



AN ORIENTATION ON U.S. AIRPORT DBE PROGRAMS

The primary objective of this document is to provide an overview of the U.S. DBE/ACDBE Programs for individuals new to the aviation industry and/or new to the Programs. It is presented in a Q & A format and includes links to access more detailed information about the many facets of developing and administering the Programs.



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Objective

The primary objective of this document is to provide a 30,000 foot view of the DBE/ACDBE Programs for individuals new to the aviation industry and/or new to the Programs. It is presented in a Q & A format and includes links to access more detailed information about the many facets of developing and administering the Programs.

History

What is the history of DBE and ACDBE Programs?

The Department of Transportation (DOT) has had in effect for more than 20 years a policy of helping small businesses owned and controlled by socially and economically disadvantaged individuals, including minorities and women, in participating in contracting opportunities created by DOT financial assistance programs. The Department, through its Operating Administrations, distributes billions annually to help finance thousands of projects across the country. In 1983, Congress enacted the first Disadvantaged Business Enterprise (DBE) statutory provision. In 1987, Congress re-authorized and amended the statutory DBE program. In 1999 the Department issued a new regulation to guide the administration of the DBE program. This regulation had three major goals:

1. to create a level playing field on which DBEs can compete fairly,
2. to mend but not end the DBE program, and
3. to make the DBE program more effective and efficient for all participants.

The DOT enacted 49 CFR Part 23 in March of 2005. The new Part 23 made extensive revisions to DOT's ACDBE Program.

Five subsequent Final Rules, the most recent of which went into effect November 3, 2014 (see *DBE Final Rule and Program Activities* link below), made additional changes to Part 26 and Part 23. The e-version of the regulations (CFR 49 Part 26 and Part 23) combines all of these documents into one.

To learn more, see below:

- [History of the DOT DBE Program](#)
- [The New DOT Disadvantaged Business Enterprise \(DBE\) Regulation](#)
 - DOT Overview of [DBE Final Rule and Program Activities](#)
- [E-CFR 49 Part 26 – Participation By DBEs in DOT Financial Assistance Programs](#)
 - [E-CFR Part 23 – Participation of DBEs in Airport Concessions](#)

DBE and ACDBE Programs Overview

Why does an airport have to have DBE and ACDBE Programs?

If your airport is a recipient of U.S. Department of Transportation (DOT) funding, then you must establish DBE and ACDBE Programs in accordance with regulations of the DOT, Code of Federal Regulations (CFR) 49, Parts 26 and 23. The purpose is to provide DBEs and ACDBEs maximum opportunity to participate in the performance of construction, concession, management services, professional services, and car rental contracts funded in whole or in part with federal funds.



To learn more, see below:

- [**Overview of Disadvantaged Business Enterprise \(DBE\) Programs**](#)
 - [**49 CFR Part 26 Subpart A- General**](#)
 - [**49 CFR Part 23 Subpart A - General**](#)

If a federal agency, like the Transportation Security Administration (TSA), administers a Federal-Aid Contract, are they subject to the requirements of Title 49 CFR Part 26 or 23?

No. The USDOT DBE and ACDBE Program requirements apply to the activities of non-Federal recipients of DOT financial assistance specified in 49 C.F.R. § 26.3. Most Federal agencies have programs analogous to the DBE program aimed at ensuring equal opportunity for minority and women owned businesses to participate in Federal contracting. Some special grants may have language within the document that will prescribe the program to be utilized in acceptance of the grant. Other agencies, such as the Environmental Protection Agency, may have a separate DBE program that are similar but governed under different regulations.

To learn more, see below:

- [**49 CFR Part 26 §26.3**](#)
- [**49 CFR Part 23 §23.5**](#)
- [**Official Q&A by the DOT-Program Administrator**](#)
- [**Environmental Protection Agency DBE Program FAQ**](#)

What are the objectives of the DBE and ACDBE Programs?

The objectives of the DBE and ACDBE Programs are to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs; AND to ensure nondiscrimination in the award of opportunities for concessions by airports receiving DOT financial assistance.

To learn more, see below:

- [**49 CFR Part 26 § 26.1**](#)
- [**49 CFR Part 23 § 23.1**](#)

What is the role of the Disadvantaged Business Enterprise Liaison Officer (DBELO)?

