

Title VI, ADA, and DBE Legal Update

Presented to: FAA National Civil Rights Training
Conference for Airports

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Federal Aviation
Administration



Legislative Update

FAA's authorization extended to September 30, 2017

- Maintains current funding levels
- No change to External Civil Rights Programs, including DBE and ACDBE



Title VI

Changes at Airports Law Branch

- New Manager – Mary McCarthy
- New Staff Attorney – Joe Manges
 - Airport law matters including Title VI



ADA

Draft Advisory Circular 150/5360-14A, *Access to Airports by Individuals with Disabilities*

- **Notice – Opportunity to Comment May 6, 2016, 81 Fed. Reg. 27489**
- **Comment period closed June 6, 2016**
- **Comments under review**
- **Draft AC – available on FAA’s website**



ADA

Indoor Navigation of Airport Terminals

- **FAA awarded a grant to research feasible solutions to mitigate indoor navigation barriers faced by visually impaired passengers at airport terminals**
- **Technical report – final stages for publication by end of year**



DBE Regulatory Update

SBA Regulation – 81 Fed. Reg. 34243

Published May 31, 2016, effective June 30, 2016

- **Modified affiliation definition**
 - Rebuttable presumption of affiliation for firms
 - owned and controlled by married couples, parties to a civil union, parents, children, and siblings (familial)
 - if firm derives 70% or more of its revenue from another firm over previous fiscal year (economic dependence)
- **Amended calculation of annual receipts**
 - Clarified that annual receipts includes all income



DBE Regulatory Update

DBE Q & A's

Prompt Payment Guidance (April 2016)

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/official-questions-and-answers-qas-disadvantaged>



Regulatory Update

ACDBE Q & A's

Good Faith Efforts Guidance – Car Rental (March 2016)

https://www.transportation.gov/sites/dot.gov/files/docs/Car_Rental_Companies_Good_Faith_Efforts_Guidance.pdf



Recent DBE Fraud Cases

CEO convicted of multi-million DBE fraud on World Trade Center project

- portion funded with DOT funds
- used DBE as pass-through
 - DBE pled guilty and helped prosecutors
- CEO/firm could face suspension and debarment action



Recent DBE Fraud Cases cont.

DBE pled guilty to Wire Fraud Conspiracy

- Bridge project funded with FHWA funds
- DBE falsely claimed supplied fuel
- DBE accepted kickbacks and only acted as pass-through
- Awaiting sentencing – potential jail time and fine

Suspension and Debarment

- Suspension - temporary ineligibility on any Federal contracts and grants
- Debarment - final determination of ineligibility for Federal contracts and grants for up to 3 years
- <https://www.sam.gov> – list ineligible persons/firms



Suspension and Debarment – DBE Fraud

Suspended DBE firm found guilty of fraud

– Firm acted as pass-through on a multi-million dollar runway repair contract

- Used prime's employees and equipment

– Awaiting sentencing

Suspended DBE facing potential debarment

Suspension and Debarment – DBE Fraud

- DOJ settled DBE fraud case involving Tennessee Prime Contractor
 - Prime improperly loaned employees to DBE
 - Prime improperly leased equipment to DBE
 - Prime paid \$2.2 Million to Settle False Claim Action
- FHWA settled with Prime in lieu of suspension and debarment
 - DBE monitoring on all DOT assisted contracts, including FAA projects



Civil Rights Program Enforcement

Report Concerns About Fraud, Waste, Abuse, or Mismanagement to OIG Hotline

- OIG Hotline - available 24 hours a day, 7 days a week
 - online complaint form: <http://www.oig.dot.gov/hotline>
 - telephone: 800-424-9071
 - fax: 540-373-2090
 - e-mail: hotline@oig.dot.gov
 - mail: USDOT Inspector General, P.O. Box 708, Fredericksburg, VA 22404-0708

Questions

