11th Annual National Civil Rights Training Conference  
August 4-5, 2020  

FAA DBE/ACDBE PROGRAM UPDATE  

Presented by Nicholas Giles  
Equal Opportunity Specialist  
FAA Office of Civil Rights  
National Airports Policy and Compliance
In fiscal year 2018, FAA initiated a comprehensive review and analysis of 49 CFR Part 23.

Identify areas that require additional guidance and/or possible modifications to remove any existing barriers and prevent any new barriers to participation of women-owned and small disadvantaged businesses in the ACDBE Program.

Identify and update/correct any obsolete provisions and errors found within the regulations.
Methodology

- Solicit input/feedback via Stakeholder Listening Sessions
- Assessed Information and Conducted Additional Research
- Draft Report Based on Findings From Analysis
- Circulate Draft Report to internal stakeholders (e.g. AGC, DOCR and other transportation) for Comment and Feedback
- Update and Finalize Report
Issues – Subpart A

- ACDBE Program objectives
- Definition of “affiliation” to clarify how to account for gross receipts of joint ventures
- Development of concession-specific North American Industry Classification System (NAICS) codes
- Concession agreement assurance language requirements
Issues – Subpart B

- Direct Ownership Arrangements Good Faith effort requirement
- Nonhub Airports and ACDBE Program Requirements
Issues – Subpart C

- Personal net worth (PNW) cap and its third exemption

- Requirement for DBE Suppliers of Goods and Services to be certified as ACDBEs to count participation

- Counting participation after removal of ACDBE’s eligibility

- Size Standards for ACDBE Suppliers of Goods and Services
Issues – Subpart D

- Basic Overall Three-Year Goal Requirement
- Basic overall goal requirement concessions revenue threshold
- Overall Goal-setting for Management Contracts
- Basic overall goal requirement concessions revenue threshold
Issues – Subpart E, Long-Term Exclusive Agreements

- Five-Year Threshold under the "Long-Term" Definition
- The “Exclusive” Definition
- LTE Approval Documentation Requirements
Issues – Joint Ventures

- ACDBE Personal Guarantee Requirement for Non-ACDBE Joint Venture Partner Financing

- Monitoring "Separate and Distinct Responsibilities" of Single Unit Locations

- Management Fees or Service/Administrative Fees

- Measuring ACDBE Joint Venture Participation with Ownership

- Review & Approval JV Agreements (Timing)
Issues – Uniform Report, Appendix A

- Participation of Joint Venture Partnerships (Block 5)

- Purchases of Goods & Services (ACDBE & Non ACDBE Combined) (Blocks 8 & 9)

- Reporting Instructions for Goods/Services (Blocks 5 through 9)

- Reporting Participation of ACDBE with Multiple Owners from Different Disadvantaged Groups
Current Status of Part 23 Report

- Circulating Draft Report among internal stakeholders (e.g. AGC, DOCR and other transportation modes) for Comment and Feedback
- Finalize Draft to Submit to ACR-1 and thereafter, to USDOT for approval
Stakeholder Comments / Suggestions

- Still Accepting Comments / Recommendations for Part 23 Project!

- Please Send Additional Comments for Part 23 Review Project to 9-AWA-ACR-ACDBE-review23@faa.gov.
Part 23 Review - Points Contacts


- **Nicholas Giles**, Equal Opportunity Specialist, National Airports Policy & Compliance, FAA Office of Civil Rights. Nicholas.giles@faa.gov

Questions