



**Federal Aviation  
Administration**

# Introduction to the DBE/ACDBE Programs

*Office Of Civil Rights*

*ACHIEVING SAFETY  
THROUGH DIVERSITY*

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# Training Objectives

- Knowledge of the DBE/ACDBE program, goal and reporting requirements
- Understanding the role of a DBE/ACDBE Liaison Officer (DBELO/ACDBELO)
- Identifying resources available

# What do these Terms Mean?

- Definitions
- Disadvantaged Business Enterprise (DBE)
  - [49 CFR Part 26](#)
- Airport Concessions DBE (ACDBE)
  - [49 CFR Part 23](#)

# What are the Objectives of the USDOT's DBE Program?

- To ensure nondiscrimination in the award and administration of 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

# What are the Objectives of the USDOT's DBE Program Cont'd?

- To help remove barriers to the participation of DBEs in DOT-assisted contracts
- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by Recipients.
- 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

# DBE Program Recipient Responsibilities

- Implementation of program is a legal obligation and failure to carry out its terms shall be treated as a violation.
  - Implement program in good faith
  - Stay up-to-date on regulations and guidance
  - Apply good practices to ensure airport compliance

# What is the Role of the DBELO?

The DBELO is responsible for:

I. Developing

II. Implementing and

III. Monitoring the DBE Program

In coordination with other appropriate staff and organizational officials

# What is a Recipient's DBE Program?

- Written document that meets regulatory requirements of Part 26
  - Sample template updated February 2019
- Explains how the Recipient will implement the DBE Program at its airport(s)
- Identifies the DBE Liaison Officer



# What is the Role of the DBELO in Developing the Program?

## Coordination!

- Set meetings
- Include all affected areas or departments
- Get organizational buy-in
- Ensure others know what changes they need to make, if any

# What is the Role of the DBELO in Developing the Program Cont'd?

- Update document as needed for “significant changes”
- Why it matters:
  - Recipient is not eligible to receive DOT financial assistance unless DOT has approved the DBE Program and Recipient is in compliance with its own Program and Part 26 (§26.21(c))

# What *Resources* are Available for Developing the Program?

- [DBE Program Sample Template](#)
- [Official Questions and Answers \(Q&A's\)  
Disadvantaged Business Enterprise Program  
Regulations \(49 CFR 26\)](#)
- [Highlights of Major Changes in the 2014 DBE  
Final Rule](#)
- [FAA Guidance](#)
- [USDOT Guidance](#)
- [Prompt Payment Sample Template](#)

