
Office of Inspector General

Audit Report

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

*Departmental Office of Civil Rights
Federal Aviation Administration*

*Report Number: ZA-2014-055
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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 Barriers to Obtaining Work
at the Nation's Largest Airports

Date: June 12, 2014

Departmental Office of Civil Rights
Federal Aviation Administration
Report Number: ZA-2014-055

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for Acquisition and Procurement Audits

Reply to JA-60
Attn. of:

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

Each year, the Federal Aviation Administration (FAA) distributes more than \$3 billion in Federal grants for airport projects. In accepting these grants, airports are required to establish disadvantaged business enterprise (DBE) and airport concession DBE (ACDBE) programs.¹ These programs provide small businesses owned and controlled by socially and economically disadvantaged individuals (i.e., women and minorities) with opportunities to compete for construction, professional services, and concession contracts.

In the FAA Modernization and Reform Act of 2012, Congress directed our office to report annually on new DBE participation at the Nation's largest airports and to identify reasons why some airports have been more successful than others at hiring new DBEs. Congress raised concerns that discrimination and related barriers continue to pose obstacles to disadvantaged firms seeking to do business at U.S. airports. Further, our April 2013 report noted that only 20 percent of certified DBE firms in a six-State sample received work on federally funded programs.² Accordingly, our objectives were to determine (1) the number of new and existing DBE/ACDBE firms receiving contracts or leases at the Nation's largest airports in

¹ According to Title 49 Code of Federal Regulations (CFR) Part 26.21, airport sponsors receiving FAA grants and who will award contracts exceeding \$250,000 for airport planning or development must have a DBE program.

² *Weaknesses in the Department's Disadvantaged Business Enterprise Program Limit Achievement of Its Objectives* (OIG Report No. ZA-2013-072), Apr. 23, 2013. OIG reports are available on our Web site: www.oig.dot.gov.

fiscal year 2012 and (2) what factors led some airports to award more contracts or leases to new DBE/ACDBE firms.

To answer our objectives, we collected and analyzed FAA data on new and existing DBE/ACDBE firms and associated contract awards and lease revenues for the 64 largest airports.³ We also interviewed officials from over one-third of these airports regarding factors that encouraged or hindered their hiring of new DBE/ACDBE firms. In accordance with the FAA Modernization and Reform Act, we considered a firm “new” if it had no prior experience⁴ in either the Department of Transportation’s (DOT) DBE or ACDBE program.⁵ Finally, we interviewed a stratified random sample of 26 new DBE/ACDBE firms about their experiences obtaining their first contract or lease. We conducted our work in accordance with generally accepted Government auditing standards. Exhibit A details our complete scope and methodology.

RESULTS IN BRIEF

For fiscal year 2012, we identified 83 new DBE/ACDBE firms that were awarded contracts and leases at the Nation’s 64 largest airports.⁶ However, the airports varied in the number of new DBE/ACDBE firms—with five airports accounting for nearly half of the new entrants. In addition, the 83 new firms represented only about 5 percent of the approximately 1,600 DBE/ACDBE firms doing business at the 64 airports. Because Federal regulations do not require FAA to track data on new entrants,⁷ we had to request and compile data on each airport’s new DBE/ACDBE firms. While reviewing the data, we found errors in over one-third of DBE/ACDBE reports that these airports submit annually to FAA. For example, the San Francisco airport did not report about \$57 million in rental car revenue, and the Portland airport over-reported concessions revenue by about \$5 million. These errors—due in part to shortfalls in the Agency’s data collection system and oversight—limit FAA’s ability to evaluate the effectiveness of the airports’ DBE/ACDBE programs.

³ For this audit, we originally selected the 65 largest airports using criteria in Title 49 United States Code (U.S.C.) 40102; each of these airports represents at least 0.25 percent of total United States passenger boardings. At FAA’s request, we did not include San Juan, PR, since its DBE and ACDBE statistics were inaccurate and unreliable. FAA officials stated that they are working to correct the reporting problems.

⁴ Prior DBE experience includes participation on federally funded highway, transit, or airport projects in fiscal year 2011 or earlier.

⁵ DOT’s DBE program is governed by Title 49 CFR Part 26, and the ACDBE program is governed separately by Title 49 CFR Part 23.

⁶ Of these airports, only 31 had any new entrants in fiscal year 2012.

⁷ DOT requires airports to report the number of DBE contracts and ACDBE leases awarded. This figure does not provide information on the number of DBE/ACDBE firms because one firm may obtain multiple contracts or leases.

Airports are taking steps to encourage awards to new DBE/ACDBE firms. These steps include (1) unbundling major contracts and leases into smaller components, (2) entering into direct contracts or leases with DBE/ACDBE firms, (3) conducting outreach, and (4) providing financial assistance. For example, the Milwaukee airport unbundled a large residential soundproofing contract to create several individual contracts—48 of which were awarded to DBE firms (including 3 new DBEs) in fiscal year 2012. Despite these efforts, new DBE/ACDBEs face a number of major barriers to obtaining airport work. These barriers include: (1) limited opportunities for and infrequent turnover of disadvantaged firms, (2) access to capital and high entry costs, and (3) firms' lack of experience with the airport bidding process. For example, the Fort Lauderdale airport awarded over \$72 million in construction-related contracts to 18 DBE firms in fiscal year 2012, yet only 1 of these firms was new. Moreover, 9 of the 26 new DBE/ACDBE firms we contacted said they had difficulty obtaining enough capital to finance their businesses—a key barrier for many firms.

We are making recommendations to help DOT and FAA promote and track new DBE/ACDBE participation at the Nation's 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 1964.⁸ In 1987, Congress expanded the program to apply to airport concessions, which resulted in the creation of the ACDBE program.⁹ Recently, DOT designated the Departmental Office of Civil Rights (OCR) as the lead office for DBE/ACDBE program oversight. The Departmental OCR, Office of General Counsel, and Office of Small and Disadvantaged Business Utilization (OSDBU) previously shared this responsibility. FAA, as an Operating Administration within DOT, is responsible for overseeing airports' implementation of their DBE and ACDBE programs. The DBE program focuses primarily on construction and professional services contracts, while the ACDBE program focuses on lease and supplier agreements for food, beverage, retail, and car rental services. To qualify as a DBE or ACDBE, one or more of the firm's owners must be certified¹⁰ as socially and economically disadvantaged.¹¹ Once certified, these firms can qualify indefinitely, as long as they recertify when required and continue to meet eligibility requirements.

⁸ Many States and local jurisdictions also administer their own DBE programs. These are separate from DOT's DBE and ACDBE programs and are not included in the scope of our audit.

⁹ The ACDBE program was authorized by Congress in Title 49 of U.S.C. Section 47107(e).

¹⁰ DBEs are certified by State Departments of Transportation, local transit agencies, or some airport authorities.

