



35th Annual Airport Law Workshop

Session #5

**INTRODUCTION TO
AIRPORT CONCESSIONS
AND ACDBE**

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INTRODUCTION & SESSION OVERVIEW

- Highly variable requirements (based upon airport)
- Will be doing generally applicable overview
- Issue spotting and lingo
- Value of specialty attorney and consultant
- Special coverage of ACDBE

INTRODUCTION TO CONCESSIONS CONCEPTS

- More disclaimers
- Options, options, options
- Established practices in industry but...
- Remember, this is Concessions 101

AIRPORT LAYOUT AND SIZE MATTERS

- Passenger and flight count
- Physical characteristics of airport
- Big vs. small
- The middle
- If you have seen one airport . . .





TYPES OF CONCESSIONS MODELS

DIRECT LEASING

- Airport is the landlord and directly contracts with individual concessionaires
- Usually small airports, but not always (would require dedicated staff to run large scale operations)
- Airport control and ability to get small/local businesses
- Still can contract with major players
- Revenue to airport varies - rent only to revenue share

MASTER CONCESSIONAIRE

- All concessions are in a single contract with an operator
- Master concessionaires tend to be large, experienced, national firms
- Airports that have operated under the master concessionaire model have tended to low or no true local participation and limited actual ACDBE participation
- Among the easiest for an airport to manage because they only need to deal with a single contract
- Master concessionaires are focused on driving their profits while the airport is more interested in driving sales...sometimes these conflict
- Most local participation is through brand licenses, not direct participation, unless there are 1-store or 2-store packages

DEVELOPER MODEL (+ FEE MANAGER)

- The airport leases all space to a single company, which then subleases all spaces out and manages the subleases
 - •The developer keeps a portion of the rents that it collects and remits the majority of the funds to the airport
 - •Easy to manage from an airport's perspective
 - •Spaces are subleased to individual operators, therefore, significant competition exists
 - •Developer is focused on driving sales, while allowing operators to make a reasonable profit
- Many airports utilizing the developer model have had respectable success in achieving both ACDBE and local participation

MULTIPLE PRIMES

- Single prime model adapted to large program
- Divide airport into packages
- Many variations on this theme – requirements within each package affects end product
- Depending on the sizes of the packages, this methodology can provide opportunities for small and large operators
- Success in obtaining local and ACDBE participation varies depending on how strict the airport is in enforcing its rules

WHAT WILL WORK FOR YOUR AIRPORT?

- Large and medium strategies
- Small strategies



REVENUE GENERATION – HOW THE SPONSOR FITS INTO THE MATRIX

- Rent
- MAG
- Percentage rent
- Percentage of gross revenue

IMPROVEMENTS – WHO PAYS FOR WHAT?



SPECIFIC TOPICS (GENERALLY)

- Local preferences
- Local business challenges
- General employment challenges
- Labor/political complications
 - Labor harmony/labor peace
 - Employee retention pools
- Limited English proficiency

QUESTIONS

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**Federal Aviation
Administration**

ACDBE Program Overview

Office Of Civil Rights

*ACHIEVING SAFETY
THROUGH DIVERSITY*

**Presented by:
Dolores Leyva
DBE/ACDBE Compliance Specialists**



Training Objectives

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

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

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

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

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

Who is required to have an ACDBE Program?

Primary Airports Request Airport Improvement Grants

ACDBE Program
Is Required as a
Condition of Grant
Funding



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THROUGH DIVERSITY



Federal Aviation
Administration

What is an Airport Concession?

- A for-profit business that is located on an airport or conducts “covered activities” on an airport such as maintaining advertising displays
- Engaged in the sale of consumer goods or services to the travelling public
- Has an agreement with an airport owner or another concessionaire



What is an Airport Concession?

Examples: restaurants, retail and specialty shops and kiosks, taxi and limo services, **shuttle services**, rental car services, mail and shipment services, luggage cart services, **hotels**, personal services (i.e. shoe shine and day spas), banking & currency exchange services, **web-based and electronic services (i.e. Wi-Fi)**, vending machines, **medical clinics**, **gas stations**, goods and services firms that supply concessionaires (i.e. food wholesalers and consulting firms), and **management contracts** for activities that take place on the airport (i.e. parking facility or passenger lounge management contractors).



What is an ACDBE Program?

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

What is the Role of the ACDBELO?

The ACDBELO is responsible for:

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

In coordination with other appropriate officials

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

Coordination!

Program development and goal-setting processes

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



ACDBE Overall

Two Goal Types:

- Car Rental (passenger vehicle rental)
- Non-Car Rental (retail, food service, parking, etc.)

