Office of Inspector General

Audit Report

NEW DISADVANTAGED BUSINESS ENTERPRISE FIRMS FACE ADDITIONAL BARRIERS TO OBTAINING WORK AT THE NATION'S LARGEST AIRPORTS

Federal Aviation Administration

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Memorandum

U.S. Department of Transportation
Office of the Secretary of Transportation
Office of Inspector General

Subject: **ACTION:** New Disadvantaged Business Enterprise Firms Face Additional Barriers to Obtaining Work at the Nation's Largest Airports
Federal Aviation Administration
Report Number: ZA-2016-002

Date: November 3, 2015

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Reply to Attn. of: JA-60

To: Director, Office of Civil Rights, DOT
Federal Aviation Administrator

The Federal Aviation Administration (FAA) distributes more than $3 billion annually in Federal grants for airport projects. In accepting these grants, airports are required to establish disadvantaged business enterprise (DBE) and airport concessions DBE (ACDBE) programs.[1] These programs provide opportunities for socially and economically disadvantaged business owners to compete fairly for procurement, construction, professional services, and concession contracts and leases.[2]

However, in the FAA Modernization and Reform Act of 2012 (the act), Congress raised concerns that discrimination and related barriers continue to pose obstacles to disadvantaged firms seeking to do business at airports. As part of this act, Congress directed our office to report annually from 2013 to 2015 on new DBE participation at the largest airports[3] and identify reasons why some airports have been more successful at hiring new DBEs. In June 2014, we issued our first report,

[1] FAA's implementation of the DOT DBE program is governed by Title 49 Code of Federal Regulations (CFR) Part 26 and covers all types of federally assisted contracts and procurement activities conducted by DOT recipients. The ACDBE program covers car rental, food service, and retail and is governed by Title 49 CFR Part 23.
[2] According to Title 49 CFR Parts 26.1 and 23.1, the objectives of the DBE and ACDBE program include creating a level playing field on which DBEs and ACDBEs can compete fairly for opportunities for contracts and concessions, respectively.
[3] Title 49 United States Code (U.S.C.) Section 40102 defines hub airports by percentage of total U.S. passenger enplanements, with large hubs representing at least 1 percent and medium hubs at least 0.25 percent.

which identified 83 new DBE/ACDBE firms awarded contracts and leases at the Nation's largest airports in fiscal year 2012. Our review also identified a number of significant barriers for new DBE/ACDBE entrants at the Nation's largest airports, including high entry costs and firms' lack of experience with the airport bidding process.[4]

The objectives for this second review were to (1) determine the number of new and existing DBE/ACDBE firms that received contracts or leases at the Nation's largest airports in fiscal year 2013 and (2) assess the factors that aided or hampered new DBE/ACDBE firms in pursuing and performing contracts or leases at these airports. With regard to the second objective, we examined two specific issues: lack of participation in airport car rental concessions and untimely payments from prime contractors.

To answer our objectives, we collected and analyzed data on new and existing DBE/ACDBE firms and associated contract awards and lease revenues for the Nation's 65 largest airports.[5] As in our previous audit, we considered a firm "new" if it had no prior experience in either the Department of Transportation's (DOT) DBE or ACDBE program. We interviewed officials representing 16 of these airports regarding factors that encouraged or hindered the award of contracts or leases to new DBE/ACDBE firms. We also interviewed new and existing DBE firms regarding prompt payment issues.[6] Finally, we interviewed a sample of 16 new DBE/ACDBE firms (out of a universe of 42 total new DBE firms) about their experiences obtaining their first contract or lease.[7] We conducted our work in accordance with generally accepted Government auditing standards. Exhibit A details our complete scope and methodology.

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[4] *New Disadvantaged Business Enterprise Firms Face Barriers to Obtaining Work at the Nation's Largest Airports* (OIG Report Number ZA-2014-55), June 12, 2014. OIG reports are available on our Web site: https://www.oig.dot.gov.

[5] For the fiscal year 2012 audit, we originally selected the 65 largest airports using criteria in Title 49 U.S.C. Section 40102; each of these airports represents at least 0.25 percent of total U.S. passenger boardings. At FAA's request, we did not include the Luis Muñoz Marín International Airport in San Juan, PR, because its DBE/ACDBE statistics at the time were inaccurate and unreliable. Since then, FAA officials have worked to correct the reporting problems, so we are including fiscal year 2013 data for San Juan in this audit. The additional data had negligible impact on our analysis—as San Juan had no DBE participation and only two ACDBE firms, grossing $216,000 in fiscal year 2013 revenues.

[6] Of the six firms with prompt payments issues, three of these firms were discovered through our site visits, two were new firms identified during a prior DBE audit, and one firm was part of our audit sample of fiscal year 2013 new entrants.

[7] Note that there is not a requirement that new DBE/ACDBE firms be awarded contracts or leases.

RESULTS IN BRIEF

New DBE/ACDBE firms represent a small percentage of disadvantaged firms working at the Nation's 65 largest airports. In fiscal year 2013, the number of new participants declined by nearly 50 percent from fiscal year 2012, from 83 to 42 firms. The 42 new entrants represent about 2.5 percent of the 1,685 total DBE/ACDBE firms doing business at these airports. Overall, just five airports accounted for nearly half of these new entrants—due in part to the airports' large-scale construction projects and major concession leases, which provided more DBE/ACDBE opportunities. While fewer new firms participated in DBE/ACDBE opportunities in fiscal year 2013, the number of existing DBE/ACDBE firms that obtained work at the Nation's largest airports increased slightly during this period, from 1,560 firms in fiscal year 2012 to 1,685 firms in fiscal year 2013. Additionally, FAA has taken steps to improve the accuracy and completeness of its airport DBE/ACDBE data, such as implementing a new data collection system. However, the Agency continues to face challenges obtaining accurate and complete DBE/ACDBE data, which can help FAA and the Office of the Secretary (OST) oversee and evaluate the effectiveness of airports' DBE/ACDBE programs.

Three major barriers that hampered new entrants in fiscal year 2012—limited opportunities, high entry costs, and inexperience with the airport bidding process—continued to be key challenges for DBEs and ACDBEs in fiscal year 2013. Our current review identified additional best practices that could help disadvantaged firms overcome these challenges. For example, some airports post contract and bid information online to help increase transparency for DBE and ACDBE firms. Despite these efforts, we identified two additional barriers in the areas of car rental operations and prompt payment that limit DBE/ACDBE firms' opportunities to obtain airport work. First, in fiscal year 2013, ACDBE firms earned just 2.3 percent of $11.4 billion in revenues from airport car rental operations.[8] Some of the main causes for low ACDBE participation in airport car rental operations are (1) a statutory provision that states car rental companies are not required to change their corporate structure to make direct ownership arrangements (i.e., franchises) available to ACDBE firms and (2) car rental firms' preference for purchasing goods and services from regional and national non-ACDBE suppliers. However, DOT regulations and guidance require airports and car rental firms to make good faith efforts to utilize ACDBE firms to provide goods and services. Yet, some airports misinterpret these rules and established low or 0 percent car rental goals, which FAA officials concluded were incorrectly calculated. Second, delayed payments[9] from prime contractors hindered some

[8] In contrast, ACDBEs earned 25 percent of $9.2 billion in revenues from food and retail concessions.
[9] DOT DBE regulations require prime contractors to pay subcontractors no later than 30 days after the prime contractor receives payment from recipients.

