

DBE Administration Toolkit / Best Practices



Federal Aviation
Administration

Office Of Civil Rights

ACHIEVING SAFETY
THROUGH DIVERSITY

4th Annual FAA National Civil Rights Training
Conference for Airports

September 17, 2013



DBE Toolkit - Background

- Practitioner need for single reference
- Compliance reviews, training & technical assistance have identified many:
 - Common misunderstandings; and
 - Best Practices

DBE Toolkit - Framework

- For many years FAA has noted common misunderstandings
 - Began documenting, and drafting clarifications
- FY 12 Compliance Reviews focused on gathering Best Practices and relevant forms
- Current draft includes regulatory requirements, clarifications, and best practices

Contents – Eight Chapters

- Chapters 1 – 5
 - Subparts A, B, C, D, and F of Part 26.
- Chapter 6
 - Sample Forms & Best Practices
- Chapter 7
 - FAA List of 10 Common Misunderstandings
- Chapter 8
 - List of useful Web Links



Format – Subparts A, B, C, D & F

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| Regulation Requirement |
| This section will set forth the particular section of the Title 49 <i>Code of Federal Regulations</i> Part 26. |
| Clarification / Common Questions |
| As a <i>discussion</i> section, this section provides definitions and guidance concerning the topic being presented |
| Best Practice |
| This section will present any practices which have been identified and proven to be effective. These practices are intended to be informative and are not mandatory. |

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2.1 DBE Program Requirement (26.21)

Regulation Requirement

§ 26.21 (a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

(3) FAA recipients receiving grants for airport planning or development who will award prime contracts exceeding \$250,000 in FAA funds in a Federal fiscal year.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

2.1 DBE Program Requirement (26.21)

Clarification / Common Questions

Your DBE program must be approved by the FAA before you are eligible to receive Federal funds. The approval of your program by one operating administration (FHWA/FAA/FTA) counts for all of your DOT-assisted programs. Note: the DBE goals are a different and separate requirement and must be submitted to the applicable operating administration that provides funding for your DOT-assisted contracts

You are not required to submit regular updates of your DBE program, as long as you remain in compliance. However, you are required to submit significant changes in the program for approval. These changes could be based on your internal changes or changes to the regulations. Note that you are not required to submit a updated program if the only change is the DBELO's contact information. You may submit new DBELO's contact information via official correspondence to your DBE Compliance Specialist.

First time recipients are encouraged to plan accordingly and submit their DBE program allowing for at least a 90 day review period.

You may find a copy of the FAA's sample program at http://faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/dbe_program_adm/. Please note that this is an unofficial document provided to you as a courtesy. We update the document as necessary but cannot guarantee that it will always include all regulatory changes. You should always verify to ensure that all regulatory changes are included in your program.

2.1 DBE Program Requirement (26.21)

Best Practice

Contact your FAA Regional DBE Compliance Specialist if you are unsure as to whether or not you should update your DBE Program, and to verify whether or not you reflected recent regulatory changes.

2.7 Monitoring Performance of Other Participants (26.37)

Regulation Requirement

§ 26.37(b). Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your [airport] for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

2.7 Monitoring Performance of Other Participants (26.37)

Clarification / Common Questions

This section was enhanced in January 2011. The regulation requires that you verify that the work committed to DBEs is actually performed by DBEs. The recipient is responsible for implementing monitoring mechanisms that combat the potential for DBE fraud. The mechanism should include written certification that contracting records are being reviewed and work sites are being monitored.

2.7 Monitoring Performance of Other Participants (26.37)

Best Practice

Develop a form that assists in the verification of the DBEs commercially useful function. You may require that these forms be submitted monthly or quarterly. You may consider combining the monitoring of sites as part of the daily inspector's report. Chapter 6 of this toolkit includes samples of forms being used by Salt Lake City Airport and Miami-Dade County that inform prime contractors and subcontractors of the requirements of commercially useful function. Chapter 6 also includes fraud awareness posters distributed by DOT's Office of Inspector General (OIG), including Red Flag Indicators of DBE Fraud.

Chapter 7

FAA List of 10 Most Common Misunderstandings

- DBE Goals
 - Common Errors in goal calculations
 - Overall Goal v. Project
 - Counting of Race Neutral Participation
 - Accountability Reporting
- Accomplishment Reporting

