



Aviation Group Client Update

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DOT AMENDS AIRPORT CONCESSIONS DBE REGULATIONS

Today, the Department of Transportation (DOT) amended its Airport Concessions Disadvantaged Business Enterprise (ACDBE) regulations to conform to the DBE rule for highway, transit, and airport financial assistance programs. In addition, DOT amended small business size limits, provided an inflationary adjustment in the personal net worth (PNW) cap, and suspended future use of the third exemption for owner's assets used as collateral for financing a concession.

Based on the Department of Labor (DOL) consumer price index calculator, DOT set the inflationary adjustment of the PNW cap to \$1.32 million, an increase of \$570,000 from 2009 levels. Further, to ensure ACDBEs actually perform work committed to them, DOT amended 49 CFR § 23.29 to provide enhanced monitoring requirements. DOT stated FAA plans to make available a compilation of best practices in monitoring DBE and ACBDE programs.

Other changes include the following: 1) requiring an adjusted goal be submitted to the FAA no later than 90 days prior to the sponsor's issuance of solicitation, instead of six (6) months before executing the concession agreement; 2) retaining proposed accountability provisions; 3) amending ACDBE gross receipts size standards to account for inflation, a firm's three year fiscal average may not exceed \$56,420,000; and 4) amending ACDBE car rental company size standards, which may not exceed \$75,230,000 over the company's previous three fiscal years.

Amendments to the meaning of PNW and its corresponding standard are effective **June 20, 2012**. Certain other amendments are effective **July 20, 2012**. If you have any questions regarding any of the amendments, please contact our office.

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McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.