DBEs' ability to operate successfully—which officials from OST, FAA, airport, and association officials agreed is a problem. For several firms we interviewed, payment delays caused cash flow problems, prevented them from paying subcontractors and suppliers, and subjected them to costly lawsuits.

We are making recommendations to strengthen FAA's oversight of airport implementation of the DOT DBE/ACDBE program and to help ensure that new and existing DBE/ACDBE firms can compete fairly at the Nation's largest airports.

BACKGROUND

The Department's DBE program began in 1980 as a minority and women's business enterprise program under the authority of the Civil Rights Act of 1964. In 1987, Congress expanded the program to apply to airport concessions, which resulted in the creation of the ACDBE program.[10] The Departmental Office of Civil Rights (DOCR) is the lead office in OST for overseeing the Operating Administrations' implementation of their DBE/ACDBE program responsibilities. FAA, as an Operating Administration within DOT, is responsible for overseeing airports' administration of their DBE and ACDBE programs. The DBE program focuses primarily on federally assisted construction and professional services contracts, while the ACDBE program focuses on lease and supplier agreements for food, beverage, retail, and car rental services.

To be certified[11] as a DBE or ACDBE, a firm must be at least 51 percent owned and controlled by one or more individuals who are both socially[12] and economically disadvantaged.[13] Once certified as a DBE, firms may continue to participate in the program as long as they continue to meet eligibility requirements.

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[10] The ACDBE Program was authorized by Congress in Title 49 U.S.C. Section 47107(e).

[11] Firms are certified by agencies including State Departments of Transportation, local transit agencies, and some airport authorities.

[12] Under the rules, there is a rebuttable presumption that U.S. citizens (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the Small Business Administration, are socially and economically disadvantaged individuals.

[13] Under the current departmental regulations, to be considered economically disadvantaged, the DBE owner must have personal net worth of less than $1.32 million, not including the equity in the individual's primary place of residence or ownership interest in the ACDBE firm or firm that is applying for ACDBE certification. Additionally, the firm's average annual gross receipts over the previous 3 Federal fiscal years may not exceed $23.98 million for DBE firms and $56.4 million for most ACDBE firms. One exception is ACDBE car rental companies, which are limited to $75.2 million in average annual gross receipts over the firm's 3 previous fiscal years.

The DBE regulations require each airport to establish annual overall DBE and ACDBE aspirational goals.[14] These goals reflect the grantee's determination of the level of DBE/ACDBE participation that would be expected absent the effect of discrimination. Airports' success in meeting these goals is not measured by the number of DBE and ACDBE participants (including new entrants), but on the amount of dollars DBE/ACDBE firms receive. For DBE participation, airports report their success in achieving their goals based on the percentage of federally assisted contract dollars awarded to DBE firms. For ACDBE participation, success is based on the percentage of the airport's concession revenues that ACDBE firms receive.

In our June 2014 report, we recommended that FAA's Office of Civil Rights, in coordination with DOCR, take the following actions: (1) require airports to annually report the number of new DBE/ACDBE participants as part of their existing data collection efforts; (2) ensure that the replacement system for DBE Office Online Reporting System (DOORS)[15] provides improved data entry, processing, and validation capabilities; and (3) provide airports with a list of best practices—including those identified in our report—for promoting the use of new DBE/ACDBE firms. To date, FAA has implemented our second and third recommendations. With respect to our first recommendation, FAA, in conjunction with OST, is examining the potential benefits of collecting additional performance data and will report back to us on their planned actions.

NEW ENTRANTS REPRESENT A SMALL PERCENTAGE OF DBE/ACDBE FIRMS RECEIVING CONTRACTS OR LEASES AT THE 65 LARGEST AIRPORTS

New entrants represent a small percentage of DBE/ACDBE firms receiving contracts or leases at the Nation's 65 largest airports. The number of new DBE/ACDBE firms decreased from 83 in fiscal year 2012 to 42 in fiscal year 2013. Five airports accounted for nearly half of the new entrants, in part because the airports' major construction projects and concession leases created additional opportunities for new DBE/ACDBE firms. Although FAA has begun using a new system to collect DBE/ACDBE data, the Agency continues to face challenges obtaining accurate and complete information needed to oversee the program.

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[14] Title 49 CFR Parts 23 and 26 require recipients to submit an overall goal (reviewed on a triennial basis) for DBE/ACDBE participation in DOT-assisted contracts. While DOT encourages recipients to meet their goals on an annual basis, recipients cannot be penalized for failing to meet these goals unless they failed to administer the program in good faith.

[15] DOORS is the previous system used by FAA to collect data on airport DBE/ACDBE participation.

The Number of New DBE/ACDBE Firms at the Nation's Largest Airports Decreased Between Fiscal Years 2012 and 2013

The number of new DBE/ACDBEs receiving their first contract or lease at the Nation's 65 largest airports decreased from 83 in fiscal year 2012 to 42 in fiscal year 2013. (See exhibit B for the number of new DBE/ACDBEs by airport.) As table 1 shows, although new DBE/ACDBE participation decreased nearly 50 percent during this period, the overall number of DBE/ACDBE firms doing business at the airports increased 8 percent (from 1,560 firms in fiscal year 2012 to 1,685 firms in fiscal year 2013).

Table 1. DBE/ACDBE Firms Doing Business at the Nation's Largest Airports in Fiscal Years 2012 and 2013[16]

	FY 2012		FY 2013		Percent Change	
	Number of New & Existing Firms	Number of New Firms	Number of New & Existing Firms	Number of New Firms	New & Existing Firms	New Firms
DBE	546	46	575	24	+5%	-48%
ACDBE	1,014	37	1,110	18	+9%	-51%
Totals	**1,560**	**83**	**1,685**	**42**	**+8%**	**-49%**

Source: OIG analysis

For example, Boston Logan International Airport, which did not have any DBE participation in fiscal year 2012, reported 11 DBE participants for fiscal year 2013. However, none of these DBEs were new entrants to the program. Overall, just five airports (Atlanta, Charlotte, Denver, Detroit, and Tampa) accounted for nearly half of all new entrants in fiscal year 2013.

New DBE/ACDBE firms also received less money in fiscal year 2013 compared to the previous year (see table 2). For example, the total value of contract awards to new DBE firms decreased 65 percent—from $22.8 million in fiscal year 2012 to approximately $8.1 million in fiscal year 2013.[17] Concession lease revenues for new ACDBE firms also decreased by 42 percent during this time—from $7.3 million to $4.3 million.

[16] Demographic breakout of new DBE/ACDBE firms we interviewed was: Black (7), Hispanic (2), Asian (2), and Non-Minority Female (5). Although not a criterion for being certified, two of these firms were also veteran owned.

[17] The total value of contracts awarded to new DBE firms in fiscal year 2012 appears to be an anomaly. That year, a DBE firm in Fort Lauderdale received a $12 million contract—an amount greater than other DBE contracts awarded at the 65 airports in fiscal years 2012 or 2013.

