Pennsylvania; it is located in downtown Harrisburg, PA which is the state’s capital city. The Bureau of Equal Opportunity (BOE) is responsible for ensuring the PennDOT’s compliance with federal and state regulations regarding equal employment opportunity, contract compliance, and the participation of disadvantaged, minority and women-owned businesses on contracts awarded by the PennDOT. The BOA and BOE work collaboratively to ensure proper administration and compliance regarding the AIP and DBE programs. In addition, PennDOT’s legal division also works collaboratively with BOE for certification of DBE and ACDBE firms. The Deputy Secretary for Administration at PennDOT is the official DBELO. The Deputy is the leading director of the BEO as well as 8 other program offices and, delegates much of the DBELO activities and duties to support staff within the above mentioned offices of the organization.

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

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
1	Did the airport disseminate its DBE Policy Statement? (49 CFR 26.23)	NO	<p>There is a record of the policy statement associated with the existing DBE program document dated 05/27/2010 on the BEO website. PennDOT has no record of dissemination directly to sub-recipient airports or firms, but stated that they plan to email an updated policy to all airports and stakeholders in the future. The policy statement and plan was not updated after the most recent DBE regulation update.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> PennDOT should update the policy statement along with the DBE program and distribute it to all pertinent parties including the airports and other stakeholders. The updated program and policy statement should be submitted to FAA for review by the action due date.</p>	YES	10/01/2014
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	<p>The Executive Deputy Secretary for Administration at PennDOT is the current DBELO; he has direct, independent access to the PennDOT Secretary.</p> <p><b>RECOMMENDED ENHANCEMENT:</b> The organizational chart should be updated to reflect the DBELO title under the correct chart box. We recommend that the updated organization chart be submitted as an attachment to the forthcoming updated program as required under #25.</p>	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	<p>The DBELO has delegated the responsibility for ensuring that DBE's are not discriminated against in the award or administration of FAA funded contracts to the Bureau of Aviation and Bureau of Equal Opportunity. The responsible official is primarily Jocelyn I. Harper of the Bureau of Equal Opportunity and her staff of 5-6 personnel devoted to managing the DBE Program statewide.</p>	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
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	There is 1 DBE financial institution within PA; PennDOT makes reasonable efforts to utilize and encourage the utilization of the DBE financial institution. PennDOT will again forward contact information and an encouragement to use the institution to all Block Grant local airport sponsors (for forwarding to the prime contractors & sub-contractors) by the end of FY14.	NO	N/A
5	Is the DBELO present during the bid openings for FAA funded projects? (49 CFR 26.25)	NO	The DBELO has delegated the responsibility to the airport sponsor (point of contact) receiving the FAA funds. PennDOT will create a DBE Checklist for Pre-Award, Post Award and Project Site Visit compliance enforcement that includes being present at bid openings on the Pre-Award Checklist. This checklist will be used by the airports to ensure standardized procedures and compliance with several program requirements. Overall, the checklist will be used as a general, use- friendly form to track all aspects of DBE activity and requirements at the airports.  <b><u>RECOMMENDED ENHANCEMENT:</u></b> Hold periodic meetings with local DBE POCs to ensure understanding of monitoring and enforcement mechanisms for the DBE Program with regard to bid opening best practices.	NO	N/A
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)	NO	PennDOT has not updated its DBE Program to reflect the written certification requirement mandated by the regulations. See #5 above for PennDOT's plan to correct this item.  <b><u>RECOMMENDED CORRECTIVE ACTION:</u></b> Update the DBE Program document to describe the monitoring and enforcement process and mechanisms required by the regulations, and add all checklists and related forms/tools to the program as attachments. Ensure that all written certification documents include the full printed name and signature of the author/user of the document along with job title. Submit the updated plan to the FAA for review by	YES	10/01/2014