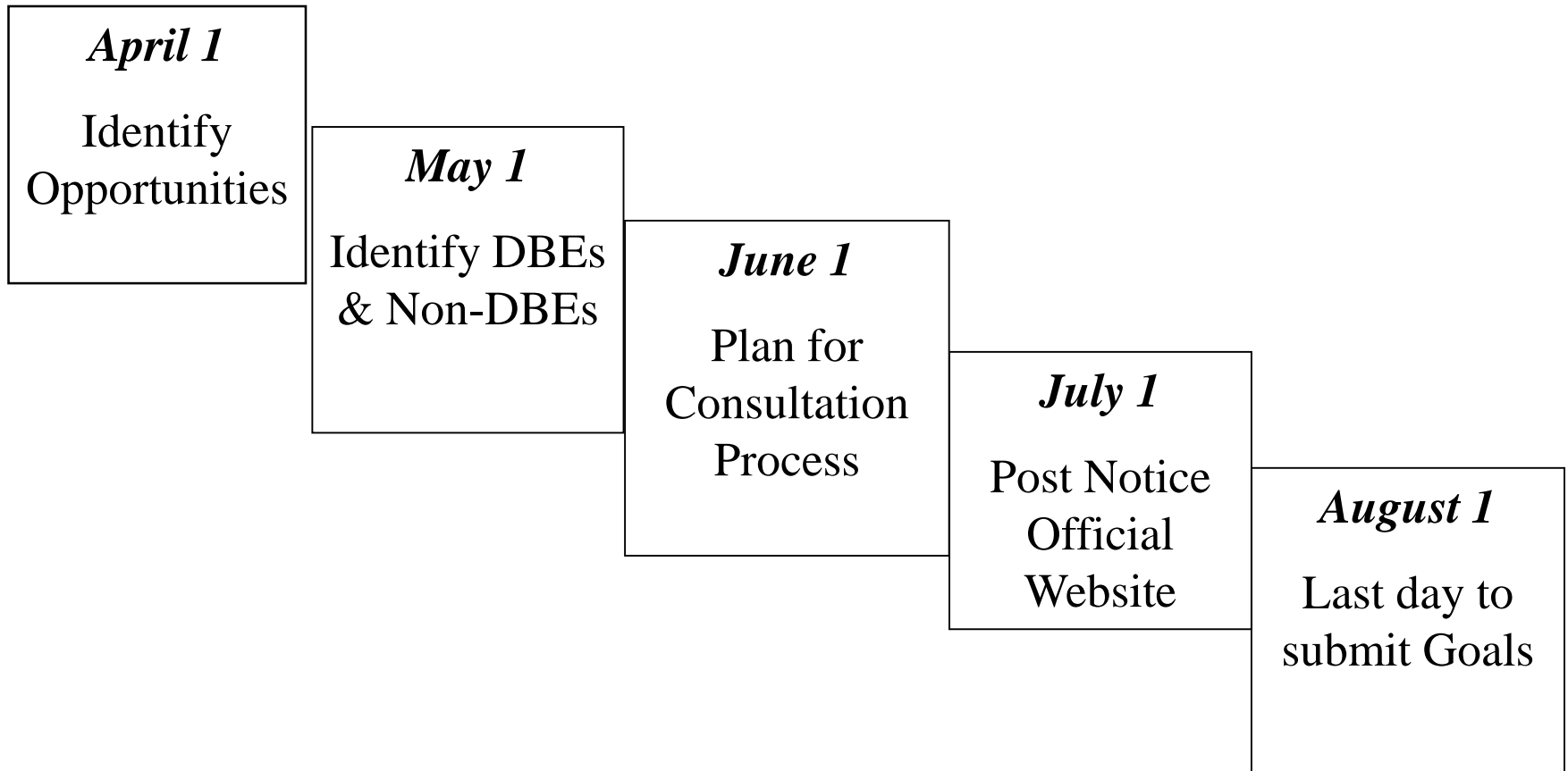
# What is a DBE Overall Goal?

- The DBE Goal is NOT your DBE Program
  - Goal methodology often included as an appendix or attachment to the Program
- Based on demonstrable evidence of the availability of ready, willing & able DBEs
- Represents DBE participation the Recipient would expect to see in the absence of discrimination
- Sample goal methodology includes approaches that you may take to calculate goal
- Due every three years; schedule based on airport size

# DBE Overall Goals for Airport Grant Recipients: Due by August 1

Airport Type	Region	Date Due	Period Covered
Large & Medium Hub Primary	All	2019	2020/2021/2022
Small Hub Primary	All	2020	2021/2022/2023
Non-Hub Primary	All	2018	2019/2020/2021
Non-Primary (GA's, Relievers & State DOTs)	Alaskan, Eastern, & Great Lakes	2019	2020/2021/2022
Non-Primary (GA's, Relievers & State DOTs)	New England, Northwest Mountain & Southern	2020	2021/2022/2023
Non-Primary (GA's, Relievers & State DOTs)	Central, Southwest, & Western-Pacific	2018	2019/2020/2021

# What is a Typical DBE Goal Submittal Timeline?



# What is the Role of the DBELO in Developing the Overall DBE Goal?

## Coordination!

- Obtain list of all projects/procurements expected to receive FAA funding
  - Include studies, design, engineering, construction, professional services
  - Ensure projects broken down into relevant scopes with appropriate NAICS codes
- Conduct proper consultation
- Make sure goal is posted to website
- Contact person for the program for FAA and community

# What *Resources* are Available for Goal Setting?

- **NEW:** Goal-setting tool in [FAA Civil Rights Connect](#)
- [Tips for Goal Setting](#)
- [Official Questions and Answers \(Q&A's\) Disadvantaged Business Enterprise Program Regulations \(49 CFR 26\)](#)
- [Western States Paving Q&A](#) for States in the 9<sup>th</sup> Circuit Court Jurisdiction



# What is the Role of the DBELO in Implementing the DBE Program?

- Ensure your organization is doing what your DBE Program says you do
  - Build consensus during development phase
  - Update CEO on progress. Ask for support if necessary.
  - Make or recommend updates to your DBE Program when necessary