The DBELO is responsible for implementing all aspects of the DBE Program and must have direct, independent access to the Chief Executive Officer. The same individual can act as the liaison officer for both Part 26 and Part 23 matters; and is sometimes referred to as the ACDBELO.

To learn more, see below:

- [**49 CFR Part 26 § 26.25**](#)
- [**49 CFR Part 23 § 23.23**](#)

What is the role of the Unified Certification Program (UCP)?

The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program (49 C.F.R. § 26.81(b)). Each state is required to have a Unified Certification Program (UCP) approved by the Secretary. Your airport's involvement within the UCP should be



outlined in the UCP plan. Changes to the plan should be submitted to the Secretary for approval, such as adding or withdrawing from being a certifying agency.

To learn more, see below:

- [49 CFR Part 26 §26.81](#)
- [49 CFR Part 23 §23.31](#)
- [Official Q&A by the DOT-Certification Procedures](#)

Where do I find definitions of the terms used in the regulations?

Definitions for relevant terms are located in CFR 49 Part 26 Subpart A – General and Part 23 Subpart A - General

To learn more, see below:

- [49 CFR Part 26 §26.5](#)
- [49 CFR Part 23 §23.3](#)

Are there sample plans or templates for DBE and ACDBE Programs?

Yes. DOT has prepared sample programs to help recipients comply with the requirements of 49 CFR Part 26 and Part 23.

To learn more, see below:

- [49 CFR Part 26 Sample Disadvantaged Business Enterprise Program -](#)
- [49 CFR Part 23 Sample Airport Concession DBE Program](#)

Certification and Eligibility Requirements for DBEs and ACDBEs

What are the certification and eligibility requirements for DBEs and ACDBEs?

DBEs are for-profit small business concerns where socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case-by-case basis.

To participate in the DBE program, a small business owned and controlled by socially and economically disadvantaged individuals must receive DBE certification from the relevant state— generally through the state Uniform Certification Program (UCP).

To be regarded as economically disadvantaged, an individual must have a personal net worth that does not exceed \$1.32 million. To be seen as a small business, a firm must meet SBA size criteria AND have average annual gross receipts not to exceed \$22.41 million. Size limits for the airport concessions DBE program are higher.

To learn more, see below:

- [49 CFR Part 26 Subpart D-Certification Standards](#)
- [49 CFR Part 23 §23.33](#)



What are the certification and eligibility requirements for Interstate certification?

A firm must have a current valid certification in its home state to receive certification in another state. The non-home state certifying agency may, at its discretion, accept the home state's certification and certify the firm without further procedures. The non-home state certifying agency may choose not to accept the home state's certification and require the firm to provide additional information.

To learn more, see below:

- [49 CFR Part 23 §26.85](#)

Monitoring and Compliance Procedures

What monitoring and compliance procedures must airports implement?

Appropriate mechanisms must be implemented to ensure compliance with the requirements of the regulations. Specific provisions must be inserted into construction contracts, concession agreements and management contracts setting forth the enforcement mechanisms and other means to ensure compliance. Monitoring and enforcement mechanisms must verify that work committed to DBEs and ACDBEs is actually performed by them; and must include written certification that records of all contracts, leases, joint venture agreements or other related agreements are reviewed. On-site monitoring of the work must be performed.

To learn more, see below:

- [49 CFR Part 26 §26.37](#)
- [49 CFR Part 23 §23.29](#)
- [49 CFR Part 26 §26.101](#)
- [49 CFR Part 26 §26.105](#)

Goal Setting for DBE and ACDBE Participation

What is the difference between the "overall" goal and a project specific goal?

Every airport will establish an overall DBE goal covering a three-year federal fiscal year period if they anticipate awarding FAA funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. A project specific goal is set for a project that is totally or partially USDOT federally funded and covers the entire length of the project to which it applies.

To learn more, see below:

- [49 CFR Part 26 §26.45](#)
- [43 CFR Part 23 §23.51](#)
- [Tips for Goal Setting](#)
- [DBE/ACDBE Goal Setting Presentation](#)

Additional Topics on Goal Setting in the Official Q&A by the DOT include the following:

- ***How does a recipient obtain census bureau data to use in calculating its overall goal? Official Q&A by the DOT – Goal Setting***



- ***What types of contracts can be counted toward DBE goals?***
- ***What steps are recipients expected to take to satisfy the consultation component of the public participation required for goal setting?***
- ***Can a recipient or recipients set a project overall goal (e.g. for a large, multi-year project)? How does such a project goal relate to annual overall goals? Can such a project goal cut across modal lines?***
- ***How do recipients project what portion of their overall goal they will meet through race-neutral means?***
- ***As a recipient, do you have to wait for dot approval of your overall goal before starting to use it in the next fiscal year?***

When is the overall three-year DBE goal due?