¹¹ According to DOT, socially disadvantaged individuals include Black Americans, Hispanic Americans, Asian Pacific Americans, Sub-Continent Asian Americans, Native Americans, and Women having less than \$1.32 million in personal net worth (not including equity in a primary residence) and earning annual receipts not exceeding \$22.4 million.

The DBE regulations require each airport to establish overall DBE and ACDBE goals.¹² These goals reflect the grantee's determination of the level of DBE/ACDBE participation that would be expected absent the effect of discrimination. For DBE participation, airports report their success in achieving their goals based on the percentage of Federal contract dollars awarded to DBE firms. For ACDBE participation, airports report their success in achieving their goals based on the percentage of the airport's concession revenues that ACDBE firms receive. In short, airports' success is not measured by the number of DBE and ACDBE participants but on the amount of dollars DBE/ACDBE firms receive.

AIRPORTS VARIED IN THE NUMBER OF NEW DISADVANTAGED FIRMS RECEIVING CONTRACTS OR LEASES IN FISCAL YEAR 2012

In fiscal year 2012, 83 new DBE/ACDBE firms were awarded contracts and leases at the Nation's 64 largest airports. However, the airports varied in the number of new DBE/ACDBE firms—with five airports accounting for nearly half of the new entrants. To conduct our review, we had to request and compile data on each airport's new DBE/ACDBE firms because FAA is not required to track data on new entrants.¹³ While reviewing the data, we found errors in over one-third of the DBE/ACDBE reports that the 64 airports submit annually—due in part to shortfalls in the Agency's data collection system and oversight. These errors limit FAA's ability to evaluate the effectiveness of the airports' DBE/ACDBE programs.

Number of New Entrants Varied at the 64 Airports

In fiscal year 2012, a total of 83 new DBE/ACDBE firms were awarded contracts and leases at the Nation's 64 largest airports (see exhibit B for the number of new DBE/ACDBEs by airport). However, just 5 airports accounted for nearly half of these 83 new entrants: Phoenix (14), Atlanta (10), Miami (7), Milwaukee (4), and New Orleans (4). We also identified three key factors that played a major role in creating opportunities for new firms: major construction projects, new terminal openings, and re-bidding large concession leases. Table 1 lists the key factors and number of new DBE/ACDBE firms at the five airports with the most new entrants. For example, three new DBE firms were hired to work on a major construction project at the Miami airport, which involved building a new air-conditioning

¹² Title 49 CFR Parts 23 and 26 require recipients to submit an overall goal for DBE/ACDBE participation in DOT-assisted contracts. Recipients cannot be penalized unless they failed to administer the program in good faith.

¹³ DOT requires airports to report the number of DBE contracts and ACDBE leases awarded annually. This figure does not provide information on the number of DBE/ACDBE firms because a single firm may obtain multiple contracts or leases.

facility. At the Atlanta airport, the opening of a new terminal created opportunities for 10 new ACDBE firms.

Table 1. Key Factors That Created DBE/ACDBE Opportunities at the Five Airports With the Most New Entrants in Fiscal Year 2012

Airport	No. of new entrants	Major construction project	Opening of new terminal	Re-bidding of large concession lease
Phoenix	14			✓
Atlanta	10		✓	✓
Miami	7	✓		
Milwaukee	4	✓		
New Orleans	4	✓		

Source: OIG analysis

In comparison, 33 airports had no new entrants in fiscal year 2012, including the airports at Dallas/Fort Worth, Denver, and Newark. It is important to note that the lack of new entrants at these 33 airports does not indicate a lack of support for DOT's DBE/ACDBE program, as some of these airports awarded contracts to DBE/ACDBE firms that were not new to the program. For instance, in fiscal year 2012 Houston Bush Intercontinental airport awarded over \$8 million in contracts to seven disadvantaged firms, but none were new to the program. (See exhibit C for a breakdown of the total number of new and existing DBE/ACDBE firms, and associated contract awards and lease revenues, at the 64 largest airports in fiscal year 2012.)

Overall, the 83 new DBE/ACDBE firms represent only 5.3 percent of the nearly 1,600 DBE/ACDBE firms doing business at the 64 airports (see table 2). In addition, the new firms received only 1.1 percent (about \$30 million) of the total FAA DBE contract awards and ACDBE lease revenues in fiscal year 2012.

Table 2. Number of New DBE/ACDBEs and the Value of Their Contract Awards and Leases at the Nation's 64 Largest Airports

	Number of new entrants	Total number of all disadvantaged firms	Percent of new disadvantaged firms	Value of contract awards/leases to new entrants	Total value of all awards/leases to disadvantaged firms	Percent of awards/leases to new disadvantaged firms
DBE	46	546	8.4%	\$22,755,098	\$294,688,963	7.7%
ACDBE	37	1,014	3.6%	\$7,331,230	\$2,459,382,948	0.3%
Total	83	1,560	5.3%	\$30,086,328	\$2,754,071,911	1.1%

Source: OIG analysis of FAA data

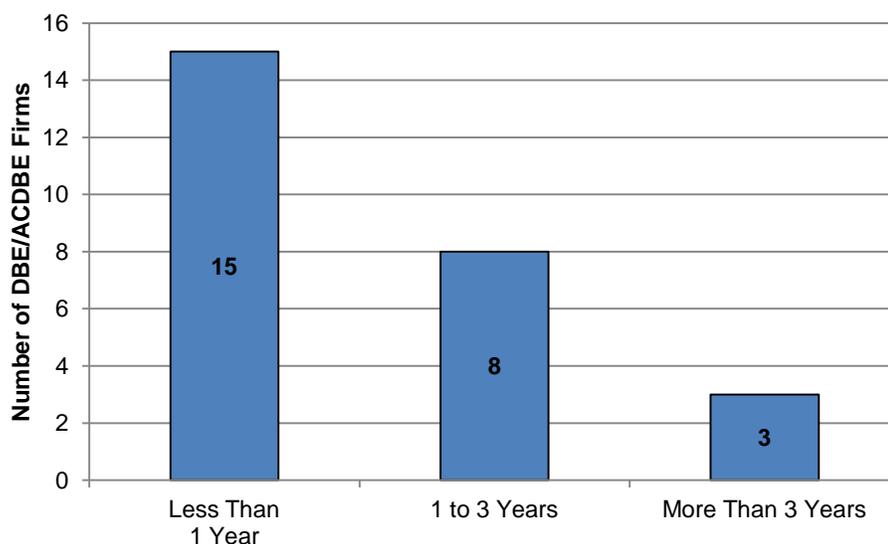
As table 2 shows, a higher percentage of new DBE firms were awarded contracts than the percentage of new ACDBE firms receiving leases. Specifically, 8.4 percent of DBEs were new to the program in fiscal year 2012, compared to only 3.6 percent of ACDBEs. Moreover, 7.7 percent of all DBE contract dollars were awarded to new DBE firms in fiscal year 2012, while only 0.3 percent of all ACDBE lease revenues were generated by new ACDBE firms. New ACDBEs earned a smaller percentage of total ACDBE revenues, in part because some new firms could not start earning revenue until construction of their leased spaces was completed in fiscal year 2013. For example, while the Atlanta airport awarded leases to 10 new firms in fiscal year 2012, none of these firms generated any revenue before the end of the fiscal year.