Table 2. Dollars to New DBE & ACDBE Firms in Fiscal Years 2012 and 2013

	FY 2012		FY 2013		Percent Change in Dollars	
	Dollars to New & Existing Firms	Dollars to New Firms	Dollars to New & Existing Firms	Dollars to New Firms	New & Existing Firms	New Firms
DBE	$294,688,963	$22,755,098	$217,680,690	$8,085,291	-26%	-64%
ACDBE	$2,459,382,948	$7,331,230	$2,576,680,665	$4,267,124	+5%	-42%

Source: OIG analysis

Similarly, the average contract award amount to new DBEs decreased from $495,000 in fiscal year 2012 to $337,000 in fiscal year 2013. On the other hand, new ACDBE firms generated more lease revenues in fiscal year 2013, on average, than in fiscal year 2012 ($237,000 average revenues in fiscal year 2013 compared to $198,000 in fiscal year 2012).

One possible factor contributing to the 26-percent decrease in contract award amounts going to both new and existing DBEs was a 9-percent drop in airport improvement program (AIP) grant funds to the Nation's 65 largest airports between fiscal years 2012 and 2013. According to FAA, airport DBE participation rates are directly tied to the amount of available Federal dollars, such as AIP grant funds. A number of industry professionals—including the president of the Airport Minority Advisory Council—have expressed concerns about the impact of declining AIP funds on the number of DBE firms receiving contracts at the Nation's airports.

Major Construction Projects and Concession Leases Have Created Opportunities for New DBE/ACDBE Firms at Five Airports

As we reported in June 2014, three key factors (major construction projects, terminal openings, and re-bidding large concession leases) created opportunities for new firms at airports in fiscal year 2012. In our current review, we determined that these same factors continued to provide work for new DBE and ACDBEs in fiscal year 2013. Specifically, at least one of these factors was present at most of the airports with the largest numbers of new DBE/ACDBE participants in fiscal year 2013 (see table 3). For example, 36 retail concession leases at the Detroit airport created new opportunities that enabled 2 new ACDBE firms to gain entry to the airport in fiscal year 2013. At the Atlanta airport, a runway rehabilitation and a noise insulation project created opportunities for four new DBE firms.

Table 3. Key Factors That Created Opportunities at the Five Airports With Most New Entrants in Fiscal Year 2013

Airport	No. of New Entrants	Factors That Created DBE/ACDBE Opportunities			
		Major Construction Project(s)	Opening of New Terminal	Re-Bidding Concession Leases	Other[18]
Denver	5	✓			
Atlanta	4	✓			
Charlotte	3				✓
Detroit	3	✓		✓	
Tampa	3	✓			

Source: OIG analysis

FAA Faces Challenges Obtaining Accurate and Complete DBE/ACDBE Data

Complete and accurate DBE/ACDBE data help FAA and OST oversee and evaluate the effectiveness of airports' DBE/ACDBE programs. Our last review identified errors in over one-third (22 of 64) of the DBE/ACDBE reports that airports submitted to FAA—errors that were attributable in part to shortfalls in FAA's data collection system. Accordingly, we recommended that FAA ensure its new DBE data collection system provides for improved data entry, processing, and validation capabilities. FAA's new system, called dbE-Connect, began collecting data in fiscal year 2014. According to FAA officials, they provided airport staff with training and guidance on dbE-Connect, and they expect the new system to significantly improve airports' DBE/ACDBE data. We have not yet reviewed the accuracy of the fiscal year 2014 data because it was outside the scope of this audit, which focused on fiscal year 2013 data. However, we plan to examine the capabilities of the new system in our third and final audit of new DBE/ACDBE participants.

[18] The City of Charlotte, NC, awarded a contract for airport signage to a prime contractor that partnered with several DBE firms—two of which were new entrants.

FAA was still using DOORS, the former reporting system, to collect the fiscal year 2013 data we reviewed for this audit. Agency officials said they took steps to improve data accuracy—such as reviewing the reports for obvious errors and requesting revised reports from several airports. Our review determined that 16 of the 65 airports' reports were submitted late,[19] contained errors, or omitted required data (an improvement from the 22 airports that submitted delayed, inaccurate, or incomplete reports in fiscal year 2012). For example, one airport did not submit its complete fiscal year 2013 data (including over $10 million to DBE/ACDBE firms) until 10 months after the due date.

MAJOR BARRIERS LIMIT NEW DBE/ACDBE PARTICIPATION AT THE NATION'S LARGEST AIRPORTS

The major barriers we identified in fiscal year 2012 were also key challenges for DBEs and ACDBEs in fiscal year 2013. Our review identified new best practices that can help firms overcome these challenges. However, we also identified additional barriers that limit DBE/ACDBE firms' opportunities to obtain airport work. Specifically, ACDBE firms comprise only a small fraction of car rental operations at the Nation's largest airports, and delayed payments hinder some new DBEs' ability to operate successfully.

Major Barriers Impede New Entrants, but Additional Best Practices Can Help Firms Overcome Challenges

As we first reported in June 2014, new DBE/ACDBE firms face three major barriers to obtaining work at the Nation's largest airports: (1) limited opportunities for and infrequent turnover of DBE/ACDBE firms, (2) lack of access to capital and high entry costs, and (3) inexperience with the airport bidding process. In this current review, we found that these barriers also impeded new entrants in fiscal year 2013. For example, one firm stated that unless a large-value contract (i.e., valued at several million dollars) is broken into smaller, more manageable components, it is difficult for small businesses to obtain sufficient financial assistance to compete for the work.

FAA and airports are taking steps to help new DBE/ACDBE firms overcome these barriers to obtaining work. For instance, in response to our prior recommendation, FAA published a list of airports' best practices on its Office of Civil Rights Web site. Table 4 describes a number of these best practices from our June 2014 report, as well as additional best practices identified in this current review, that airports and other entities can use to overcome barriers to new DBE/ACDBE participation.

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[19] DBE reports are due December 1 for the prior fiscal year, and ACDBE reports are due March 1 for the prior fiscal year.

Table 4. Best Practices for Overcoming Barriers to New DBE/ACDBE Participation

Barriers	Best Practices
Limited opportunity for and infrequent turnover of DBE/ACDBE firms	• Separating large construction contracts and airport leases into smaller contracts and leases (i.e., "unbundling") • Providing direct contract and lease opportunities to DBE/ACDBE firms (rather than through a prime contractor) • Utilizing technology to facilitate concessions services' access to passengers*
Lack of access to capital and high entry costs	• Promoting Office of Small and Disadvantaged Business Utilization's (OSDBU) short-term lending program and bonding education program • Posting prime contractor payment information to airport databases to increase transparency*
Inexperience with the airport bidding process	• Holding educational outreach and networking events • Making OSDBU-sponsored Small Business Transportation Resource Centers available to DBE/ACDBE firms • Implementing mentor-protégé programs • Posting bid information to airport databases to increase transparency*

* New best practice identified in the current OIG review.

Source: OIG analysis

The new best practices we identified during this current review are (1) posting contract and bid information to online airport databases and (2) utilizing technology to facilitate concession services access to passengers.