In accordance with Section 26.45(f) the airport will submit its Overall three-year DBE Goal to FAA by August 1 of the prescribed year as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Large & Medium Hub Primary	All Regions	8/1/16 (2017/2018/2019)	8/1/19 (2020/2021/2022)
Small Hub Primary	All Regions	8/1/17 (2018/2019/2020)	8/1/20 (2021/2022/2023)
Non-Hub Primary	All Regions	8/1/18 (2019/2020/2021)	8/1/21 (2022/2023/2024)
Non-Primary including State DOTs	Alaskan Eastern Great Lakes	8/1/16 (2017/2018/2019)	8/1/19 (2020/2021/2022)
Non-Primary including State DOTs	New England NW Mountain Southern	8/1/17 (2018/2019/2020)	8/1/20 (2021/2022/2023)
Non-Primary including State DOTs	Central Southwest Western-Pacific	8/1/18 (2019/2020/2021)	8/1/21 (2022/2023/2024)

When is the overall three-year ACDBE goal due?

In accordance with Section 23.45(a) the airport will submit its Overall three-year ACDBE Goal to FAA by October 1 of the prescribed year as required by the established schedule below.



Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Large & Medium Hub Primary	All Regions	10/1/17 (2018/2019/2020)	10/1/20 (2021/2022/2023)
Small Hub Primary	All Regions	10/1/18 (2018/2019/2020)	10/1/20 (2021/2022/2023)
Non-Hub Primary	All Regions	10/1/16 (2017/2018/2019)	10/1/19 (2020/2021/2022)

What happens if you fail to meet your DBE or ACDBE goal?

You cannot be penalized for failing to meet your goals provided you are administering your program in good faith. If you are short of achieving your goal, you must analyze the reason and establish specific steps to correct.

To learn more, see below

- [49 CFR Part 26 §26.47](#)
- [43 CFR Part 23 §23.57](#)

Reporting of DBE and ACDBE Participation

How is DBE and ACDBE participation counted towards goals?

When a DBE or ACDBE participates in a contract, count only the value of the work actually performed by the DBE and only if the DBE is performing a commercially useful function on that contract. Types of participation include performance of construction, concession, management services, professional services, and car rental contracts funded in whole or in part with federal funds.

To learn more, see below

- [49 CFR Part 26 §26.55](#)
- [43 CFR Part 23 §23.55](#)
- [43 CFR Part 23 §23.53](#)

How does an airport report DBE and ACDBE participation?

A new UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS (DBE uniform form) was issued with the 49 CFR Part 26 Final Rule effective November 3, 2014. The forms can be found on the FAA dbE-Connect System (System). The System is an electronic web-based DBE/ACDBE program information system. The System has been developed as one centralized resource for all FAA, Office of Civil Rights, DBE and ACDBE Program records.

To learn more, see below:

- [APPENDIX B to Part 26](#)
- [APPENDIX A to Part 23](#)



- [**DBE Uniform Report Form Instructions**](#)
- [**ACDBE Uniform Report Instructions**](#)
- [ACDBE Accomplishment Report Form \(Under Airport Disadvantaged Business Enterprise Essentials. Link is an MS Excel Download\)](#)
 - [**FAA dbE-Connect Reporting System**](#)
- [**FAA dbE-Connect System Guidance for Airports**](#)



Periodic Updates

Will this document be updated?

This document will be updated periodically to reflect changes in the regulations and to add information deemed to be helpful in developing and administering the DBE and ACDBE Programs.

February 17, 2017 – [***Better Practices for Fostering Participation from New DBEs and ACDBEs at Airports***](#)

The U.S. Department of Transportation Office of Inspector General (OIG) was tasked with providing three annual reports to Congress on the number of new Disadvantaged Business Enterprises (DBEs) and Airport Concession DBEs (ACDBEs) at the Nation's airports, as well as any better practices or barriers for participation. The OIG identified several airport better practices that foster the use of new DBEs and ACDBEs. These are covered in detail in the reports that can be accessed via this link.