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			the action due date.		
7	Does the airport confirm DBE certification prior to awarding the contract? (49 CFR 26.53)	YES	PennDOT confirms verification through the PA UCP which is administered partially by PennDOT. PennDOT is a certifying partner of the PA UCP. The UCP has a public website with excellent search tools making the confirmation of certification process very simple.	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	Bureau of Aviation Project Managers review all bids prior to award for DBE Compliance. PennDOT will create a DBE Checklists for Pre-Award, Post Award and Project Site Visit that includes ensuring that all DBE information is accurate and that the GFE have been documented on the Pre-Award Checklist. The DBELO delegates many of the program duties, but inspects each GFE submissions to ensure compliance with Part 26.	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	This is achieved by monitoring the project costs paid to vendors/contractors (costs paid data is input into an IT tracking system called the "DOT Grant System" by the local airport sponsors) versus the DBE goal set for the project. The BOA can/does ensure that work committed to DBE's at contract award is actually awarded and paid using the system, and they notify the BEO if any problems arise. PennDOT will ensure the accurate functionality of the unified (all 41 airports consolidated) DBE participation report via its "DOT Grants System" as well since the system already tracks the DBE goals and participation at each airport. The ability for the system to consolidate the local reports into a single report of all activity is currently being fixed within the DOT Grant System. PennDOT will also create a report called the Monthly Grant Administration Report for reporting DBE goal and accomplishment status (i.e. Project goal vs. dollars paid to DBE's to date).	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	YES	This is achieved by monitoring the project costs paid to vendors input by the airport sponsors versus the DBE goal set for the project. The BOA can/does provide for a running tally of actual DBE attainments in comparison to the committed	NO	N/A

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
	26.37)		goal, and they will be creating a Monthly Grant Administration Report to more easily track the data as mentioned in #9 above.		
11	Does the airport 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	Webinars are conducted where local airport sponsor points of contact are instructed on how to complete CUF forms and other DBE requirements/information. Documentation of these sessions was provided during the PennDOT site visit meetings.	NO	N/A
12	Does airport staff conduct regular construction site visits and verify that the DBEs are performing a commercially useful function? (49 CFR 26.37)	NO	<p>The airport sponsor receiving the federal funds has assigned inspection forces at the local airports to track construction progress including workers and equipment. It is unclear how regularly these visits occur, however. In the future, progress reports submitted for reimbursement purposes will be required to include DBE participation and monitoring data (including documentation of workers, equipment, &amp; functions performed). PennDOT will create a general DBE Checklist for Pre-Award, Post Award and Project Site Visit monitoring and inspection as well.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Ensure that verifying CUF is included in the forthcoming DBE Program Checklists where appropriate. Include instructions on how to verify DBE firm employees and materials.</p>	YES	10/01/2014
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	<p>The airport sponsor receiving the federal funds has assigned inspection forces to track construction progress including men and equipment, however, it is unclear how regular or thorough these inspections are.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b></p>	YES	10/01/2014

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
			Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Require that the local airport sponsor's inspection forces verify DBE equipment and vehicles within the project records. Include instructions on how to verify trucking fleets, vehicles, and heavy machinery.		
14	During the construction site visits, does the airport verify who employs the workers on site? (49 CFR 26.37)	NO	<p>Site visits are conducted intermittently, and worker employment verification is not conducted.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Include a description of the monitoring and enforcement mechanisms for DBE project site visit reviews and a copy of a sample written certification within the program and attachments.</p>	YES	10/01/2014
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	<p>The BOA Project Managers intermittently perform project site visits, but there is not a specific process, tool, or requirement in place, currently. PennDOT will require that a DBE log is maintained within the project records by inspection forces at local airports and that it is checked regularly by the project manager during performance of project site visit, in the future. PennDOT will create a general DBE Checklist for Pre-Award, Post Award and Project Site Visit monitoring and inspection as well.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Include a description of the monitoring and enforcement mechanisms and copies of sample written</p>	YES	10/01/2014

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			certification checklists, logs, and/or documents within the program and attachments.		
16	Does the airport review monthly DBE participation reports? (Provide copy of sample report) (49 CFR 26.37)	NO	DBE participation reports are submitted and reviewed quarterly by local airports with DBE projects. The reports are reviewed as needed. The airport recipients maintain and create reports. Participation data is entered into an automated system that will eventually generate an automated report for the DBE firm participation levels of all the airports under the auspices of PennDOT. The IT system under construction currently is called the "DOT Grant System". Enhancements to the system are being made by an IT consultant to ensure proper consolidation of the local reports into a general report for PennDOT airports as a whole.	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	<p>PennDOT will create a DBE Checklist for Pre-Award, Post Award and Project Site Visit that includes a verification of what firm or person or entity orders and pays for supplies used by the DBE firm(s).</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> Implement a system for verification described above by the action due date. Ensure the checklist is included into the proposed program attachments.</p>	YES	10/01/2014
18	Do the airports have prompt payment mechanisms in place and ensure retainage is given to all subcontractors upon substantial completion of their work on the project? (49 CFR 26.29)	NO	PennDOT will create a DBE Checklist for Pre-Award, Post Award and Project Site Visit inspection that includes a verification of cancelled checks to ensure prompt (within 7 days of receipt of payment from PennDOT and/or airport) payment are given to all subcontractors. No retainage is held	YES	10/01/2014