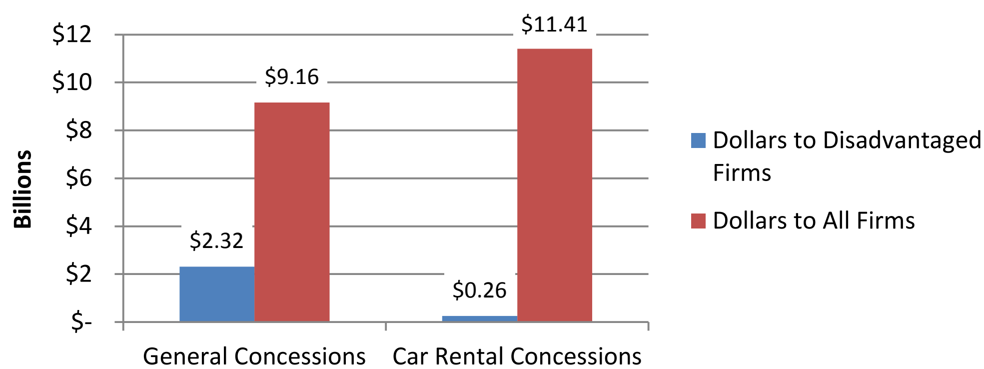
Posting information on contracting and bid opportunities to online airport databases: DBE/ACDBE firms frequently report that there is a lack of transparency regarding bid opportunities, bid results, and payments made to prime contractors. Several airport authorities have taken steps to address these complaints by developing online databases accessible to registered participants that allow users to view information about vendors, contracting opportunities, contract awards, prime contractor payments, and regulations and policies.

Utilizing technology to facilitate concession services' access to passengers: Some airports are using technology to provide passengers with greater access to concession services. At some airports, passengers can use electronic communication devices to order food from concessionaires and have it delivered to a prearranged location. Such technology gives smaller firms located in lower-traffic areas of a terminal with greater access to customers in other terminal locations. We previously reported that ACDBE businesses located in lower-traffic areas may be at financial risk if they do not have other locations within the airport to offset costs.

ACDBE Firms Comprise a Small Fraction of Car Rental Operations at the Nation's Largest Airports

In fiscal year 2013, car rental operations generated $11.4 billion at the Nation's 65 largest airports—more revenue than all other concessions types combined; however, ACDBE rental car firms earned just 2.3 percent ($260 million) of that amount (see figure 1). In comparison, ACDBEs earned 25 percent ($2.3 billion) of the $9.2 billion in total general concessions revenue (such as food, beverage, and retail) in fiscal year 2013.

Figure 1. ACDBE Revenue in Airport Car Rental and General Concession Operations in Fiscal Year 2013



Source: OIG analysis of FAA data for the Nation's 65 large and medium airports

Some of the main causes for low ACDBE participation in airport car rental operations are (1) a statutory provision that car rental firms are not required to make direct opportunities (i.e., franchises) available to ACDBE firms[20] and (2) car rental firms' preference for purchasing goods and services from non-ACDBE regional and national suppliers.

DOT regulations do require airports and car rental firms to make good faith efforts to utilize ACDBE firms to provide goods and services. However, our review identified several barriers that impede ACDBE firms' efforts to participate as goods and services providers for airport car rental operations. Specifically, (1) some airports have misinterpreted the direct ownership exception for the car rental companies, (2) car rental companies have difficulties finding certified ACDBE goods and services firms to meet their service needs, (3) ACDBE firm owners have difficulty staying under the personal net worth cap, and (4) FAA has not ensured all airports established ACDBE car rental participation goals consistent with DOT guidance.

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[20] This statutory provision does not apply to food and retail concessions.

Some airports have misinterpreted the direct ownership exception for car rental companies. The DOT ACDBE regulations state that airports must require businesses to make good faith efforts to meet ACDBE goals, to the maximum extent practicable, through direct ownership arrangements with DBEs.[21] However, by statute, car rental companies are not required to change their corporate structures to provide such arrangements for purposes of the ACDBE program.[22] As a result, airports cannot require car rental companies to meet their ACDBE goals through direct ownership arrangements with DBEs. It is not surprising, therefore, that we did not identify any direct ownership arrangements with ACDBEs at the car rental operations at the 11 sites. Nonetheless, some airports have misinterpreted the direct ownership exception from good faith efforts by also applying the statutory provision to the purchase of goods and services from DBEs. To address this issue, DOT counsel and other industry professionals agreed that the DOT regulations should be clarified to avoid continued misinterpretations and to encourage more ACDBE participation in the car rental business through the purchase of goods and services.

Major car rental company officials stated that it is difficult to find certified ACDBE firms that can meet their goods and service needs. One major rental car company reported sending letters to about 3,000 women and minority owned suppliers encouraging them to seek ACDBE certification, but it only received a 10-percent response. According to airport managers, interest groups, and car rental companies, there are a number of reasons why potential car rental goods and services suppliers may not become ACDBE-certified:

- Reluctance to undergo a burdensome ACDBE certification process that may require hiring attorneys and accountants.
- Regulations requiring certified DBEs to obtain additional ACDBE certification before they can provide goods and services to airport car rental companies—even if the services provided (such as insurance and cleaning) are identical.
- Home State DBE/ACDBE certifications are often not fully recognized by other States. As a result, some firms are discouraged from expanding their services because they would have to obtain additional State certifications, which would require further time and cost to maintain.

[21] 49 CFR 23.25(f). A direct ownership arrangement is a joint venture, partnership, sublease, licensee, franchise, or other arrangement in which a firm owns and controls a concession. 49 CFR 23.3(6).
[22] 49 U.S.C. § 47107; 49 CFR 23.25(f).

High capital requirements for car rental businesses may conflict with the ACDBE personal net worth cap. DOT regulations state that an ACDBE business owner's personal net worth should not exceed $1.32 million. However, a car rental business requires considerable capital and personal lines of credit to procure vehicles, insurance, and facilities. Firm owners who meet the personal net worth cap may lack the financial resources to compete successfully for a direct ownership car rental business. On the other hand, if an ACDBE rental car company does become successful, its owners are likely to exceed the personal net worth cap, pushing the company out of the ACDBE program.[23] For example, two former ACDBE car rental firms operating at Miami Airport no longer qualified as certified ACDBEs when the owners exceeded the personal net worth cap of $1.32 million. However, the airport allowed both firms to continue to operate until the end of their current leases; the firms may bid again as non-ACDBEs once their leases expire.

FAA has not ensured all airports established ACDBE car rental goals consistent with DOT guidance. DOT guidance strongly encourages airports to establish ACDBE participation goals by considering both potential ACDBE firms and already certified ACDBE firms. The guidance also states that airports should consider their local market area when establishing their goals. However, we found that some airports considered only already certified ACDBE firms or narrowly interpreted their local market area when establishing their ACDBE car rental participation goals.[24] FAA, in turn, is required to review and approve the airports' ACDBE goal setting methodology. In fiscal year 2013, we found that 19 of the Nation's 65 largest airports established ACDBE car rental participation goals of 0 percent. A 0 percent goal means there are no ACDBEs in the relevant market, and that 0 percent of the total gross receipts of car rental operations would be performed by ACDBEs in the absence of discrimination and it effects. However, among the 19 airports were Chicago and Las Vegas airports, each located in cities with large minority populations. In addition, other cities with large minority populations, such as Cleveland and Seattle, airports established goals of 2 percent or less. After we informed FAA of these low ACDBE car rental goals, FAA re-assessed and determined the airports were incorrect and should have considered potential ACDBE firms when they calculated their goals. As a result of these low or 0 percent goals, these airports may not have provided similar opportunities for ACDBE firms as those airports who correctly calculated their goals.

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[23] One of the objectives of the DBE program is to assist the development of firms that can compete successfully in the marketplace outside the DBE program.