We also interviewed representatives from 26 new DBE/ACDBE firms about their experiences obtaining their first contract or lease in fiscal year 2012. Of the 26 new DBE/ACDBEs in our sample, 18 were sole owners and 8 were in partnerships. All 26 disadvantaged firms were either subcontractors under prime contractors or lessees under prime concessionaires.¹⁴ Subcontract or sublease relationships can help new DBE and ACDBE firms by providing important support services. For example, the owners of an ACDBE firm said their Chicago O'Hare airport work has benefited from services provided by the prime concessionaire—such as information technology, credit card, and commissary services.

Our interviews also determined that, on average, new firms received their first airport contract or lease about 15 months after becoming certified as DBEs or ACDBEs. About half of the new firms obtained their first airport contracts or leases within a year of certification, but other firms did not gain entry for more than 3 years after certification (see figure 1). A lengthy period between certification and first award illustrates the difficulties that some firms face in obtaining airport work. Additionally, these results only pertain to successful new entrants and do not take into account the many certified DBE/ACDBE firms that have never received work on a DOT federally funded project, an issue we first reported in 2013.

¹⁴ A prime contractor has a direct contract with an airport to provide goods or services and may award subcontracts to smaller firms, including DBEs. A prime concessionaire operates a substantial portion of the airport's concessions facilities and may enter into subleases or partnerships with other firms, including ACDBEs.

Figure 1. Years Between Certification and First Award for 26 New DBE/ACDBE Firms



Source: OIG analysis of 26 new DBE/ACDBE entrants in fiscal year 2012

Finally, the new DBE/ACDBE firms represented a variety of socially disadvantaged groups: Black Americans (9), Hispanic Americans (9), Non-Minority Women (5), and Asian Americans (3). Three of the new firms were also veteran-owned, although this is not a criterion for being certified as a DBE/ACDBE.

FAA's DBE Reporting System Does Not Collect Data on New Entrants and Lacks Adequate Controls

FAA collects some data on airports' DBE and ACDBE participation using a system called the DBE Office Online Reporting System (DOORS).¹⁵ To comply with DOT requirements, airports submit DOORS reports—which includes the annual number of contracts awarded to DBEs, the number of leases held by ACDBEs, and associated contract dollars and lease revenues. However, Federal regulations do not require FAA to track data on new entrants. Consequently, FAA has not required airports to collect specific data on new DBE/ACDBE firms. DOORS data also do not distinguish between contract awards, leases, and revenues associated with new DBE/ACDBE firms and those associated with existing DBE/ACDBE firms. This information would help FAA gauge whether the program provides opportunities for new disadvantaged businesses.

¹⁵ OSDBU initially developed DOORS in 2009, which was intended to be a departmentwide DBE system, but this effort was never completed. Currently, only FAA uses DOORS to collect DBE data.

Because FAA does not track data on new entrants, we had to request and compile data on each airport's new DBE/ACDBE firms to conduct our review.¹⁶ While reviewing this data, we identified errors—confirmed by airport officials—in over one-third of the 64 airports' DOORS data submissions for fiscal year 2012. For example:

- San Francisco airport did not report any ACDBE car rental revenues. Because the airport did not include these \$57 million in revenues, it did not meet its overall ACDBE goal.
- Houston Bush Intercontinental airport reported \$588,000 in DBE contract awards—just 2 percent of its overall goal. After we questioned this figure, the airport stated that the correct amount was actually \$8 million.
- Burbank airport incorrectly reported \$4.4 million in DBE awards. After we questioned this figure, the airport stated that the correct amount was roughly \$1 million—an 80-percent difference.
- Portland airport incorrectly included more than \$5 million of local disadvantaged concessions in its original DOORS report to FAA. As a result, the airport inaccurately reported that it achieved its ACDBE goal for fiscal year 2012. The airport did not submit revised numbers to FAA until February 2014—nearly a year after the original data were due.

FAA uses DOORS data to measure the extent to which each airport meets its DBE and ACDBE goals. However, inaccuracies such as the ones we identified prevent FAA from accurately determining the extent to which these airports met their fiscal year 2012 goals. The inaccuracies also affect the quality of the aggregate State data that FAA reports annually to DOT. The Department relies on these data to determine whether its national aspirational goal has been met.¹⁷

FAA and airport officials agree that completing DOORS reports is a complicated and sometimes confusing process—a factor that likely contributes to the inaccuracies we identified. FAA offers annual DOORS training at national conferences and provides airports with training materials. However, based on our results, it is unclear whether the training is sufficient, especially for airports with high turnover rates for officials tasked with entering DOORS data. Further, FAA has only 8 full-time staff assigned to monitor about 1,000 airport recipients—a key weakness we identified in our April 2013 report. FAA also lacks an effective

¹⁶ In our 2013 audit report, we recommended that Operating Administrations track each DBE firm's number of years in the program and the number of DBE subcontracts or prime contracts received since first becoming certified.

¹⁷ In accordance with Title 49 CFR Parts 26.41 and 23.59, not less than 10 percent of DOT's authorized funds are to be expended with DBE/ACDBEs. This 10-percent goal is aspirational at the national level, and the Department uses this goal as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

process for verifying the accuracy of airport DOORS submissions. While FAA and the Department are both planning to introduce new systems to replace DOORS, the extent to which either will resolve current DOORS limitations is unknown.

AIRPORTS ARE TAKING STEPS TO ENCOURAGE AWARDS TO NEW DISADVANTAGED FIRMS

To encourage awards to new DBE/ACDBE firms, airports are taking steps such as unbundling major contracts and leases, entering into direct contracts or leases with DBE/ACDBE firms, conducting outreach, and providing financial assistance.¹⁸ Despite these efforts, new DBE/ACDBEs continue to face a number of major barriers to obtaining airport work.

Airports Are Taking Various Steps To Award Contracts and Leases to New Entrants

Many airports are taking steps to encourage DBE/ACDBE participation. FAA's continued efforts to foster the use of these steps as best practices could go far in increasing the number of new DBEs and ACDBEs at the Nation's airports. Airports' efforts include the following:

Unbundling large contracts: Traditionally, airports have awarded large construction and concession contracts to a single prime contractor or concessionaire. To increase opportunities for DBE firms, airports are unbundling larger construction contracts into multiple components. For example, the Milwaukee airport unbundled a large residential soundproofing contract to create individual contracts for each of the several hundred homes. Previously, the airport awarded contracts in 25-home bundles, which were generally too large and complex for small DBE firms. By unbundling, the airport was able to encourage DBE firms to act as prime contractors, coordinating electrical, plumbing, doors and windows, and other related soundproofing requirements. Overall, the airport awarded contracts to 48 DBE firms, including 3 new DBEs, for fiscal year 2012.