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (if Any)	Compliance Issue YES/NO	Action Due Date
			<p>in the state of PA.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b>  Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Prompt payment mechanisms should be described within the program document, and they must be clear on the proposed checklist.</p>		
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)	NO	<p>PennDOT will create a DBE Checklist for Pre-Award, Post Award and Project Site Visit inspection that includes a verification requirement for DBE firm notification and response prior to any approved termination or substitution of a DBE firm.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b>  Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Ensure that all DBE firms are provided with an opportunity to address the deletions, substitutions, or terminations as per the regulations; this process should be described in the updated program in detail and ensure that the DBE firm has at least a 5 day window for response.</p>	YES	10/01/2014
20	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 26.53)	NO	<p>When a change or substitution is proposed, PennDOT requires that the local airport inspection staff record it in the project documents at the airport and also receive approval from the BOA Project Manager prior to the change or substitution.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b>  Submit an updated DBE Program document, including all related forms and attachments, for review by the action due date. Ensure that all DBE firms are provided with an opportunity to address the termination as per the regulations;</p>	NO	10/01/2014

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
			this process should be described in the updated program. Ensure you receive a notice of the proposed termination and that the DBE firm has at least 5 days to respond to the allegations supporting the termination prior to being terminated/cancelled or replaced.		
21	Does the airport submit its Uniform Report on DBE participation? (49 CFR Part 26.11 and Appendix B)	NO	<p>The report activities for the past 3 years have not been submitted. Problems with the reporting for the 41 airports being consolidated and integrated into a general report for the Block Grant program as well as lack of staff is the cause of these problems. PennDOT is currently working with an IT contractor in order to correct technical problems in the tracking system causing the problems.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> Submit all DBE participation accomplishment reports not currently provided covering FY12-13 by the action due date.</p> <p><b>RECOMMENDED ENHANCEMENT:</b> Add a detailed description of the reporting process, which each of the 41 airports and PennDOT will follow, to the forthcoming DBE Program document in order to clarify roles and responsibilities at the PennDOT level as well as the local airport points of contact level. Describe how data will be submitted from the local airport sponsors. Describe what office and/or personnel will compile, review, and submit participation reports to the FAA. Describe exactly what the new IT system will process and produce.</p>	YES	10/01/2014
22	Was the airport required to prepare a DBE goal accountability report for fiscal year 2013? (49 CFR 26.47)	NO	Since PennDOT has not submitted DBE Uniform Form achievement reports to FAA for 3 years, it is unclear whether it has met its overall goals. PennDOT is not required to submit an accountability report to FAA since none of its sub-recipient airports are Primary or CORE airports, but PennDOT is required to analyze its overall DBE goal shortfall each year,	YES	10/01/2014

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
			<p>if any, and establish specific steps and milestones to correct any problems to enable staff to fully meet the goals for the subsequent fiscal year.</p> <p><b>RECOMMENDED ACTION:</b> PennDOT should submit the missing FY12-FY13 DBE participation reports by the action due date. If there were goal shortfalls for those years, then PennDOT should also prepare accountability reports for both years. The reports should remain on file to be available for review by FAA staff as needed.</p>		
23	Has the airport implemented its Small Business element? (49 CFR 26.39)	YES	<p>There is a Small Business element on file which was reviewed and approved by the joint staffs of FTA, FHWA, and FAA when the regulations concerning Part 26.39 were updated. PennDOT will incorporate their approved Small Business Element with its updated DBE Program.</p> <p><b>RECOMMENDED ADDITIONAL ACTION:</b> Submit an updated DBE Program document, including all related forms and attachments, with the Small Business Element incorporated within the program or attached to the program document by the action due date.</p>	NO	10/01/2014
24	Does the airport have a business development or mentor-protégé program? (49 CFR 26.35 and Appendix C/D)	NO	<p>A program is in development for a October 1, 2014 implementation date. The FHWA regional specialist informed the FAA regional specialist that FHWA is requiring that PennDOT develop a mentor-protégé program.</p>	NO	N/A
25	Does the airport have a current and approved DBE Program in place? (49 CFR 26.21)	NO	<p>The regional specialist requested the submission on 08/28/2013. PennDOT has not submitted an updated DBE Program document that reflects the most recent regulatory update requirements for managing and monitoring a DBE Program.</p> <p><b>RECOMMENDED CORRECTIVE ACTION:</b> Submit an updated DBE Program document, including all related forms and attachments, for review with the goal</p>	YES	10/01/2014