[24] According to DOT's "Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program," the local market area is not necessarily the same as the political jurisdiction in which the airport is geographically located. Instead, the local market area is where the substantial majority of the contractors and subcontractors with which the airport does business are located and where the airport spends the substantial majority of its contracting dollars.

Delayed Payments Hinder New and Existing DBEs' Ability To Operate Successfully

According to DOT's DBE regulation, a prime contractor must pay its subcontractors (including DBEs) for completed work no later than 30 days after the prime contractor has received payment.[25] However, officials from OST, FAA, airport, and association officials all told us that untimely payment is a barrier for DBE firms. Additionally, we identified six DBE firms—including one new entrant to the DBE program—that either experienced significant delays in receiving payments or still have not been paid by their prime contractors as of the date of this report.

The DBE firms said the payment delays significantly impacted their business operations. Specifically, three of the six firms working on FAA-funded projects reported experiencing cash flow problems, and two firms said the delayed payments prevented them from paying their subcontractors and suppliers. These DBEs also stated that, while they could file complaints with airports regarding payment problems, they are concerned that doing so may subject them to future retribution from the prime contractor, excluding them from any future contracting opportunities.

Moreover, two DBE firms informed us that their prime contractors issued change orders for additional work, which the DBEs say they completed but have yet to receive payment for. This issue has been compounded by subcontractors and suppliers suing the DBE firms for nonpayment for services rendered, resulting in significant legal costs for the DBE. For example, one DBE firm was sued by its supplier for $289,000 in material costs, which the DBE owner said she could not pay due to the prime contractor's withholding of payment on change orders. The DBE owner also stated she had to sell her house to help cover the mounting legal costs and settled with the prime contractor for about $200,000 less than the amount she was owed in debt.

Several of the DBEs we interviewed reported that their relative inexperience and desire to obtain work led them to sign poorly worded or questionable agreements with prime contractors. To combat this problem, some airports are taking steps to ensure that prime contractors and DBEs are defining their agreements before the contracts are signed. For example, officials from the Chicago Department of Procurement Services (DPS) stated that they review prime contractors' plans for DBE participation before awarding contracts. DPS also asks that DBE firms allow them to review the prime contractor's proposed scope of work before the DBE signs any contractual agreements. These actions can help to ensure the DBE firm

[25] 49 CFR 26.29(a).

is capable of performing the required work and to prevent prime contractors from requiring their DBE subcontractors to perform work beyond the scope of their contracts.

Despite some airports' efforts, delayed payments to DBEs continue to be a problem—due in part to airport payment practices that do not meet the intent of DOT regulations. Specifically, DBE regulations state that a recipient must establish a contract clause requiring prime contractors to pay subcontractors (including DBEs) no later than 30 days from receipt of each payment the recipient makes to the prime contractor. However, according to Port Authority of New York and New Jersey officials, their payments to prime contractors typically take between 90 to 120 days after payment is requested. Thus, even if the contractor does pay his DBE subcontractors within 30 days, the airport's delay in paying the prime contractors can cause significant delays in DBE firm payments.

Furthermore, OSDBU's Small Business Transportation Resource Centers offer training and provide procurement and technical assistance. This training and assistance can help small businesses avoid signing poorly worded or questionable agreements that subject them to a greater risk of payment problems. However, FAA has not worked with OSDBU to encourage airports and DBEs to seek assistance and training from these resource centers.

FAA and airports also do not provide adequate oversight and guidance to ensure DBE firms are paid promptly. According to FAA, the Agency has limited resources to investigate prompt payment issues (which is primarily the airports' responsibility) and is only able to conduct a small number of airport compliance reviews each year. FAA's Office of Airports Compliance Division and individual Airport District Offices are responsible for reviewing airports' contractor payment data to verify and approve airport reimbursement requests. However, FAA officials stated that the Agency does not normally review data at the subcontractor level, which includes most DBE payment data. Because of oversight weaknesses, FAA is frequently unaware when prime contractors do not pay DBEs promptly.

CONCLUSION

The Department's DBE/ACDBE program aims to help small businesses owned and controlled by socially and economically disadvantaged individuals to fairly compete in federally funded contract or concession opportunities at the Nation's airports. While DOT and airports are taking steps to address the challenges that DBEs and ACDBEs face, the number of new firms doing business at the Nation's largest airports has declined, and major barriers impede the success of new and existing disadvantaged firms. Further efforts to promote best practices at airports, develop and improve DBE guidance and training, and improve DBE data and prompt payment oversight may help provide more opportunities for DBE and ACDBE firms to participate in the Nation’s airport economy.

RECOMMENDATIONS

We recommend that FAA’s Office of Civil Rights, in coordination with the Office of the Secretary, take the following actions:

1. Implement a plan for encouraging the participation of ACDBE-certified “goods and services” firms in the car rental industry and promoting their use.

2. Issue guidance that corrects the misinterpretation of the statutory and regulatory language that creates an exception for car rental companies from the general requirement to explore direct ownership arrangements as a way to meet ACDBE goals.

3. Coordinate with OSDBU to make current Small Business Transportation Resource Center training and assistance accessible to airport DBEs, such as procurement and technical training.

We also recommend that FAA’s Office of Civil Rights:

4. Re-examine the most recent methodologies used to calculate ACDBE car rental participation goals for the Nation’s 65 largest airports, and provide guidance on the goal setting principles to use in calculating ACDBE participation goals. For those airports that did not properly calculate their goals, take action to ensure compliance with DOT guidance.

5. In coordination with FAA’s Office of Airports, develop and implement a plan to address DBE prompt payment issues with airports and prime contractors.

6. Publicize best practices such as those identified in this report relating to prompt payments and uses of online databases.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FAA with a copy of our report on September 16, 2015, and received its response on October 16, 2015, which is included as an appendix to this report. FAA concurred with recommendations 3 and 6, as written. We accepted FAA’s modifications to recommendations 1, 2, 4, and 5, which meet the intent of our recommendations. With FAA’s proposed alternative actions and target dates, we consider all six of our recommendations resolved but open pending completion of the planned actions.

We appreciate the courtesies and cooperation of FAA and the Office of the Secretary of Transportation during this audit. If you have any questions concerning this report, please call me at (202) 366-5225 or Darren Murphy, Program Director, at (206) 220-6503.

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cc: DOT Audit Liaison (M-1)
FAA Audit Liaison (AAE-100)

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted our work from June 2014 through September 2015 in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To determine the number of new and existing DBE/ACDBE firms and associated contracts or lease revenue for the 65 largest airports, we collected statistical information from FAA's OCR. Specifically, FAA's OCR provided the audit team with DOORS reports that the Agency requires airports to submit annually. We also contacted representatives from the 65 largest airports to identify the names and associated dollars for all new DBE/ACDBE firms awarded contracts or leases in fiscal year 2013. This resulted in preliminary identification of 158 DBE/ACDBE firms.[26] We then contacted these firms to determine if they were new to the DOT DBE program (not just FAA); 42 of these firms were actually new in fiscal year 2013.

To determine what factors led some airports to award more contracts to new DBE firms, we interviewed officials from OSDBU, DOCR, and FAA's OCR. We identified 16 of the 65 largest airports with evidence of payment issues or based on their level of car rental participation on which to conduct site visits. During our site visits, we interviewed airport officials and collected documentation to determine what factors encouraged or hindered their hiring of new DBE/ACDBE firms. Additionally, from a universe of 42 new firms, we randomly selected a sample of 16 new DBE/ACDBE firms to interview about their experiences obtaining their first airport contract or lease in fiscal year 2013.

