11th Annual FAA National Civil Rights Training Conference for Airports

Title VI of the Civil Rights Act of 1964 and Related Requirements for Title VI Coordinators

Office Of Civil Rights

ACHIEVING SAFETY THROUGH DIVERSITY

Presented to: 2020 NCRTC Participants

Date: August 4, 2020
Agenda

Title VI of the Civil Rights Act of 1964 (Title VI) Enforcement and Requirements

- Title VI
- Limited English Proficiency (LEP)
- Environmental Justice (EJ)
- Title VI Updates
Title VI Enforcement

Title VI statutory text:

“No persons in the United States shall, on the ground of race, color, or national origin*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance [FFA].”

*Additional authorities augment Title VI to add age, sex and creed as protected bases for FAA recipients
Title VI
Enforcement

49 CFR Part 21

- DOT Regulations implementing Title VI
- “This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department [of Transportation]...”
- Part 21 applies to all aspects of the recipient’s program, not just those portions that are directly supported by FFA

Appendix C to Part 21
Appendix C to Part 21: Contracts

- “Each airport operator shall require each tenant, contractor, and concessionaire who provides any activity, service, or facility at the airport under lease, contract with, or franchise from the airport, to covenant in a form specified by the Administrator, Federal Aviation Administration, that he will comply with the nondiscrimination requirements of this part.”
Title VI
Requirements

FAA Federal Contract Provisions for Airport Improvement Program (AIP) Recipients

Obligations of Airport Sponsors

- Civil Rights provisions are required for all AIP and non-AIP funded procurements
- Covered contracts, including leases
- The sponsor must incorporate provision text into their procurement documents verbatim
- See FAA website: https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/
Title VI
Requirements

A5 – Contract Clause (page 12)
- A5.3.1 – Clause for Contracts (General Civil Rights Provisions)
- A5.3.2 - Clause for Lease Agreements or Transfer agreements

A6.2 – Applicability (page 15)
- A6.3.1 All AIP Funded (Title VI Solicitation Notice)
- A6.4.1 Every Contractual Agreement
- A6.4.2 Airport sponsor insert the appropriate clause
- A6.4.3 Airport sponsor insert the appropriate clause
- A6.4.4 Airport sponsor insert the appropriate clause
- A6.4.5 Every Contractual Agreement
Title VI
Requirements

Appendix C to Part 21: Notification to Beneficiaries

- The airport operator shall: (i) Make a copy of this part available at his office for inspection during normal working hours by any person asking for it, and (ii) conspicuously display a sign, or signs, furnished by the FAA, in the main public area or areas of the airport, stating that discrimination based on race, color, or national origin is prohibited on the airport.”
Unlawful Discrimination Poster
It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or disability in public services and employment opportunities. Allegations of discrimination should be promptly reported to the Airport Manager or:

Federal Aviation Administration
Office of Civil Rights, ACR-1
800 Independence Avenue, S.W.
Washington, D.C. 20591

Federal regulations on unlawful discrimination are available for review in the Airport Manager’s Office.

Coordinator: ____________________
Phone: ____________________
Address: ____________________

https://www.faa.gov/about/office_org/headquarters_offices/acr/com_civ_support/
Appendix C to Part 21: Reporting Complaints

- Part 21 requires complaints received by airport sponsors to be forwarded to FAA contacts, within 15 days.
- Airport sponsors must forward: “a copy of each written complaint charging discrimination because of race, color, or national origin[*] by any person subject to this part, together with a statement describing all actions taken to resolve the matter, and the results thereof.”
Title VI
Requirements

Additional Part 21 Requirements:

- Compliance Reports and Data Collection: Recipients must maintain records of the census, low income and minority population, impacts on surrounding communities
- Employment Opportunities at the airport
- Outreach to the minority/women business community
Executive Order 13166 - Improving Access to Services for Persons with Limited English Proficiency
U.S. Department of Transportation LEP Guidance in Federal Register, Volume 70, No. 239, Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons
LEP
Requirements

Recipients should apply these Four Factors to determine the extent of their obligation to provide LEP services:

1. Number/proportion of LEP persons in a recipient’s area
2. Frequency of contact between LEP individuals and the recipient’s services
3. Importance of the service provided by the recipient
4. Resources available to the recipient and costs
LEP
Requirements

Airport Emergency plan

- Identify how LEP individuals will be assisted during an emergency.

FAA Airport Advisory Circular (AC) 150/5200-31C

- Section 6-3: Alert notification and warning
- Section 6-4: Emergency public information
- Section 6-5: Protective Actions
LEP Website Links

Lists Information on LEP
  - http://www.lep.gov

LEP Guidance in Federal Register, Volume 70, No. 239
  - https://www.govinfo.gov/content/pkg/FR-2005-12-14/html/05-23972.htm

FAA AC 150/5200-31C
  - https://www.faa.gov/regulations_policies/advisory.circulars/index.cfm/go/document.info\nt\nmation/documentid/74488
Environmental Justice (EJ)
Executive Order 12898
- Improving Access to Services for Persons with Limited English Proficiency - February 11, 1994

Department of Transportation Order 5610.2(a)
- [https://www.fhwa.dot.gov/environment/environmental_justice/ej_at_dot/orders/order_56102a/index.cfm](https://www.fhwa.dot.gov/environment/environmental_justice/ej_at_dot/orders/order_56102a/index.cfm)

National Environmental Policy Act
- Public Involvement
- High and Adverse Effects
Title VI Updates

Updated Title VI Tool Kit

- Coming Soon

DOT Title VI Order 1000.12A

- Effective Date: 11-01-2019
- [https://www.transportation.gov/mission/department-transportation-title-vi-program](https://www.transportation.gov/mission/department-transportation-title-vi-program)
Title VI
Resources

Title VI Awareness Tool
- Airport sponsors can self-assess their level of compliance with Title VI, Part 21, LEP, and EJ
- Identify areas that need or may need corrective actions

Title VI Self-Assessment
- Similar to the Title VI Awareness Tool, located in the FAA Civil Rights Connect System
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