Unbundling can also increase airport concession opportunities for ACDBEs. A number of airports have begun awarding contracts to multiple prime concessionaires—such as by awarding several contracts for individual terminals or concourses rather than a single contract for the entire airport. This practice increases the number of prime concessionaires who, in turn, can provide more opportunities to more ACDBE firms. For example, the Atlanta airport previously had only one concessionaire with a 30-year contract. Today, the airport has multiple prime concessionaires with 10-year contracts distributed among the

¹⁸ These steps could also help existing DBE/ACDBE firms obtain work at the airports.

airport's five terminals. Overall, the Atlanta airport provided new lease opportunities for 10 new ACDBE firms in fiscal year 2012.

Entering into direct contracts or leases with DBE/ACDBE firms: Some airports award contracts for construction work or lease concession space directly to disadvantaged firms, rather than work through a prime contractor or concessionaire. For example, between 2012 and 2014, the Milwaukee airport plans to directly award all 562 contracts associated with a major noise mitigation program to both DBE and non-DBE contractors. Similarly, the Seattle airport has directly contracted or leased to over 20 disadvantaged firms since 2005. According to airport officials and industry experts, direct contract award or leasing can be the most effective means for bringing new DBE/ACDBE participants to an airport.

Conducting outreach: Airports use a variety of methods to advertise DBE/ACDBE opportunities and educate firms on how to do business with airports. For example, the Dallas/Fort Worth, Fort Lauderdale, and Miami airports conduct outreach events to inform contractors and vendors of upcoming business opportunities. Other advertising methods include public Web sites, local newspapers, and other media. For example, the Philadelphia airport is using innovative social media approaches to advertise DBE/ACDBE opportunities. Several airports—such as those in Atlanta, Miami, and New Orleans—also offer educational programs to help disadvantaged firms understand the airport bidding process, the certification process, and airport business operations. In addition, the Port Authority of New York and New Jersey (which oversees the John F. Kennedy, LaGuardia, and Newark airports) offers a mentor-protégé program, which provides minority- and women-owned firms with additional assistance in areas such as construction contract law and financial and project management.

Providing financial assistance: In some cases, airport sponsors, prime concessionaires, and DOT are working together to overcome financial barriers to new DBE/ACDBE entrants. The City of Phoenix, in partnership with a national bank and a prime concessionaire, is providing \$4 million in financing for small and disadvantaged businesses at the Phoenix airport. The program has provided financing to four ACDBE businesses at the Phoenix airport—two of which were new for fiscal year 2012. According to an official from the City of Phoenix, representatives of other jurisdictions have contacted the city to learn more about this innovative financing approach.

In addition, OSDBU administers a short-term lending program through which DBEs and other small businesses can seek lines of credit to finance the direct labor and material costs to complete transportation-related contracts. OSDBU also enters into partnerships with various local organizations to establish Small Business Transportation Resource Centers throughout the Nation. These centers

can provide counseling, loan and bond assistance, and technical support for small businesses seeking transportation-related contracts.

New DBE/ACDBE Firms Face Major Barriers to Obtaining Work at the Nation's Largest Airports

Despite airports' efforts to encourage awards to DBE/ACDBEs firms, new entrants face a number of major barriers to obtaining airport work. These barriers include (1) limited opportunities for and infrequent turnover of DBE/ACDBE firms, (2) access to capital and high entry costs, and (3) firms' lack of experience with the airport bidding process.

Limited opportunities for and infrequent turnover of DBE/ACDBE firms: According to FAA, airport, and industry experts, there are only a limited number of construction and concession opportunities available at the largest airports. The main factor determining the number of DBE opportunities is whether the airport receives any FAA grant funds. Without such funding, airports are not required to award contracts to DBEs. As table 3 shows, airports with the most FAA funding tended to award more contracts to new and existing DBE firms in fiscal year 2012.

Table 3. FAA Funding Levels at Selected Airports and Number of Existing and New DBE Firms in Fiscal Year 2012

Airport	FAA funding	Number of existing DBE firms	Number of new DBE firms
Detroit, MI	\$24,148,078	23	3
Indianapolis, IN	\$5,472,594	20	2
Cleveland, OH	\$2,502,083	17	2
Houston Hobby, TX	\$0	0	0
Ontario, CA	\$0	0	0

Source: OIG analysis of FAA data

According to officials at several airports we contacted, another factor impacting the number of DBE opportunities was a 2005 court ruling.¹⁹ This ruling requires all grantees in the 9th Circuit to provide evidence of discrimination—such as a disparity study²⁰—before they can establish race-conscious DBE goals in their programs. Several airports in the 9th Circuit's jurisdiction, such as Phoenix and Las Vegas, have completed disparity studies since the ruling. In contrast, officials

¹⁹ *Western States Paving Co. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005). Only airports in the 9th Circuit are affected by this ruling. The 9th Circuit includes Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

²⁰ A disparity study refers to an analysis of whether differences exist between the number of specified individuals or groups that are available to participate in certain opportunities and those that actually do participate in those areas. For our audit, we examined eight disparity studies.

from the Los Angeles, John Wayne-Orange County, and San Jose airports—which are also located in the 9th Circuit—stated that they had not yet conducted the required disparity studies and, therefore, were unable to establish race-conscious goals. According to these officials, the lack of race-conscious goals contributed in part to the airports’ difficulties in meeting their fiscal year 2012 DBE goals. To help these airports comply with the ruling, FAA has recommended that they use relevant State or local disparity studies as a basis for developing race-conscious goals.²¹ FAA also offers financial assistance for airports to conduct disparity studies and has increased the funding priority for studies done in the 9th Circuit.

For ACDBEs, opportunities are limited by the length of concession leases and rental car leasing practices. New ACDBEs face difficulties obtaining concession leases because existing firms typically hold leases on average between 7 and 10 years. In one extreme example, the Anchorage airport has concession leases with six rental car companies: five with 15-year leases and one with a 13-year lease. Officials at multiple airports also cited difficulty meeting ACDBE rental car concession goals. For example, the Atlanta airport—which had one of the highest numbers of new ACDBE entrants in fiscal year 2012—was not able to meet its modest goal for rental car concessions (5 percent); the airport reported achieving 0.03 percent participation in fiscal year 2012. A key reason is that rental car companies typically sign contracts with nationwide suppliers rather than use ACDBEs.

Moreover, when construction and concession opportunities do become available, new firms frequently have to compete against existing firms—many with substantial experience and work histories with the airport or prime contractor/concessionaires. Since there is no term limit for participation in the DBE program, existing DBE/ACDBE firms who meet DBE/ACDBE eligibility requirements may continue to win contracts or leases for decades—increasing the challenges new firms face in obtaining work at airports. In addition, airports are not required to actively seek out new firms to meet their DBE/ACDBE goals. Given all of these factors, we found that the number of new DBE/ACDBE firms was low relative to the number of existing disadvantaged firms in fiscal year 2012. New DBE and ACDBE entrants represented only 8.4 percent and 3.6 percent, respectively, of all disadvantaged firms receiving contracts or holding leases in fiscal year 2012.