Using our universe of the 65 largest airports, we also analyzed FAA's ACDBE car rental data for fiscal year 2013 to identify airport car rental goals, determine the revenue and percentage of ACDBE rental car participation, and compare ACDBE car rental revenue with the total revenue for all airport car rental firms. We interviewed airport officials meeting or exceeding their rental car goals, identified best practices encouraging DBE rental car participation at these airports, and identified any factors that helped them to achieve their goals. Additionally, we met with key stakeholders outside airports (e.g., DOT, FAA, Airport Minority Advisory Council, and national rental car companies) to obtain their perspectives on airports' challenges in meeting their DBE rental car goals. Finally, for those

[26] This information was preliminary because the airports could not be expected to know whether firms new to the airport had done prior DBE-related work at other airports or on FHWA- or FTA-funded contracts.

airports with 0 percent car rental DBE goals, we reviewed their methodologies to understand how they developed their goals.

To determine the factors that aided or hampered new DBE/ACDBE firms in pursuing and performing contracts or leases at the 65 largest airports, we selected 6 DBEs to identify the issues that new and existing DBE firms face in receiving timely payments from their respective prime contractors. These 6 DBEs were selected from the following sources: 2 DBEs were selected from our June 2014 airport DBE audit; 1 DBE was included in the 16 new firms identified in the new firms universe of this audit; and the remaining 3 DBEs were identified through other interviews we conducted to verify airport information. Additionally, we conducted interviews, reviewed invoices, and analyzed contracts between prime contractors and their respective subcontractors to determine and verify whether DBEs were paid promptly in accordance with Federal regulations and their contracts.

To validate the accuracy of FAA's DBE/ACDBE participation data, we systematically audited the data contained in the DOORS database. We performed sufficient tests to validate the completeness and accuracy of the data. When we identified anomalies or apparent errors, we conducted follow up with relevant airport officials to obtain the correct data.

EXHIBIT B. NUMBER OF NEW DBE/ACDBE FIRMS AT 65 LARGEST AIRPORTS IN FISCAL YEARS 2012 AND 2013

	Fiscal Year 2012			Fiscal Year 2013			Change		
Airport	Number of New DBE Firms	Number of New ACDBE Firms	Total Number of New Firms	Number of New DBE Firms	Number of New ACDBE Firms	Total Number of New Firms	New DBE Firms	New ACDBE Firms	Total New Firms
1 Denver, CO	0	0	0	3	2	5	3	2	5
2 Atlanta, GA	0	10	10	4	0	4	4	-10	-6
3 Charlotte, NC	0	0	0	0	3	3	0	3	3
4 Detroit, MI	3	1	4	1	2	3	-2	1	-1
5 Tampa, FL	0	1	1	3	0	3	3	-1	2
6 Cleveland, OH	2	0	2	2	0	2	0	0	0
7 Houston Bush Intercontinental, TX	0	0	0	1	1	2	1	1	2
8 Miami, FL	3	4	7	0	2	2	-3	-2	-5
9 Milwaukee, WI	3	1	4	2	0	2	-1	-1	-2
10 San Francisco, CA	1	2	3	0	2	2	-1	0	-1
11 Washington Reagan, DC	1	0	1	2	0	2	1	0	1
12 Buffalo, NY	1	0	1	1	0	1	0	0	0
13 Columbus, OH	0	0	0	0	1	1	0	1	1
14 Fort Lauderdale, FL	1	0	1	1	0	1	0	0	0
15 Kansas City, MO	0	0	0	1	0	1	1	0	1
16 Los Angeles, CA	1	0	1	1	0	1	0	0	0
17 New Orleans, LA	3	1	4	0	1	1	-3	0	-3
18 Phoenix Sky, AZ	6	8	14	1	0	1	-5	-8	-13
19 Raleigh-Durham, NC	0	0	0	0	1	1	0	1	1
20 Reno, NV	0	0	0	0	1	1	0	1	1
21 Salt Lake City, UT	1	0	1	1	0	1	0	0	0
22 San Diego, CA	0	0	0	0	1	1	0	1	1
23 Seattle, WA	0	0	0	0	1	1	0	1	1
24 Albuquerque, NM	1	0	1	0	0	0	-1	0	-1
25 Anchorage. AK	0	0	0	0	0	0	0	0	0
26 Austin, TX	1	0	1	0	0	0	-1	0	-1

Exhibit B. Number of New DBE/ACDBE Firms at the 65 Largest Airports in Fiscal Years 2012 and 2013

	Airport	Fiscal Year 2012			Fiscal Year 2013			Change		
		Number of New DBE Firms	Number of New ACDBE Firms	Total Number of New Firms	Number of New DBE Firms	Number of New ACDBE Firms	Total Number of New Firms	New DBE Firms	New ACDBE Firms	Total New Firms
27	Baltimore, MD	2	0	2	0	0	0	-2	0	-2
28	Boston, MA	0	0	0	0	0	0	0	0	0
29	Burbank, CA	2	0	2	0	0	0	-2	0	-2
30	Chicago Midway, IL	0	0	0	0	0	0	0	0	0
31	Chicago O'Hare, IL	2	0	2	0	0	0	-2	0	-2
32	Cincinnati, OH	0	0	0	0	0	0	0	0	0
33	Dallas Love Field, TX	0	1	1	0	0	0	0	-1	-1
34	Dallas/Fort Worth, TX	0	0	0	0	0	0	0	0	0
35	Fort Meyers, FL	0	0	0	0	0	0	0	0	0
36	Hartford, CT	0	0	0	0	0	0	0	0	0
37	Honolulu, HI	0	0	0	0	0	0	0	0	0
38	Houston Hobby, TX	0	0	0	0	0	0	0	0	0
39	Indianapolis, IN	2	0	2	0	0	0	-2	0	-2
40	Jacksonville, FL	0	0	0	0	0	0	0	0	0
41	John F Kennedy, NY	1	0	1	0	0	0	-1	0	-1
42	John Wayne-Orange County, CA	0	1	1	0	0	0	0	-1	-1
43	Kahului, HI	0	0	0	0	0	0	0	0	0
44	La Guardia, NY	0	0	0	0	0	0	0	0	0
45	Las Vegas, NV	0	0	0	0	0	0	0	0	0
46	Memphis, TN	0	0	0	0	0	0	0	0	0
47	Minneapolis, MN	1	0	1	0	0	0	-1	0	-1
48	Nashville, TN	2	0	2	0	0	0	-2	0	-2
49	Newark, NJ	0	0	0	0	0	0	0	0	0
50	Oakland, CA	0	0	0	0	0	0	0	0	0
51	Omaha, NE	0	0	0	0	0	0	0	0	0
52	Ontario, CA	0	0	0	0	0	0	0	0	0

Exhibit B. Number of New DBE/ACDBE Firms at the 65 Largest Airports in Fiscal Years 2012 and 2013

