

# FAA Civil Rights - National Airport Civil Rights Training Conference

## Policy Update

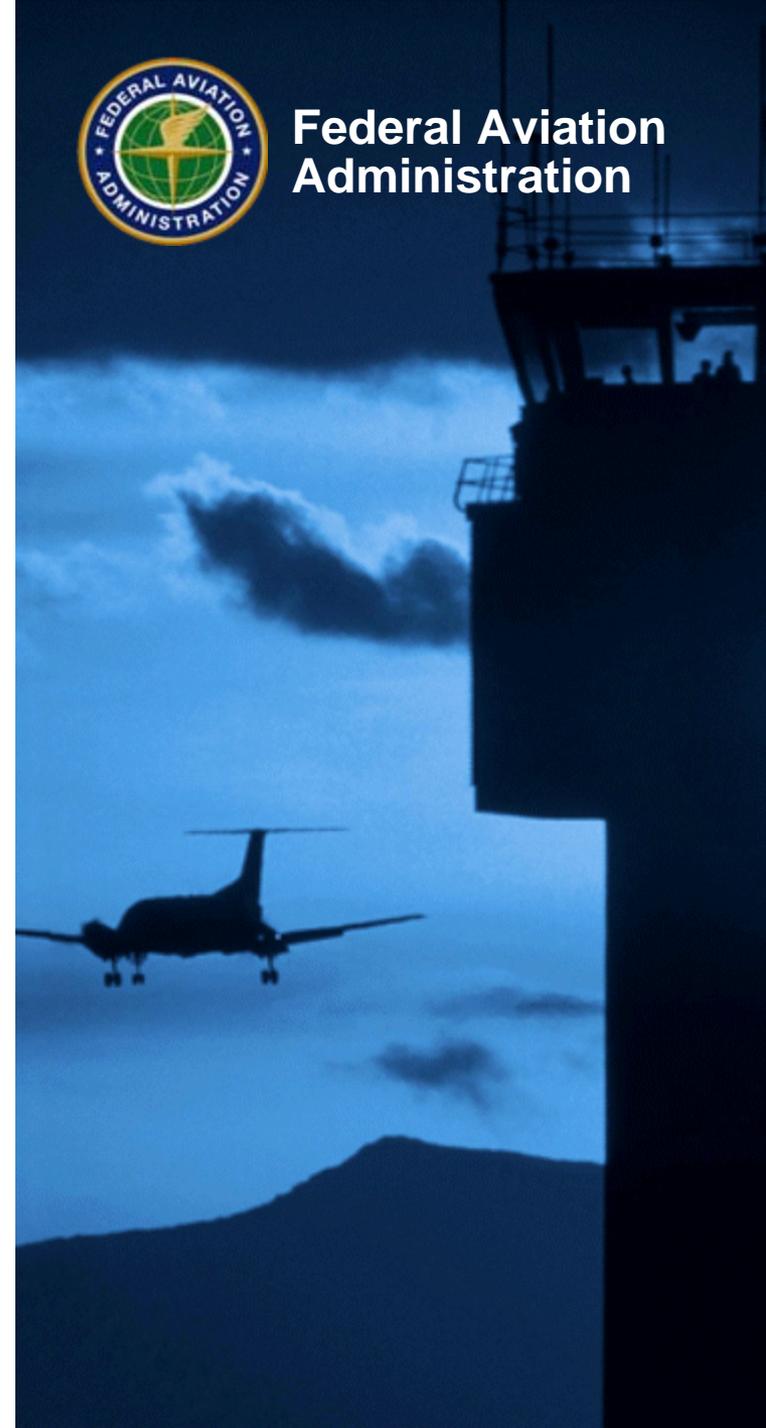
Presented to: **DBE/ACDBE**  
**Training Workshop**  
**San Diego, CA**

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**Office of Civil Rights**

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**Federal Aviation  
Administration**



# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Background**

- 49 CFR section 23.75
- Enforcing Title VI of the Civil Rights Act
- Nondiscrimination because of race, color, or national origin
- Concerns regarding long-term leases to a single business concern
- Exclusion of ACDBE businesses
- Led to a prohibition against long-term and exclusive lease agreements unless approved by FAA



# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Purpose**

- Provide information and guidance
- Explain the prohibition against long-term and exclusive lease agreements
- Explain the process to request FAA approval
- Assist airports in structuring lease agreements to allow full participation
- Will not create new legal mandates



# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Definitions**

- Exclusive

- An entire category i.e., (lodging, retail, food service, dining services, transportation, parking, advertising, etc.)
    - The entire airport or individual terminal (depending on airport size)

- Long-term

- 49 CFR section 23.75
    - More than 5 years
    - Combination of base term and options



# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Approval Process**

- Written request to FAA (DBE/ACDBE Compliance Program Staff)
  - Special local circumstances
  - Draft lease, sublease, and other pertinent documents
- Lease agreement should contain
  - ACDBE participation reflecting market availability
  - Sponsor reviews ACDBE participation before the exercise of renewal options
  - ACDBE replacement if necessary or good faith efforts

# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Approval Process**

- Acceptable lease structure
  - Subcontract, JV, partnership, etc.
  - Meets federal and state legal requirements
- ACDBEs are certified
- Type of business operation
- Estimated ACDBE investment and management/financial arrangements



# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Approval Process**

- Estimated gross receipts and net profit
- Joint venture agreements (consistent with July 2008 guidance)
- Final lease and sublease agreements submitted to the DBE/ACDBE Program Staff within 30 days of signing or 60 days before the term begins



# Long-term and Exclusive Lease Agreements - Guidance (draft)

- **Current Lease Agreements**
  - Review in the context of this guidance
  - Long-term and exclusive by default should be reviewed but are not automatically non-compliant
    - Review with the prime
    - Seek ways to include ACDBEs



# Questions