²¹ The Los Angeles airport agreed to use the State of California and City of Los Angeles disparity studies in developing their race-conscious goals for fiscal year 2014. In contrast, John Wayne-Orange County airport determined that these two studies were not applicable to their local business environment. The San Jose airport does not currently have a DBE program since it did not receive FAA funding in fiscal year 2014.

Access to capital and high entry costs: New DBE/ACDBE firms face significant financial hurdles in obtaining work at the Nation's largest airports, including access to capital, high entry costs, and unexpected expenses. FAA and airport officials, as well as owners of DBE/ACDBE firms, told us that access to capital is one of the leading barriers to new DBE/ACDBE firms. For example, 9 of the 26 new DBE/ACDBE firms we contacted said they had difficulty obtaining enough capital to finance their businesses. One new business owner at the Atlanta airport was unable to secure local loans and had to locate banks in Kansas and Missouri to obtain \$700,000 in financing. Other owners of new DBE firms who struggled to secure business loans resorted to selling or borrowing against the value of their homes or retirement accounts; some also sought funds from friends and family. Difficulty obtaining loans is particularly problematic for firms owned by minorities, according to disparity studies we examined. For example, a study conducted for the State of Maryland determined that loan requests from minority-owned firms were more likely to be denied than those of non-minorities—even after accounting for differences in firm size and credit history.²²

Many airport-related businesses also have high entry costs, requiring sizeable financial investments that can easily exceed \$1 million. Such costs typically include storefront design and construction, as well as franchise or license fees. For example, one owner invested \$1.5 million in two coffee shops at the Phoenix airport. Another owner invested \$1 million in a Wendy's at the John F. Kennedy airport in New York. Rental car concessions are even more capital intensive due to the expense of purchasing large quantities of automobiles and related items such as tires, fuel, and oil. According to a senior executive at a rental car company, rental car concessions are not affordable options for most small businesses.

Further, new DBE/ACDBE firms can encounter unexpected expenses when establishing and operating their airport businesses. For example, one new restaurant owner at the Atlanta airport paid \$23,000 per month on his lease for 15 months while awaiting completion of the storefront. The firm could not generate revenue to offset lease costs until construction was completed. In addition, firms must obtain background clearances for their employees before they can begin working at airports. According to one owner, background checks can cost upwards of \$250 per employee per year. Moreover, half of the new DBE firms we interviewed cited difficulty in receiving timely payments from their prime contractors. For example, one DBE owner was not paid by her prime contractor for 6 weeks after payment was due and had to take out more than \$180,000 in personal loans to pay her 63 employees.

²² *The State of Minority- and Women-Owned Business Enterprise: Evidence from Maryland*, prepared for the Maryland Department of Transportation by NERA Economic Consulting, Feb. 17, 2011.

Inexperience with the airport bidding process: Newly certified DBE/ACDBE firms frequently lack sufficient experience with the airport bidding process, which hinders their ability to compete for work. According to an industry expert, many airports require bidders to submit complex written proposals, which can be expensive and intimidating for new DBE/ACDBE firms to develop. According to the Phoenix airport disparity study,²³ the complexity of the bidding process leads some firms to hire expensive consultants and attorneys. For example, a business owner reported spending over \$100,000 to prepare bid packages for nine concession opportunities at the Atlanta airport, yet he received only one lease. Similarly, a San Antonio restaurant owner hired two attorneys because he was unable to understand the airport's bid information.

During the bidding process, ACDBE firms also need to be aware of which locations within the airport might be more conducive to higher concession sales and revenue. For instance, one business owner told us that she is losing money at one location at the Seattle airport, which is in a low-traffic terminal. However, her losses are offset by two other locations in higher traffic areas. Adequate knowledge of the airport bidding process is critical for disadvantaged businesses to operate successfully.

CONCLUSION

The Department's DBE/ACDBE program aims to help small businesses owned and controlled by socially and economically disadvantaged individuals obtain work at the Nation's airports. While many airports and their prime contractors/concessionaires have taken steps to award contracts and leases to new disadvantaged firms, our work shows that new firms represent only a small percentage of the nearly 1,600 DBE/ACDBE firms doing business at the Nation's 64 largest airports. This is due in large part to limited construction and concession opportunities for new firms, infrequent turnover among existing firms, and financial hurdles. Additionally, FAA's lack of data on new entrants—as well as the considerable number of errors in airports' DOORS data—limits the Department's and FAA's ability to evaluate the effectiveness of the airports' DBE/ACDBE programs. By promoting airport best practices and collecting data on new entrants, FAA and the Department will be better positioned to aid airports in increasing the number of new disadvantaged firms doing business at our Nation's airports.

²³ *Final Report on Phoenix Airport Concessions Disparity Study*, prepared for the City of Phoenix by Exstare Federal Services Group, May 21, 2010.

RECOMMENDATIONS

We recommend that FAA's Office of Civil Rights, in coordination with the Departmental Office of Civil Rights, 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 DOORS provides improved data entry, processing, and validation capabilities.
3. Provide airports with a list of best practices—including those identified in this report—for promoting the use of new DBE/ACDBE firms.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided a draft of this report to the Departmental Office of Civil Rights (DOCR) and FAA on April 17, 2014. We received a response from FAA (on behalf of DOCR) on June 4, 2014, which is included in its entirety as an appendix to this report. FAA concurred with recommendations 2 and 3 and partially concurred with recommendation 1.

For recommendations 2 and 3, FAA concurred and provided appropriate planned actions and timeframes. We consider these recommendations resolved but open pending completion of the planned actions.

For recommendation 1, FAA partially concurred, stating that the Agency is currently participating in departmentwide efforts to examine the potential benefits of collecting new DBE/ACDBE participation data. Because FAA will not decide whether it will track these data until the study is complete, it is unclear whether these efforts will meet the intent of our recommendation. Accordingly, we consider this recommendation open and unresolved. If FAA decides to collect new DBE/ACDBE participation data, we request that FAA provide timeframes for when it will begin requiring airports to collect and report these data. If FAA decides not to collect the data, we request that FAA clarify what alternative actions it will take to assess whether the program provides opportunities for new disadvantaged businesses, which is the intent of our recommendation.

ACTIONS REQUIRED

FAA's planned actions and timeframes for recommendations 2 and 3 are responsive, and we consider them resolved but open pending completion of the planned actions. We consider recommendation 1 open and unresolved. In accordance with Department of Transportation Order 8000.1C, we request that FAA provide additional information regarding its planned actions for recommendation 1, as described above.

We appreciate the courtesies and cooperation of DOCR and FAA representatives 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.