#	QUESTION/REGULATION REFERENCE	Response YES/NO	FINDINGS / RECOMMENDED CORRECTIVE ACTION (If Any)	Compliance Issue YES/NO	Action Due Date
			methodology update submission by the action due date. <b>RECOMMENDED ENHANCEMENT:</b> Since PennDOT posts its DBE program policy statement and goals on its website, the program document itself could also be posted along with those documents for easy review by the public and in the interest of transparency of the program.		
26	Has the airport submitted its three year DBE goal and received concurrence with its methodology from the FAA. (49 CFR 26.45)	NO	PennDOT has submitted a 3-year goal methodology document, but it has not been approved since no adequate program with which to administer the goals and program is on file with the FAA. <b>RECOMMENDED CORRECTIVE ACTION:</b> Submit an updated DBE Program document, including all related forms and attachments, for review with the goal methodology update submission by the action due date.	YES	10/01/2014
27	Other miscellaneous item	N/A	N/A	N/A	N/A

## REVIEW SUMMARY

The Federal Aviation Administration (FAA) Office of Civil Rights would like to thank you for your participation in this FY 2014 DBE Compliance Review. We appreciate the substantial effort taken by PENNDOT 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. Observations and comments have been registered in each area that was examined.

Areas 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 & DBE firms. The primary objective during these meetings was to evaluate the administration of the DBE program from the stakeholder/participants' perspective. We found that participants generally have no complaints with the PennDOT system.

It is commendable that PennDOT makes such great efforts to ensure local program administrators and stakeholders at the airports are regularly made aware of the DBE program via significant outreach efforts made by PennDOT's BEO division. It is also very commendable that despite delegating the majority of the DBELO duties to PennDOT Bureau Chiefs, the DBELO continues to take special interest in reviewing and ensuring compliance with regard to Good Faith Effort documentation.

While PennDOT has many positive aspects within its FAA DBE Program, based on the findings, we have also, designed specialized technical assistance to focus on the following areas of concern:

- PennDOT should regularly check with the assigned FAA DBE Specialist and DBE Program internet website in order to remain updated on the latest regulation updates, guidance, and policy issued for the DOT/FAA DBE Program. This will ensure that necessary program updates are submitted to the FAA within a timely manner as per the regulations.
- PennDOT should regularly submit DBE Program participation reports on December 1 of each year in order to report DBE firm participation for the prior fiscal year even if these reports must be manually produced without the assistance of an automated IT system.
- PennDOT should develop more rigorous processes for monitoring and enforcing contract and construction site compliance at the airports receiving funds from the state's Block Grant program and ensure local airport management and construction supervisory staff has the training and tools necessary to properly inspect projects. This must include structured methods, tools, and written certification of both DBE project contract & DBE construction site inspection by the DBELO and/or designees.

The FAA Office of Civil Rights looks forward to continuing to work with you, providing technical assistance, in ensuring compliance with Part 26.

REPORT PREPARED BY:



Keturah Pristell, LEAD  
AEA & ANE Region Compliance Specialist



Nancy Cibic, CO-LEAD  
AGL Region Compliance Specialist

Recommended Resources:

FAA Website, [http://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/fed\\_reg/](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>

Block Grant Program Website: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=cc35527cc8317b1f15a8e43d00e347ba;rgn=div5;view=text;node=14%3A3.0.1.3.26;idno=14;cc=ecfr>

Pennsylvania Unified Certification Program: <http://www.paucp.com/>

PennDOT Bureau of Equal Opportunity Website: <http://www.dot.state.pa.us/Internet/Bureaus/pdBEO.nsf/BEOHomepage?OpenFrameset>