# Additional Duties of the DBELO in Implementing the DBE Program?

- Review Solicitations / Specifications
  - DBE requirements included
  - Non-discrimination requirements included
  - Good Faith Efforts (GFE) requirements match your DBE Program (if applicable)
  - Bidders List information being properly collected
  - No local/state M/WBE programs or prohibited local preferences
- Determine bidders' compliance with DBE goals/GFE requirements

# Additional duties of the DBELO in Implementing the DBE Program Cont'd?

- Review Contracts and Subcontracts
  - Required Contract Clauses
    - Non-discrimination
    - Prompt Payment
    - Full Payment of Retainage
    - Retainage provisions match DBE Program
    - No termination without good cause, prior written consent (contracts with DBE goals)
  - No internally conflicting language

# Additional duties of the DBELO in Implementing the DBE Program . . . ?

## Ensure:

- Procurement team knows how to handle USDOT/FAA funded projects
- Legal team is aware of contract language requirements, including advisory circulars
- Reconsideration official is familiar with requirements of Appendix A and DOT's Official Q&A on Good Faith Efforts
- All members of organization know to whom DBE questions should be addressed (you!)

# What *Resources* are Available for Implementing the DBE Program?

- Your CEO- you should have direct access!
- [49 CFR Part 26](#)
- [Required Federal Contract Provisions](#)
- [Advisory Circular 150/5370-10G](#)
  - (see partial payment (retainage) language in Section 90-06)
- [Airport Improvement Program Handbook](#)

# What is the Role of the DBELO in Monitoring the DBE Program?

- Prevent fraud and report if suspected
- Improve organization's potential to meet its DBE goals
- Ensure compliance by all participants
  - Yourself (the funding Recipient)
  - Contractors/consultants/primes
  - DBE and non-DBE Subcontractors

# What is the Role of the DBELO in Monitoring the DBE Program Cont'd?

- Create and use a document to certify that DBE contracts and worksites are inspected
- Detail exactly what was reviewed, by whom, and when
- Know what to look for: USDOT Office of Inspector General “Red Flag” Indicators of DBE Fraud

# What is the Role of the DBELO in Monitoring the DBE Program Cont?

- Keep a running tally of actual DBE commitments and attainments to:
  - Monitor proper use of contract goals
- Report by December 1
  - ✓ awards/commitments
  - ✓ payments on on-going contracts
  - ✓ payments on contracts completed



# What is the Role of the DBELO in Monitoring the DBE Program Cont'd?

- Prompt payment and release of retainage
  - Primes must pay subs **no later than 30 days** after receipt of payment from recipient
  - Applies to **all DOT-funded agreements**, even when no DBE contract goals
  - Applies to both **DBE and non-DBE subcontractors**
  - Addresses requirements for **release of retainage**
- Prompt payment must be actively monitored
  - Do **NOT** rely solely on complaints
  - Use automated system, website, or other affirmative steps to confirm prompt pay and release of retainage

# What is the Role of the DBELO in Monitoring the DBE Program?

- Reporting Prompt Payment Complaints
  - 2018 FAA Reauthorization (Public Law No. 115-254)
  - Airport sponsors must track and report subcontractors' allegations of non-compliance
  - Report complaints and related data directly to FAA:  
<https://www.surveymonkey.com/r/PromptPaymentComplaints>
  - Report only valid complaints, and report only after complaint is resolved

# What is the Role of the DBELO in Monitoring the DBE Program?

## Shortfall Analysis – When You Don't Meet Your Goal

- Analyze in detail reasons for difference between overall goal and awards/commitments
- Establish specific steps and milestones to correct problems identified in the analysis
- Prepare and retain or submit for approval (if Core 30), within 90 days of the end fiscal year, the analysis and corrective actions and due dates/milestones for approval by FAA

# What is the Role of the DBELO in Monitoring the DBE Program?

## Coordination!

- Ensure monitoring buy-in from project management
- Work with project managers/inspectors
- Ensure accounting and legal teams understand Program mechanics
  - Retainage release
  - Prompt payment requirements
  - Enforcement actions

# What *Resources* are Available for Monitoring the DBE Program?

- [Guidance for the Uniform Report](#)
- [OIG “Red Flag” Indicators](#)
- [Goal Shortfall Analysis Tips](#)
- [Advisory Circular 150/5370-10G](#)
  - (see partial payment (retainage) language in Section 90-06)