#

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

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted our work from April 2013 through April 2014 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 contract awards or lease revenue for the 64 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 all 64 airports to identify the names and associated dollars for all new DBE/ACDBE firms awarded contracts or leases in fiscal year 2012. This resulted in the preliminary identification of 250 DBE/ACDBE firms.²⁴ We then contacted these firms to determine if they were new to the DOT DBE program (not just to FAA); 83 of these firms were actually new in fiscal year 2012.²⁵

To determine what factors led some airports to award more contracts to new DBE firms, we interviewed officials and collected documentation from OSDBU, the Departmental Office of Civil Rights, FAA's OCR, and 18 airport authorities. We selected these 18 authorities based on several factors, such as number of airports under their jurisdiction²⁶ and relative number of new DBE/ACDBE firms (e.g., those with some of the highest and lowest numbers of new entrants). We also interviewed a stratified random sample of 26 of 81²⁷ new DBE/ACDBE firms about their experiences obtaining their first airport contract or lease in fiscal year 2012. Finally, to help identify additional factors affecting new DBE/ACDBE participation, we contacted officials from the Airport Minority Advisory Council and reviewed eight studies conducted within the last 5 years.²⁸

²⁴ 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 contracts funded by the Federal Highway Administration or the Federal Transit Administration.

²⁵ We initially identified a universe of 81 new firms. During our review, we determined that three of these firms were not new and identified five additional new firms. One key factor affecting the inclusion or exclusion of firms from our count was the owner's misunderstanding about whether he/she was participating in a local versus the Federal DOT DBE/ACDBE program.

²⁶ These 18 airport authorities were responsible for overseeing 24 of the 64 largest airports in fiscal year 2012. A number of the authorities were responsible for two or more airports. For example, the Port Authority of New York and New Jersey oversees three large airports (John F. Kennedy, LaGuardia, and Newark).

²⁷ Based on this universe of 81 firms, we initially drew a sample of 29 firms. However, we determined during our review that 3 of the 29 firms were not new, leaving a final sample of 26 new firms that we interviewed.

²⁸ We limited our review to disparity studies that were readily available at the time of our audit. The eight studies were: Memphis-Shelby County Airport Authority, TN (Dec. 2008); City of Phoenix Sky Harbor International Airport, AZ (May 2010); Broward County, FL (Nov. 2010); City of Charlotte, NC (Sep. 2011); City of Houston, TX (Apr. 2012);

We did not systematically audit the data contained in the DOORS database. However, we performed sufficient tests to validate the completeness and accuracy of the data. When we identified anomalies or apparent errors, we followed up with relevant airport officials to obtain the correct data.²⁹ When necessary, we excluded some of the data or disclosed an existing limitation. Finally, we held discussions with FAA managers responsible for maintaining the DOORS database to understand and attempt to resolve any remaining inconsistencies.

California Department of Transportation (Aug. 2012); City and County of Denver, CO (Jun. 2013); and Maryland Department of Transportation (Feb. 2011 and Jul. 2013).

²⁹ After we completed our analysis, the Boston airport provided revised DOORS data pertaining to DBE award amounts. Without time to verify, we were not able to include the revised data in this report.

Exhibit A. Scope and Methodology

EXHIBIT B. NUMBER OF NEW DBE AND ACDBE FIRMS AT THE 64 LARGEST AIRPORTS IN FISCAL YEAR 2012

Airport	Number of new DBE firms	Number of new ACDBE firms	Total number of new firms
1 Phoenix, AZ	6	8	14
2 Atlanta, GA	0	10	10
3 Miami, FL	3	4	7
4 Detroit, MI	3	1	4
5 Milwaukee, WI	3	1	4
6 New Orleans, LA	3	1	4
7 Palm Beach, FL	1	2	3
8 Philadelphia, PA	3	0	3
9 Sacramento, CA	1	2	3
10 San Francisco, CA	1	2	3
11 Baltimore, MD	2	0	2
12 Burbank, CA	2	0	2
13 Chicago O'Hare, IL	2	0	2
14 Cleveland, OH	2	0	2
15 Indianapolis, IN	2	0	2
16 Nashville, TN	2	0	2
17 San Antonio, TX	0	2	2
18 Albuquerque, NM	1	0	1
19 Austin, TX	1	0	1
20 Buffalo, NY	1	0	1
21 Dallas Love Field, TX	0	1	1
22 Fort Lauderdale, FL	1	0	1
23 John F. Kennedy, NY	1	0	1
24 John Wayne-Orange County, CA	0	1	1
25 Los Angeles, CA	1	0	1
26 Minneapolis, MN	1	0	1
27 Pittsburgh, PA	1	0	1
28 Salt Lake City, UT	1	0	1
29 San Jose, CA	0	1	1
30 Tampa, FL	0	1	1
31 Washington Reagan, DC	1	0	1
32 Anchorage, AK	0	0	0
33 Boston, MA	0	0	0
34 Charlotte, NC	0	0	0
35 Chicago Midway, IL	0	0	0
36 Cincinnati, OH	0	0	0

Exhibit B. Number of New DBE and ACDBE Firms at the 64 Largest Airports in Fiscal Year 2012

Airport	Number of New DBE Firms	Number of New ACDBE Firms	Total Number of New Firms
37 Columbus, OH	0	0	0
38 Dallas/Fort Worth, TX	0	0	0
39 Denver, CO	0	0	0
40 Fort Myers, FL	0	0	0
41 Hartford, CT	0	0	0
42 Honolulu, HI	0	0	0
43 Houston Bush Intercontinental, TX	0	0	0
44 Houston Hobby, TX	0	0	0
45 Jacksonville, FL	0	0	0
46 Kahului, HI	0	0	0
47 Kansas City, MO	0	0	0
48 La Guardia, NY	0	0	0
49 Las Vegas, NV	0	0	0
50 Memphis, TN	0	0	0
51 Newark, NJ	0	0	0
52 Oakland, CA	0	0	0
53 Omaha, NE	0	0	0
54 Ontario, CA	0	0	0
55 Orlando, FL	0	0	0
56 Portland, OR	0	0	0
57 Providence, RI	0	0	0
58 Raleigh-Durham, NC	0	0	0
59 Reno, NV	0	0	0
60 San Diego, CA	0	0	0
61 Seattle, WA	0	0	0
62 St. Louis, MO	0	0	0
63 Tucson, AZ	0	0	0
64 Washington Dulles, VA	0	0	0
Totals	46	37	83

Source: OIG analysis of FAA data

Exhibit B. Number of New DBE and ACDBE Firms at the 64 Largest Airports in Fiscal Year 2012

