



**STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES**

**Airport Concession Disadvantaged Business Enterprise (ACDBE)
Commercially Useful Function (CUF) Review and Worksite Visit**

49 CFR 23.55(a): You count only ACDBE participation that results from a commercially useful function. For purposes of this part, the term commercially useful function has the same meaning as in part 26, § 26.55(c), except that the requirements of § 26.55(c)(3) do not apply to concessions.

49 CFR 26.55(c): Count expenditures to a Disadvantaged Business Enterprise (DBE) contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. (1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.... (2) A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

This form must be submitted to the Civil Rights Office annually for all ACDBEs that are working in Alaska DOT&PF airports.

Records/Documents Reviewed (Check All That Apply): Licenses Financial Reports for Joint-Venture

Badging Records Invoices Supply/Inventory Docs Equipment-related Docs (including leases)

Payroll Docs Org Chart Emails and communications with ACDBE Owner Other

Reviewer Name:		Contact:	
Airport:			
Contract / Lease / ADA:			
ACDBE Firm Name:			
Check all that apply:	Non-Car Rental	Car Rental	Manufacturer
Concession	Supplier	Service Provider	Management Contract
Performing as:	Prime Concessionaire	Sub- Concessionaire	Joint Venture Other
ACDBE Start Date:		CUF Review Date:	

ACDBE Representative Interviewed:

Describe the ACDBE's scope of work observed or verified:

<u>MANAGEMENT</u>	YES	NO	N/A
Is there a written legal document executed by the ACDBE owner to perform a distinct element of work?			
Does the ACDBE owner/manager schedule employees to cover the operation of the location(s)?			
Is the ACDBE owner regularly on site?			
<u>SUPERVISION</u>			
Does the ACDBE employ a supervisor or manager?			
Is the on-site supervisor or manager exclusively employed by and working directly for the ACDBE?			
Has the ACDBE irrevocably delegated the daily operation of its portion of the work?			

<u>EMPLOYEES (Reviewer should speak to additional employees)</u>	YES	NO	N/A
Does the ACDBE have employees at the airport?			
Do they appear on the ACDBE firm's payroll? If no, provide details below.			
Do they appear on any other concessionaire's payroll? If yes, provide details below.			
Does the ACDBE's workforce know the name of their employer's company?			
Who assigns work to the ACDBE employees? (Name)			
<u>PERFORMANCE</u>	YES	NO	N/A
Are there signs, uniforms, badges, health certificates, or other licenses that display the ACDBE's name?			
Has another firm performed any of the ACDBE's scope of work?			
If YES: Who, and which work items were performed?			
Does the DBE appear to have control over scheduling work activities, material deliveries or other related actions required for execution of the scope?			
<u>JOINT VENTURE</u>	YES	NO	N/A
Does a review of the Joint Venture agreement indicate that the ACDBE's work is equal to the distinct, clearly defined portion of the work in the agreement?			
Can you verify that the ACDBE has performed their distinct, clearly defined portion of the work in the agreement?			
Do the tasks observed on site appear in the contract/lease scope?			
<u>REGULAR DEALER OR BROKER</u>	YES	NO	N/A
Will all items sold or leased be provided from the on-hand inventory at the ACDBE's establishment?			
Is the ACDBE selling bulk items or items not typically stocked due to their unique characteristics (aka specialty items)? AND Will at least 51% of the items that the ACDBE is selling be provided from the inventory maintained at the ACDBE's establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from the ACDBE's inventory?			
Will the ACDBE deliver all bulk or specialty items using distribution equipment it owns (or under a long-term lease) and operates?			
If the answer is "No" to all of the above, counting of the ACDBE participation is limited to the reasonable cost of fees or commissions charged (Broker is typically counted at 5%), including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.			
<u>MANUFACTURERS ONLY (if not applicable, mark N/A)</u>	YES	NO	N/A
Does the ACDBE firm sell and distribute its product(s) to the public on a regular basis? If no, explain below.			
Is the quality, quantity, and manufacturing of the materials controlled by the ACDBE?			
Does the ACDBE purchase the raw materials used in its manufacturing process?			

Attached photos of ACDBEs performing work if available. Are photos attached? YES NO

Does the ACDBE appear to be performing a CUF? YES NO

Provide comments if any aspect of the ACDBE's work appears to not be consistent with a CUF:

<u>Reviewer Signature/Print Name:</u>	<u>Date:</u>
<u>ACDBE / On Site Representative Signature/Print Name:</u>	<u>Date:</u>
<u>ACDBELO or Civil Rights Office Representative Signature/Print Name:</u>	<u>Date:</u>

Instructions for ACDBE Commercially Useful Function (CUF) Review and Worksite Visit Form

What: In accordance with 49 CFR Part 23.55(a): Alaska DOT&PF counts only ACDBE participation that results from a commercially useful function and must visit every ACDBE location or work site where credit is being claimed.

Where: If the ACDBE is working in an airport, the review should be conducted on-site. If necessary, the ACDBE owner may be interviewed remotely.

When: The ACDBE CUF Review and Worksite Visit must occur once per federal fiscal year for each ACDBE being counted toward a goal and must be submitted to the Civil Rights Office (CRO).

Why: In accordance with § 23.29 Alaska DOT&PF must perform a monitoring and enforcement mechanism to verify that the work committed to ACDBEs is actually performed by the ACDBEs. This mechanism must include a written certification that Alaska DOT&PF has reviewed records of all contracts, leases, joint-venture (JV) agreements, or other concession-related agreements and monitored the work on-site at Alaska DOT&PF airports for this purpose.

Who: This form must be completed by on-site airport staff unless CRO staff is available to perform or assist in the performing the review. CRO may not be authorized to travel for the purposes of this review.

Find more information on the CRO ACDBE Website: <https://dot.alaska.gov/cvlrts/acdbe.shtml>

How: Fill out the form by including all information that applies to the ACDBE. Answer all questions and mark a question as N/A if it does not apply to the ACDBE. Attach photos and additional information. If the ACDBE is not working in an airport, conduct the interview by phone or a virtual meeting.

An ACDBE performs a CUF when:

- Actually performing, managing, and supervising the work involved
- In a joint venture, this means the distinct, clearly defined portion of the work of the concession that the ACDBE performs with its own forces
- As a supplier, the ACDBE is responsible, with respect to materials and supplies used on the contract, for negotiating prices, determining quality and quantity, ordering the material, and installing and paying for the material itself
- Verify if scope of work performed reflects ACDBE's subcontract or JV information
- Document who was interviewed: Name, title, role, etc.
- Take photographs: workers engaged in tasks, uniforms with company logos, store locations, merchandise or food that the ACDBE is responsible for managing or producing, vending machines, health certificates, and signs
- Compare information obtained on site visits with information from leases, payroll records, subconcession agreements, JV agreements, licenses, badging records, invoices, supply or inventory docs, and communication records

Rental Car Concession Reviews

- Most Rental Car Concessions utilize service providers to achieve ACDBE participation
- Review the submissions very frequently regarding participation.

***** JVs are Tricky *****

Coordinate JV Agreement Review with the CRO to ensure that the ACDBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

JV Information to Verify: Capital Contributions • Overall Management of the joint venture • Method and Timing for Calculation of Profits • Method and Timing for Distribution of Profits • Business Losses • Role of each Party

JV Documents to Review: Management committee meetings minutes • Distribution statements of profits and losses • Proposed amendments to JV • Proposed changes to assigned roles and responsibilities • Reconciliation of fees (management) • Tax returns & capital account activity