# ACDBE

## Airport Concessions Disadvantaged Business Enterprise Program

# What are the Objectives of the USDOT's ACDBE Program?

- To ensure nondiscrimination in the award and administration of *opportunities for concessions* by airports receiving DOT financial assistance
- To create a level playing field on which *ACDBEs* can compete fairly for opportunities for *concessions*
- To ensure that the Department's *ACDBE* program is narrowly tailored in accordance with applicable law

# What are the Objectives of the USDOT's ACDBE Program Cont'd?

- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as *ACDBEs*
- To help remove barriers to the participation of *ACDBEs* in opportunities for *concessions* at airports receiving DOT financial assistance
- To provide appropriate flexibility to airports receiving DOT financial assistance in establishing and providing opportunities for *ACDBEs*



# What is the Role of the ACDBELO?

The ACDBELO is responsible for:

- I. Developing
- II. Implementing and
- III. Monitoring the ACDBE Program

In coordination with other appropriate officials

# What is an ACDBE Program?

- Written document that meets regulatory requirements of Part 23
- Explains how the Recipient will implement the ACDBE Program at its airport(s)
- Identifies the ACDBE Liaison Officer

# How does this Differ from the DBE Program?

- Specific to airport concessions activities
- Primary airports must have ACDBE programs
  - Non-primary airports must take appropriate outreach steps
- Recipients establish two ACDBE Overall Goals
  - Car rentals
  - Concession activities other than car rentals

# What are some Key Points about the ACDBE Program?

- Part 23 prohibits Long-Term, Exclusive (LTE) agreements with concessionaires
  - Airport must seek FAA approval for LTE agreements prior to execution (see §23.75)
- Joint ventures are common
  - Count only the “distinct, clearly defined portion of the work...the ACDBE performs with its own forces”
- Count 100% of goods provided by an ACDBE regular dealer

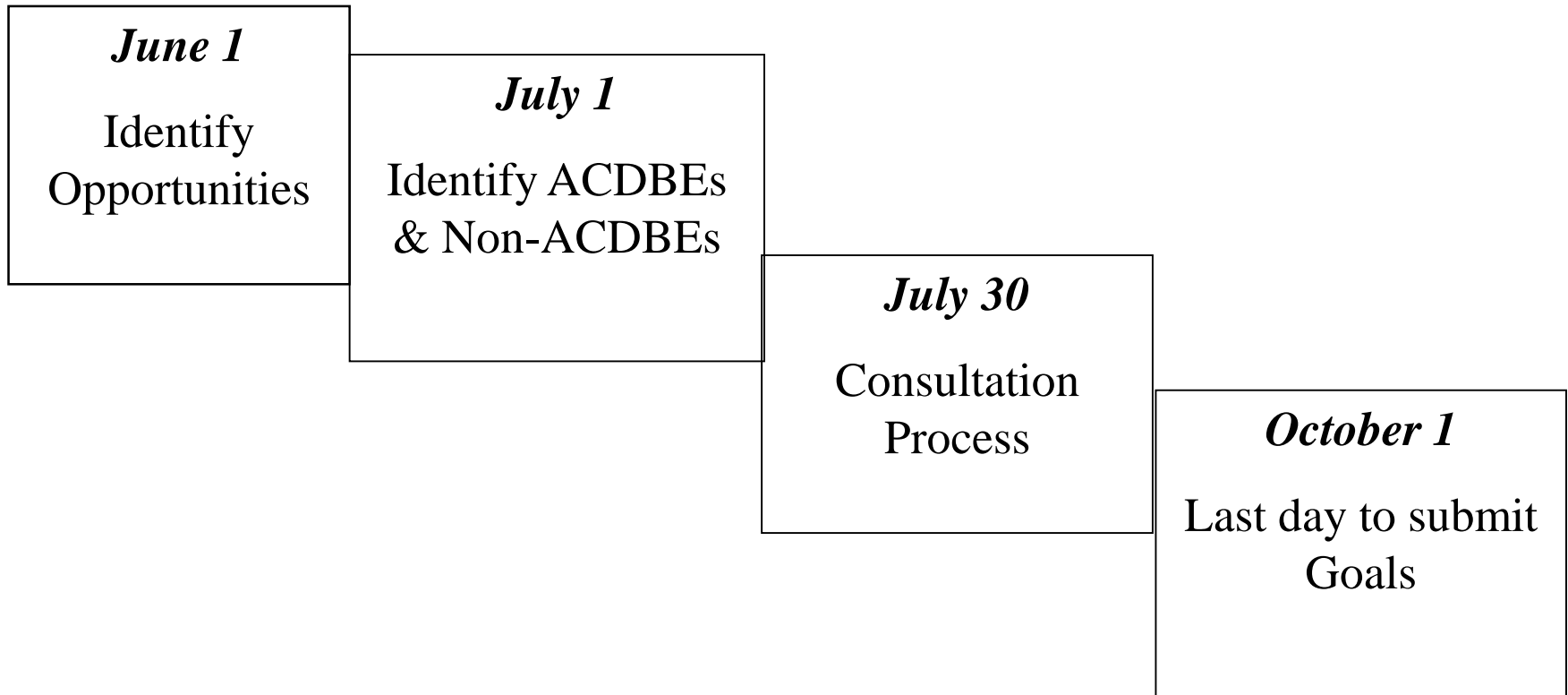
# What about ACDBE Goals?