EXHIBIT C. NUMBER OF NEW AND EXISTING DBE/ACDBE FIRMS AT THE 64 LARGEST AIRPORTS IN FISCAL YEAR 2012, 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	1	1	3	\$262,059	\$278,479	0	5	\$0	\$18,300,470
2 Anchorage, AK	0	0	4	\$0	\$1,293,782	0	5	\$0	\$3,541,177
3 Atlanta, GA	10	0	23	\$0	\$18,296,863	10	53	\$0	\$189,511,954
4 Austin, TX	1	1	6	\$307,921	\$870,616	0	19	\$0	\$9,172,223
5 Baltimore, MD	2	2	12	\$326,893	\$8,052,250	0	28	\$0	\$61,677,526
6 Boston, MA	0	0	0	\$0	\$0	0	16	\$0	\$22,075,203
7 Buffalo, NY	1	1	13	\$254,100	\$4,159,585	0	3	\$0	\$9,210,952
8 Burbank, CA	2	2	3	\$949,000	\$996,134	0	3	\$0	\$19,212,247
9 Charlotte, NC	0	0	14	\$0	\$6,966,671	0	11	\$0	\$39,879,656
10 Chicago Midway, IL	0	0	5	\$0	\$1,323,519	0	15	\$0	\$27,673,492
11 Chicago O'Hare, IL	2	2	20	\$3,334,460	\$45,906,067	0	35	\$0	\$159,343,363
12 Cincinnati, OH	0	0	0	\$0	\$0	0	5	\$0	\$1,041,464
13 Cleveland, OH	2	2	19	\$58,275	\$2,133,267	0	19	\$0	\$66,117,490
14 Columbus, OH	0	0	6	\$0	\$1,002,545	0	10	\$0	\$2,314,122
15 Dallas Love Field, TX	1	0	12	\$0	\$6,579,424	1	11	\$0	\$31,121,621
16 Dallas/Fort Worth, TX	0	0	17	\$0	\$6,790,771	0	38	\$0	\$125,988,940
17 Denver, CO	0	0	10	\$0	\$3,231,977	0	42	\$0	\$95,776,696
18 Detroit, MI	4	3	26	\$133,061	\$14,422,341	1	31	\$0	\$69,795,806
19 Fort Lauderdale, FL	1	1	18	\$11,007,922	\$72,125,940	0	20	\$0	\$28,610,326
20 Fort Myers, FL	0	0	3	\$0	\$207,157	0	4	\$0	\$11,912,689

Exhibit C. Number of New and Existing DBE/ACDBE Firms at the 64 Largest Airports in Fiscal Year 2012, 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
21 Hartford, CT	0	0	8	\$0	\$1,672,682	0	2	\$0	\$2,627,818
22 Honolulu, HI	0	0	0	\$0	\$0	0	5	\$0	\$20,590,250
23 Houston Bush Intercontinental, TX	0	0	7	\$0	\$8,019,238	0	53	\$0	\$134,876,169
24 Houston Hobby, TX	0	0	0	\$0	\$0	0	17	\$0	\$30,214,771
25 Indianapolis, IN	2	2	22	\$125,150	\$1,125,478	0	13	\$0	\$4,739,382
26 Jacksonville, FL	0	0	9	\$0	\$663,976	0	13	\$0	\$7,185,998
27 John F. Kennedy, NY	1	1	7	\$505,575	\$2,382,232	0	26	\$0	\$80,447,790
28 John Wayne-Orange County, CA	1	0	0	\$0	\$0	1	4	\$1,161,245	\$6,134,558
29 Kahului, HI	0	0	0	\$0	\$0	0	3	\$0	\$3,246,255
30 Kansas City, MO	0	0	12	\$0	\$1,518,375	0	2	\$0	\$4,975,567
31 La Guardia, NY	0	0	5	\$0	\$1,124,353	0	13	\$0	\$23,463,636
32 Las Vegas, NV	0	0	7	\$0	\$1,357,140	0	21	\$0	\$67,410,384
33 Los Angeles, CA	1	1	1	\$348,000	\$348,000	0	17	\$0	\$148,056,772
34 Memphis, TN	0	0	9	\$0	\$27,419,971	0	9	\$0	\$8,078,286
35 Miami, FL	7	3	8	\$552,225	\$1,923,833	4	37	\$679,112	\$139,987,494
36 Milwaukee, WI	4	3	48	\$258,306	\$12,417,381	1	11	\$1,914	\$8,841,653
37 Minneapolis, MN	1	1	12	\$15,300	\$566,140	0	11	\$0	\$19,800,252
38 Nashville, TN	2	2	8	\$220,720	\$1,510,670	0	11	\$0	\$4,103,524
39 New Orleans, LA	4	3	15	\$414,858	\$1,034,312	1	26	\$0	\$26,156,212
40 Newark, NJ	0	0	2	\$0	\$1,720,335	0	29	\$0	\$95,078,375
41 Oakland, CA	0	0	1	\$0	\$71,805	0	8	\$0	\$12,200,864
42 Omaha, NE	0	0	1	\$0	\$487,500	0	5	\$0	\$2,620,105
43 Ontario, CA	0	0	0	\$0	\$0	0	6	\$0	\$2,660,746

Exhibit C. Number of New and Existing DBE/ACDBE Firms at the 64 Largest Airports in Fiscal Year 2012, 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
44 Orlando, FL	0	0	15	\$0	\$1,934,978	0	28	\$0	\$90,374,774
45 Palm Beach, FL	3	1	7	\$88,522	\$615,118	2	11	\$14,600	\$8,012,810
46 Philadelphia, PA	3	3	6	\$373,455	\$5,971,545	0	34	\$0	\$69,181,228
47 Phoenix, AZ	14	6	27	\$126,513	\$1,787,344	8	19	\$3,093,822	\$45,218,201
48 Pittsburgh, PA	1	1	10	\$5,280	\$1,295,002	0	11	\$0	\$12,073,553
49 Portland, OR	0	0	6	\$0	\$699,738	0	17	\$0	\$17,131,086
50 Providence, RI	0	0	11	\$0	\$465,523	0	1	\$0	\$510,994
51 Raleigh-Durham, NC	0	0	0	\$0	\$0	0	8	\$0	\$13,108,505
52 Reno, NV	0	0	1	\$0	\$32,287	0	3	\$0	\$2,703,959
53 Sacramento, CA	3	1	4	\$2,017,800	\$2,017,800	2	7	\$1,366,841	\$1,754,829
54 Salt Lake City, UT	1	1	5	\$20,711	\$667,757	0	9	\$0	\$13,103,825
55 San Antonio, TX	2	0	9	\$0	\$3,467,317	2	15	\$0	\$14,907,969
56 San Diego, CA	0	0	5	\$0	\$4,896,215	0	8	\$0	\$15,908,153
57 San Francisco, CA	3	1	4	\$900,000	\$4,448,155	2	14	\$0	\$113,862,963
58 San Jose, CA	1	0	0	\$0	\$0	1	6	\$1,010,762	\$22,435,988
59 Seattle, WA	0	0	0	\$0	\$0	0	15	\$0	\$41,537,263
60 St. Louis, MO	0	0	17	\$0	\$4,394,501	0	11	\$0	\$16,257,155
61 Tampa, FL	1	0	13	\$0	\$1,242,763	1	21	\$2,934	\$22,860,506
62 Tucson, AZ	0	0	4	\$0	\$375,677	0	2	\$0	\$2,022,152
63 Washington Dulles, VA	0	0	0	\$0	\$0	0	29	\$0	\$55,855,793
64 Washington Reagan, DC	1	1	6	\$148,992	\$376,435	0	30	\$0	\$34,786,965
TOTAL	83	46	546	\$22,755,098	\$294,688,963	37	1014	\$7,331,230	\$2,459,382,948