	Airport	Fiscal Year 2012 Number of New DBE Firms	Fiscal Year 2012 Number of New ACDBE Firms	Fiscal Year 2012 Total Number of New Firms	Fiscal Year 2013 Number of New DBE Firms	Fiscal Year 2013 Number of New ACDBE Firms	Fiscal Year 2013 Total Number of New Firms	Change New DBE Firms	Change New ACDBE Firms	Change Total New Firms
53	Orlando, FL	0	0	0	0	0	0	0	0	0
54	Palm Beach, FL	1	2	3	0	0	0	-1	-2	-3
55	Philadelphia, PA	3	0	3	0	0	0	-3	0	-3
56	Pittsburgh, PA	1	0	1	0	0	0	-1	0	-1
57	Portland, OR	0	0	0	0	0	0	0	0	0
58	Providence, RI	0	0	0	0	0	0	0	0	0
59	Sacramento, CA	1	2	3	0	0	0	-1	-2	-3
60	San Antonio, TX	0	2	2	0	0	0	0	-2	-2
61	San Jose, CA	0	1	1	0	0	0	0	-1	-1
62	San Juan, PR	0	0	0	0	0	0	0	0	0
63	St Louis, MO	0	0	0	0	0	0	0	0	0
64	Tucson, AZ	0	0	0	0	0	0	0	0	0
65	Washington Dulles, VA	0	0	0	0	0	0	0	0	0
	Totals	**46**	**37**	**83**	**24**	**18**	**42**	**-22**	**-19**	**-41**

Source: OIG analysis of FAA data

Exhibit B. Number of New DBE/ACDBE Firms at the 65 Largest Airports in Fiscal Years 2012 and 2013

EXHIBIT C. NUMBER OF NEW AND EXISTING DBE/ACDBE FIRMS AT THE 65 LARGEST AIRPORTS IN FISCAL YEAR 2013, INCLUDING CONTRACT AWARDS AND LEASE REVENUE

	Airport	Total number of new DBE/ ACDBE firms	DBE				ACDBE			
			Number of new DBEs	Total number of all DBEs	Value of contract awards to new DBEs	Total value of contract awards to all DBEs	Number of new ACDBEs	Total number of all ACDBEs	Lease revenue to new ACDBEs	Total lease revenue to all ACDBEs
1	Albuquerque, NM	0	0	3	$0	$278,479	0	4	$0	$17,621,158
2	Anchorage, AK	0	0	6	$0	$2,202,898	0	5	$0	$2,737,008
3	Atlanta, GA	4	4	24	$3,797,815	$19,228,148	0	35	$0	$249,977,175
4	Austin, TX	0	0	12	$0	$765,055	0	18	$0	$9,382,202
5	Baltimore, MD	0	0	25	$0	$11,467,508	0	26	$0	$50,837,872
6	Boston, MA	0	0	11	$0	$998,672	0	15	$0	$24,065,923
7	Buffalo, NY	1	1	4	$20,000	$2,483,287	0	2	$0	$6,992,870
8	Burbank, CA	0	0	1	$0	$1,297,106	0	3	$0	$10,483,556
9	Charlotte, NC	3	0	4	$0	$170,600	3	24	$3,875	$40,003,728
10	Chicago Midway, IL	0	0	3	$0	$2,221,477	0	14	$0	$28,792,044
11	Chicago O'Hare, IL	0	0	16	$0	$14,380,865	0	39	$0	$154,397,777
12	Cincinnati, OH	0	0	3	$0	$6,007,500	0	3	$0	$1,144,512
13	Cleveland, OH	2	2	27	$271,074	$5,969,060	0	19	$0	$ 22,617,630
14	Columbus, OH	1	0	4	$0	$4,341,256	1	10	$616,191	$3,116,536
15	Dallas Love Field, TX	0	0	11	$0	$9,920,505	0	14	$0	$34,079,774
16	Dallas/Fort Worth, TX	0	0	4	$0	$3,368,176	0	38	$0	$133,576,507
17	Denver, CO	5	3	17	$905,000	$5,196,526	2	44	$191,102	$117,033,105
18	Detroit, MI	3	1	32	$3,560	$11,536,124	2	33	$0	$65,722,403
19	Fort Lauderdale, FL	1	1	10	$19,500	$13,243,048	0	19	$0	$30,766,362
20	Fort Myers, FL	0	0	0	$0	$0	0	11	$0	$14,244,215
21	Hartford, CT	0	0	1	$0	$16,000	0	2	$0	$2,852,813
22	Honolulu, HI	0	0	1	$0	$4,882	0	5	$0	$24,195,040
23	Houston Bush Intercontinental, TX	2	1	18	$208,541	$18,290,179	1	89	$316,380	$103,423,932
24	Houston Hobby, TX	0	0	0	$0	$0	0	19	$0	$21,831,663

Exhibit C. Number of New and Existing DBE/ACDBE Firms at the 65 Largest Airports in Fiscal Year 2013, Including Contract Awards and Lease Revenue

	Airport	Total number of new DBE/ ACDBE firms	DBE: Number of new DBEs	DBE: Total number of all DBEs	DBE: Value of contract awards to new DBEs	DBE: Total value of contract awards to all DBEs	ACDBE: Number of new ACDBEs	ACDBE: Total number of all ACDBEs	ACDBE: Lease revenue to new ACDBEs	ACDBE: Total lease revenue to all ACDBEs
25	Indianapolis, IN	0	0	18	$0	$948,133	0	8	$0	$3,361,688
26	Jacksonville, FL	0	0	6	$0	$360,881	0	11	$0	$6,176,087
27	John F. Kennedy, NY	0	0	9	$0	$1,569,800	0	24	$0	$111,681,269
28	John Wayne-Orange County, CA	0	0	3	$0	$1,022,386	0	3	$0	$6,076,400
29	Kahului, HI	0	0	0	$0	$0	0	3	$0	$3,249,022
30	Kansas City, MO	1	1	27	$16,000	$2,694,049	0	2	$0	$4,540,863
31	La Guardia, NY	0	0	6	$0	$789,700	0	9	$0	$15,542,032
32	Las Vegas, NV	0	0	5	$0	$1,219,909	0	25	$0	$73,519,264
33	Los Angeles, CA	1	1	6	$350,000	$2,779,518	0	18	$0	$196,162,156
34	Memphis, TN	0	0	6	$0	$1,762,752	0	12	$0	$5,913,811
35	Miami, FL	2	0	2	$0	$4,729,307	2	45	$ 672,904	$149,208,186
36	Milwaukee, WI	2	2	51	$1,419,486	$24,697,716	0	9	$0	$7,295,930
37	Minneapolis, MN	0	0	14	$0	$ 1,314,526	0	12	$0	$21,585,835
38	Nashville, TN	0	0	7	$0	$1,810,308	0	10	$0	$7,923,809
39	New Orleans, LA	1	0	3	$0	$4,318,129	1	31	$261,331	$23,876,548
40	Newark, NJ	0	0	1	$0	$720,000	0	25	$0	$90,553,500
41	Oakland, CA	0	0	5	$0	$333,057	0	8	$0	$10,084,261
42	Omaha, NE	0	0	2	$0	$598,535	0	5	$0	$2,543,548
43	Ontario, CA	0	0	0	$0	$0	0	3	$0	$2,695,596
44	Orlando, FL	0	0	12	$0	$1,949,231	0	40	$0	$101,661,117
45	Palm Beach, FL	0	0	8	$0	$479,010	0	13	$0	$8,601,101
46	Philadelphia, PA	0	0	6	$0	$1,159,290	0	34	$0	$76,773,901
47	Phoenix, AZ	1	1	23	$251,663	$3,180,316	0	26	$0	$53,078,918
48	Pittsburgh, PA	0	0	13	$0	$1,382,881	0	11	$0	$15,500,351
49	Portland, OR	0	0	2	$0	$272,780	0	14	$0	$20,589,853
50	Providence, RI	0	0	9	$0	$619,797	0	1	$0	$359,115
51	Raleigh-Durham, NC	1	0	6	$0	$1,198,199	1	11	$0	$15,525,093