- Goals are set on a triennial basis
- Part 23 requires Recipients to set two distinct goals for the goal-setting period
  - Concessions other than car rental
  - Car rental concessions
- Car rental concessions goals most often based on goods & services purchases and expenditures

# ACDBE Overall Goals for Airport Grant Recipients: Due by October 1

Airport Type	Region	Date Due	Period Covered
Large & Medium Hub Primary	All	2020	2021/2022/2023
Small Hub Primary	All	2018	2019/2020/2021
Non-Hub Primary	All	2019	2020/2021/2022

# What is a Typical ACDBE Goal Submittal Timeline?



# What is the Role of the ACDBELO in Developing, Implementing, and Monitoring the ACDBE Program?

## Coordination!

Program development and goal-setting processes

- Solicitation and contract language requirements
- Ensuring appropriate monitoring is happening
- Ensuring prior FAA approval is sought for LTE agreements before execution
- Ensuring organization understands what is considered a concession for Part 23
- Contact person regarding program for FAA and community



# What is the Role of the ACDBELO in Developing, Implementing, and Monitoring the ACDBE Program Continued?

- Report by March 1:
  - Car Rental & Non Car Rental ACDBE Participation
- List of Participating Certified ACDBEs

# What *Resources* are Available for Developing, Implementing, and Monitoring the ACDBE Program?

- Your CEO- You should have direct access!
- [Sample ACDBE Program](#)
- [Joint Venture Guidance](#)
- [Principles for Evaluating Long-Term, Exclusive Lease Agreements](#)
- [Car Rental Companies Good Faith Efforts Requirements](#)
- [Guidance for the Uniform Report](#)
- [Official Q&A's for Part 23](#)
- [ACDBE Goal Shortfall Analysis](#)

# DBE/ACDBE Regional Compliance Specialists

Region	Name	Phone and Email
Alaskan Region Alaska Western-Pacific Region Nevada	Sonia Cruz	(424) 405-7206 sonia.cruz@faa.gov
Central Region Iowa, Kansas, Missouri, Nebraska Western-Pacific Region Northern California	Ofelia Medina	(424) 405-7205 ofelia.medina@faa.gov
Eastern Region Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia Western-Pacific Region Arizona	Alexander Horton	(954) 641-6637 alexander.horton@faa.gov
Great Lakes Region Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin	Nancy Cibic	(847) 294-7182 nancy.cibic@faa.gov

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# DBE/ACDBE Regional Compliance Specialists

Region	Name	Phone and Email
New England Region Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont Western-Pacific Region Southern California	Thomas Knox	(424) 405-7208 thomas.knox@faa.gov
Northwest Mountain Region Colorado, Idaho, Montana, Oregon, Utah, Washington, Wyoming	Sonia Cruz	(424) 405-7206 sonia.cruz@faa.gov
Southern Region Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, Virgin Islands Western-Pacific Region Hawaii	Keturah Pristell	(404) 305-5734 keturah.pristell@faa.gov
Southwest Region Arkansas, Louisiana, New Mexico, Oklahoma, Texas	Dolores Leyva	(817) 222-5034 dolores.leyva@faa.gov
Western-Pacific Region American Samoa, Guam, Northern Mariana Islands	Gene Roth	(404) 305-5256 gene.e.roth@faa.gov

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# Questions and Answers