Source: OIG analysis of FAA data

Exhibit C. Number of New and Existing DBE/ACDBE Firms at the 64 Largest Airports in Fiscal Year 2012, Including Contract Awards and Lease Revenue

EXHIBIT D. AIRPORTS VISITED

Atlanta, GA

Baltimore, MD

Chicago Midway, IL

Chicago O'Hare, IL

Dallas/Fort Worth, TX

Detroit, MI

Fort Lauderdale, FL

Houston Bush Intercontinental, TX

Houston Hobby, TX

John F. Kennedy, NY

LaGuardia, NY

Las Vegas, NV

Los Angeles, CA

Miami, FL

Milwaukee, WI

New Orleans, LA

Newark, NJ

Ontario, CA

Phoenix, AZ

Philadelphia, PA

San Antonio, TX

Seattle, WA

Washington Dulles, VA

Washington Reagan, DC

Exhibit D. Airports Visited

EXHIBIT E. MAJOR CONTRIBUTORS TO THIS REPORT

<u>Name</u>	<u>Title</u>
Darren Murphy	Program Director
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Christina Lee	Writer-Editor
Nicholas Coates	Legal Counsel
Petra Swartzlander	Senior Statistician

APPENDIX. AGENCY COMMENTS.**Federal Aviation
Administration**

Memorandum

Date: June 4, 2014

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: Barriers to New Disadvantaged Business Enterprises (DBEs)

The FAA has a robust and multifaceted program to ensure that recipients of Airport Improvement Program (AIP) funds manage contracting and concessions opportunities in a manner that provides a level playing field for DBEs and Airport Concessions Disadvantaged Business Enterprises¹. The FAA DBE program has been in existence since 1980, and thousands of women and minority-owned small businesses have benefited. The FAA's Office of Civil Rights (ACR) has undertaken a number of initiatives in recent years that vastly improve the airport DBE program.

New AIP DBEs must first be certified for eligibility on DOT assisted contracts or airport concession opportunities. In February 2013, ACR developed a comprehensive training program for certifiers nationwide and has trained over 500 persons thus far. In June 2014, we will roll out a version of the training to address the needs of DBE liaison officers. These efforts are intended to result in additional DBE opportunities in the airport environment.

FAA has also enhanced the systems for submitting annual DBE awards and commitment by eliminating the need for paper copies. Today, recipients use an automated web-based system called FAA DBE Office Online Reporting System (DOORS), developed by ACR, to collect these data. FAA is in the process of rolling out a new enhanced DOORS to improve data collection, tracking, and reporting.

FAA also developed, and is continuing to enhance, a comprehensive DBE compliance management system called dbE-Connect. One component of this system is a consolidated national database of certified DBEs and a listing of airport DBE opportunities, to help match DBEs with opportunities. This will allow new DBEs to more easily identify upcoming airport contracts or concessions opportunities.

¹ From this point on reference to DBE will include both DBE/ACDBE unless otherwise noted.

In addition to these certification and compliance improvements, FAA has also enhanced regulatory and guidance initiatives to the DBE programs, including: guidance on effective joint venture business arrangements; increased accountability in meeting overall goals; modifying and updating certification requirements; expedited interstate certification; fostering small business participation; increased personal net worth and business size standards; and guidance on long-term, exclusive lease agreements.

Data from the OIG's report indicates that only a small percentage of new DBEs actually received contracts in Federal Fiscal Year 2012 at airports, and those that obtain contracts tend to stay in place for many years. A "new" DBE is defined as one that participated in a federally-funded contract or in a concession agreement for the first time in FY 2012. The DBE programs are not primarily a business development program that imposes term limits on the participants. One of the central goals of the DBE programs is to create a level playing field in which DBEs are provided a fair opportunity to compete for contracts and concessions. The DBE programs also seek to remove barriers to participation. The existing statutory and regulatory framework for the programs does not require airports to ensure that new DBEs obtain contracts or concessions, but that they must have the *opportunity* to fairly compete for such contracts when available.

RECOMMENDATIONS AND RESPONSES

Recommendation 1: Require airports to annually report the number of new DBE/ACDBE participants as part of their existing data collection efforts.

FAA Response: Partial Concur. The FAA recognizes that collecting these utilization data could provide useful information for evaluating a number of factors, such as what role certification played, how available opportunities matched the firms' capabilities, and how new DBEs compare with current operating firms. At this point, FAA is participating in departmentwide efforts to examine the potential benefits of collecting utilization data, such as that enumerated in the recommendation, and will make a determination consistent with the outcome of these efforts. The departmentwide efforts are anticipated to reach fruition by December 31, 2014.

Recommendation 2: Ensure that the replacement system for DOORS provides improved data entry, processing, and validation capabilities.

FAA Response: Concur. The FAA developed DOORS in 2003 for airport recipients to submit required annual DBE and participation data. In 2009, the DOT's Office of Small Business and Disadvantaged Business Utilization (OSDBU) led a multi-modal effort to develop a new DOT version of DOORS, using FAA DOORS as a model. In 2013, the FAA identified a need and resources to begin development of a more robust version of FAA DOORS, to be incorporated as a part of FAA dbE-Connect.

The new FAA dbE-Connect will include substantial improvements with regard to usability and reliability. For example, system features will provide automated calculations (to avoid mathematical errors), error messages (to highlight apparent mistakes), reality checks (to cross-reference data, including FAA grant data, and double-check unlikely scenarios), and interactive

features (email reminders, status alerts, and submittal of backup documentation). In addition, we are exploring an even more user friendly variation of data entry that would be based on an interview format, rather than direct form data entry, much like widely used tax preparation software. The FAA currently has a working prototype of dbE-Connect, which is planned to be rolled out by the end of this year. The FAA believes that these technological solutions will greatly assist with data validity, and are the most effective use of the agency's limited resources. The FAA will provide an update of its efforts by December 31, 2014

Recommendation 3: Provide airports with a list of best practices—including those identified in this report—for promoting the use of new DBE/ACDBE firms.

FAA Response: Concur. The FAA will provide airport recipients with best practices including those identified in the OIG's report. The best practices identified in the report are race and gender-neutral strategies that the Department has long encouraged airports to use to facilitate increased opportunities for DBEs². Measures like unbundling and outreach are practices that help all small businesses, including new DBEs. The FAA agrees that the use of these kinds of practices likely account for many cases where new DBEs were successful in obtaining contracts or concessions, and we fully support greater use of such practices. FAA will review its available list of best practices and ensure that it fully incorporates the practices enumerated in the OIG report, by December 31, 2014.

² As reflected in current regulations and guidance, see 49 C.F.R. §26.39, §26.51(a) and (b), §23.25(d).