General Goal Requirements:

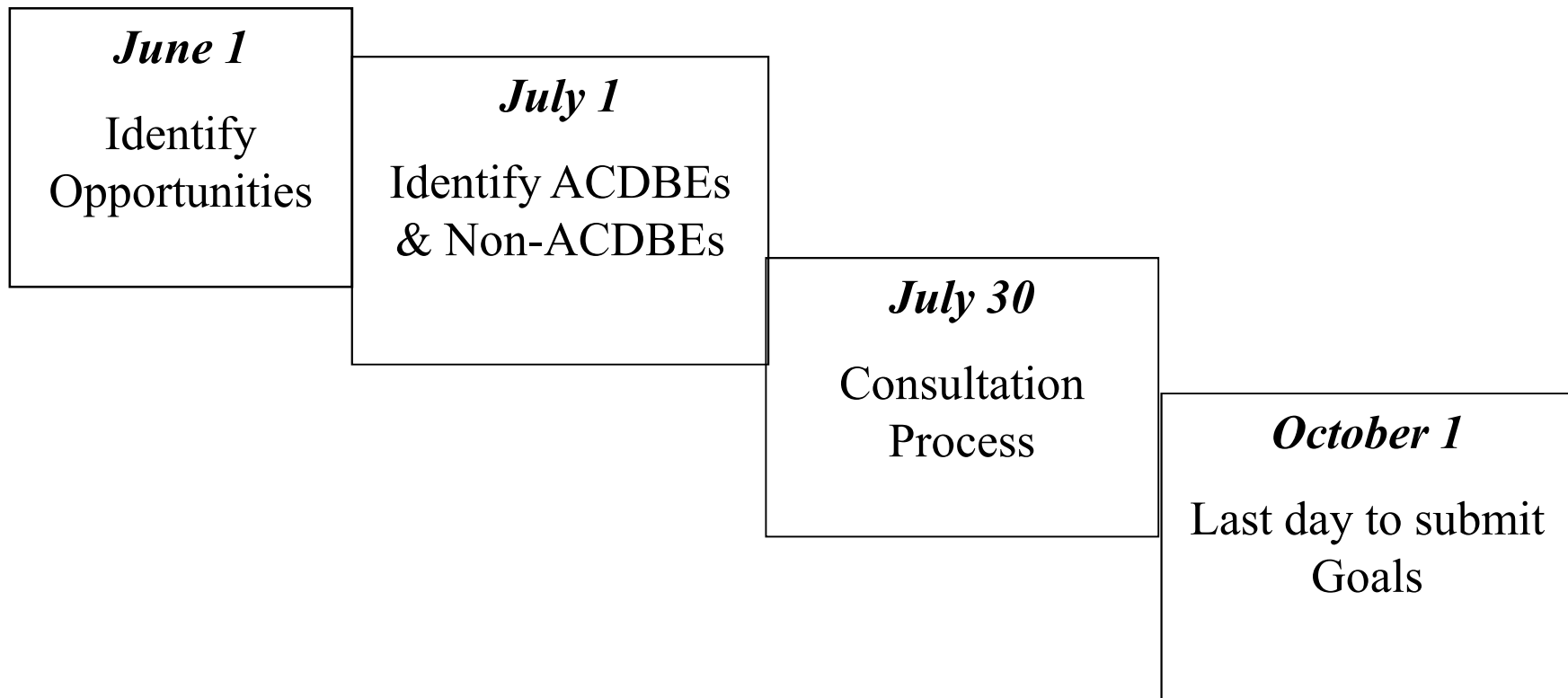
- Based on Total Gross Receipts
- Revenue threshold >\$200,000 annually.
- Updated every 3 years
- Goal Achievements Periodically Reviewed
- Analyze and Plan to Rectify Goal Shortfalls



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

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

What is a Typical ACDBE Goal Submittal Timeline?



ACDBE Monitoring

- Contract Review
- On-site Visits
- Joint Venture Monitoring
- Terminations / Substitutions

**Written
Certification**



Signature

ACDBE Participation Reporting

- Report by March 1:
 - Car Rental & Non Car Rental ACDBE Participation
- List of Participating Certified ACDBEs
- FAA Civil Rights Connect
- <https://faa.civilrightsconnect.com>

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

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

DBE/ACDBE

Regional Compliance Specialist

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DBE/ACDBE

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FAA Review of 49 CFR Part 23

The Federal Aviation Administration, Office of Civil Rights is currently seeking comments, feedback and recommendations to improve the Airport Concession Disadvantaged Business Enterprise Program.

Please submit your comments via email to
9-AWA-ACR-ACDBE-review23@faa.gov

Questions?