Exhibit C. Number of New and Existing DBE/ACDBE Firms at the 65 Largest Airports in Fiscal Year 2013, Including Contract Awards and Lease Revenue

	Airport	Total number of new DBE/ ACDBE firms	DBE				ACDBE			
			Number of new DBEs	Total number of all DBEs	Value of contract awards to new DBEs	Total value of contract awards to all DBEs	Number of new ACDBEs	Total number of all ACDBEs	Lease revenue to new ACDBEs	Total lease revenue to all ACDBEs
52	Reno, NV	1	0	3	$0	$54,678	1	3	$810,649	$3,181,957
53	Sacramento, CA	0	0	0	$0	$0	0	5	$0	$2,434,498
54	Salt Lake City, UT	1	1	8	$94,740	$2,162,098	0	12	$0	$ 28,025,868
55	San Antonio, TX	0	0	19	$0	$5,119,206	0	25	$0	$26,123,261
56	San Diego, CA	1	0	3	$0	$532,785	1	17	$1,394,692	$19,124,267
57	San Francisco, CA	2	0	1	$0	$516,230	2	20	$0	$71,317,514
58	San Jose, CA	0	0	0	$0	$0	0	9	$0	$30,329,160
59	San Juan, PR	0	0	0	$0	$0	0	2	$0	$215,933
60	Seattle, WA	1	0	0	$0	$0	1	13	$0	$43,154,571
61	St. Louis, MO	0	0	9	$0	$1,259,946	0	11	$0	$19,126,935
62	Tampa, FL	3	3	29	$274,582	$4,174,217	0	27	$0	$22,829,200
63	Tucson, AZ	0	0	4	$0	$938,817	0	2	$0	$1,996,707
64	Washington Dulles, DC	0	0	4	$0	$2,027,752	0	32	$0	$63,439,088
65	Washington Reagan, DC	2	2	8	$453,330	$5,597,399	0	28	$0	$41,406,647
	Totals	**42**	**24**	**575**	**$8,085,291**	**$217,680,690**	**18**	**1,110**	**$4,267,124**	**$2,576,680,665**

Source: OIG analysis of FAA data

Exhibit C. Number of New and Existing DBE/ACDBE Firms at the 65 Largest Airports in Fiscal Year 2013, Including Contract Awards and Lease Revenue

EXHIBIT D. MAJOR CONTRIBUTORS TO THIS REPORT

Name	Title
Darren Murphy	Program Director
Chuck Ward	Project Manager
Ann Wright	Project Manager
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Claudia Estrada	Senior Analyst
Gloria Muhammad	Auditor
Allison Robinson	Auditor
Morgan Howard	Auditor
Christina Lee	Writer-Editor
Nick Coates	Senior Counsel

APPENDIX. AGENCY COMMENTS

Federal Aviation Administration

Memorandum

Date: October 16, 2015

To: Mary Kay Langan-Feirson, Assistant Inspector General for Acquisition and Procurement Audits

From: H. Clayton Foushee, Director, Office of Audit and Evaluation, AAE-1

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: New Disadvantaged Business Enterprise (DBE) Firms Continue To Face Barriers to Obtaining Work at the Nation's Largest Airports

The FAA is committed to advancing the DBE and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs to further increase opportunities for small, minority and women-owned companies to do business with airports receiving federal funding. The Agency continually enhances training programs and guidance to increase airport compliance. The FAA conducts annual training at the FAA Annual Civil Rights Training Conference for Airports and at major stakeholder conferences conducted by the Airport Minority Advisory Council, the Airports Council International, and the American Association of Airport Executives. The Agency also provides compliance training in collaboration with other Department of Transportation (DOT) Operating Administrations.

The Agency developed the dbE-connect System[1] as a central database to track recipient goals and compliance data as a basis for future training and guidance. The DBE/ACDBE participation reporting function of the dbE-connect System was implemented nation-wide in fiscal year 2014, after the period covered by the current audit report. The FAA agrees that there are program areas which could be enhanced and will continue to implement measures targeted toward compliance improvements.

The FAA has reviewed the draft report and offers the following comments in response to the OIG's draft findings and recommendations:

- The recommendation to implement a plan for increasing the number of ACDBE-certified "goods and services" firms in the car rental industry is not within the Agency's regulatory scope. However, the Agency will offer training, guidance, and consultation to encourage grant recipients to consider car rental companies in goal-setting and urge these firms to seek certification in the program.

[1] The FAA dbE-Connect System is an electronic web-based DBE/ACDBE program management system. The System has been developed as one centralized resource for all FAA Office of Civil Rights DBE and ACDBE Program records and reporting.

- The issuance of guidance instructing airports and car rental firms on the proper interpretation of the DOT's DBE regulation referencing good faith efforts and developing the correct methodology for calculating ACDBE participation goals would be better achieved with direct consultation on a case-by-case basis.
- The FAA will work closely with the Office of Small and Disadvantaged Business Utilization and their Small Business Transportation Resource Centers in order to increase their role and visibility in the airport community.
- Prompt payment is a concern for many firms doing business with airports. FAA's Office of Civil Rights will coordinate with FAA's Office of Airports in developing a plan to reinforce airport sponsor responsibilities.

The FAA concurs with OIG recommendations 3 and 6 as written, and partially concurs with recommendations 1, 2, 4 and 5. While the FAA concurs with the apparent intent of the latter four recommendations, we suggest the following clarifications. With the following modifications, the Agency would be in full concurrence with all recommendations:

- <u>Suggested Recommendation 1</u>: Implement a plan for encouraging the participation of ACDBE-certified "goods and services" firms in the car rental industry and promoting their use.
- <u>Suggested Recommendation 2</u>: Issue guidance that corrects the misinterpretation of the statutory and regulatory language that creates an exception for car rental companies from the general requirement to explore direct ownership arrangements as a way to meet ACDBE goals.
- <u>Suggested Recommendation 4</u>: Re-examine the most recent methodologies used to calculate ACDBE car rental participation goals for the 65 largest airports; and provide guidance on the goal setting principles to use in calculating ACDBE participation goals. For those airports that did not properly calculate their goals, take action to ensure the methodology used is sound.
- <u>Suggested Recommendation 5</u>: In coordination with FAA's Office of Airports Division, develop and implement a plan to address DBE prompt payment issues with airports and prime contractors.

The FAA plans to complete actions on recommendation 1 by June 30, 2016; recommendation 2 by March 31, 2016; recommendations 3 and 5 by August 31, 2016; recommendation 4 by June 30, 2016; and recommendation 6 by December 31, 2015. The Agency appreciates the opportunity to offer additional perspectives on the OIG draft report. Please contact H. Clayton Foushee at (202) 267-9000 if you have any questions or require additional information regarding these comments.