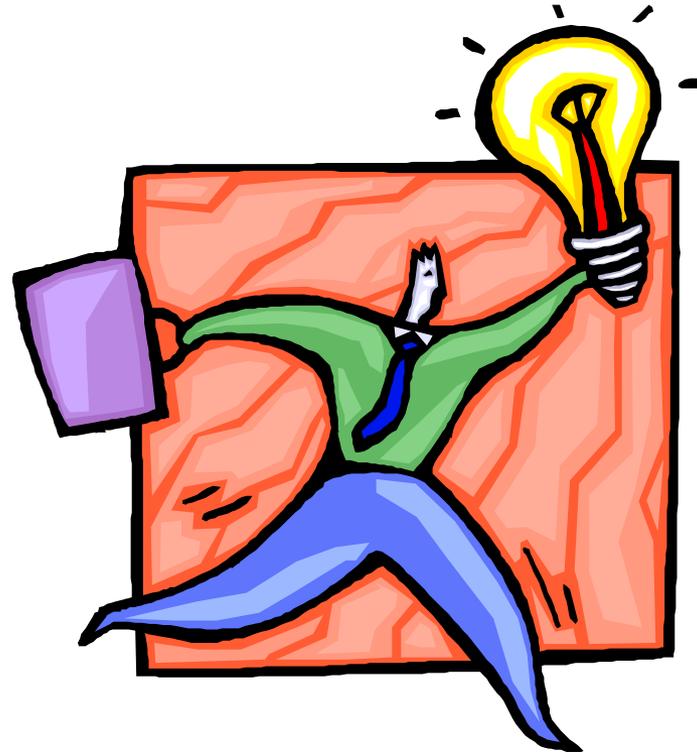
DBE Toolkit - Status

- Complete final draft is under review by DOT
- Part 23?

DBE Toolkit - Future

- Have this be a living document
- Include input from all OA recipients
- Post on OSDBU web site
- New best practices & common misunderstandings/clarifications to be vetted by intermodal group

What Best Practices Do You Have In Place?



Any Other Ideas?

- Send data to Dolores.Leyva@faa.gov



Questions?



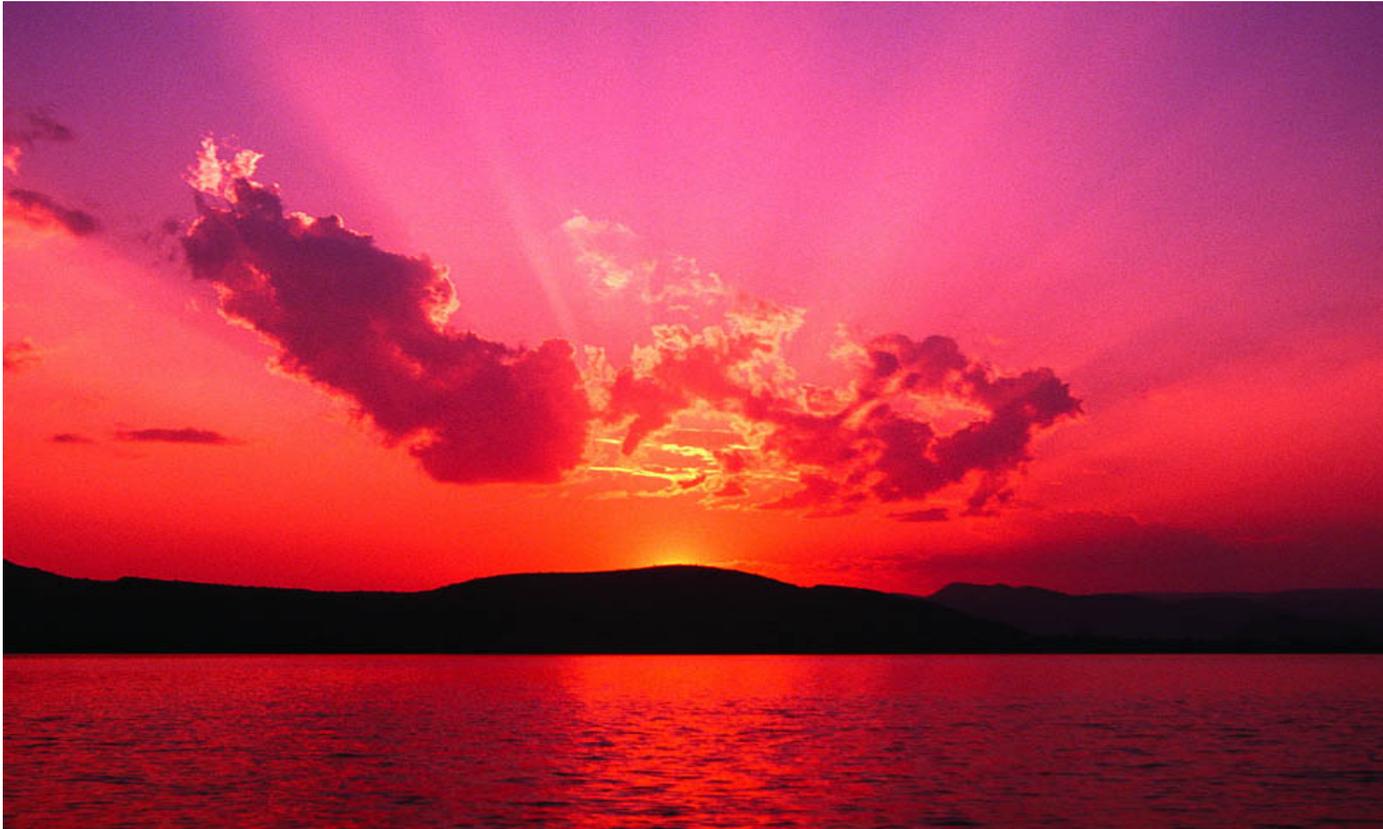
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