

Sixth Annual FAA National Civil Rights Training Conference for Airports

Title VI Airport Grant Assurances

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Federal Aviation
Administration



Background

- On April 24, 2013, the DOT Secretary signed the Title VI Assurances
- On August 27, 2013, FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration (FAA) became effective.

Title VI

Title VI (42 U.S.C. § 2000d, et seq.) - part of the landmark Civil Rights Act of 1964 - Airport sponsors *may not discriminate* on the grounds of race, color, or national origin:

- Deny any individual service, financial aid, or benefit under the program
- Provide any service, financial aid, or benefit that is different from that provided to others
- Subject an individual to segregation or separate treatment

Title VI

Examples of Title VI's coverage:

- AIP contracting program
- PFC contracting program
- Local contracting program



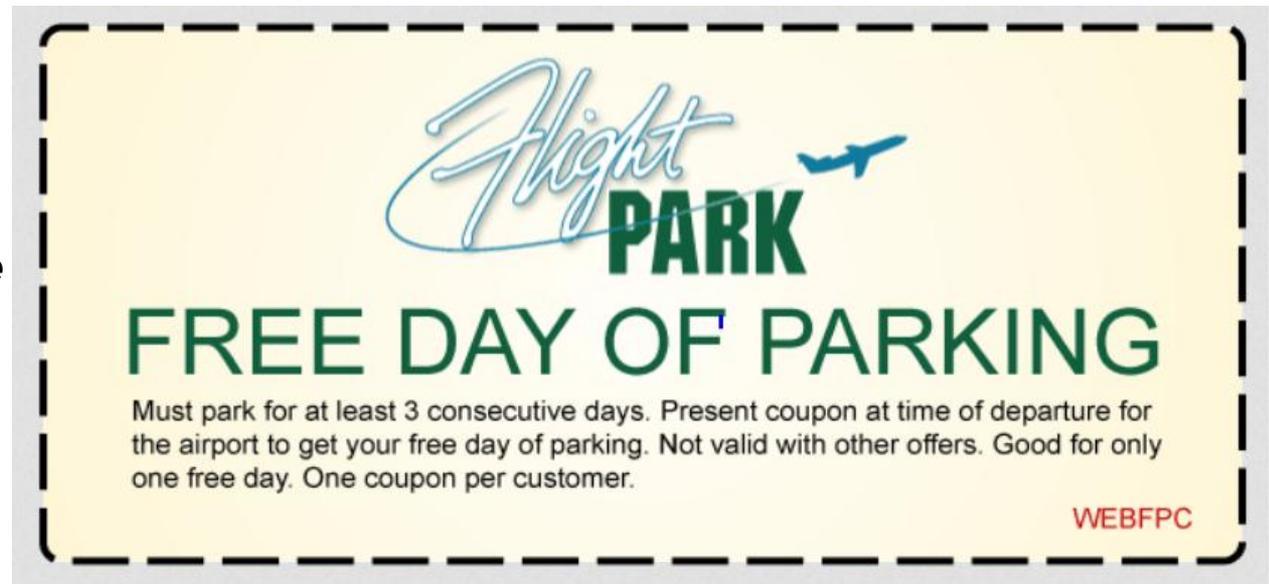
*Savannah/Hilton Head
Photo by FAA*

Title VI

Examples of Title VI's coverage:

- Services to passengers (concessions, parking information, airport transportation services, etc.)

*Nashville Airport Auto
Parking and Maintenance
Center*



Title VI

Examples of Title VI's coverage:

- Surrounding communities' access to airport employment opportunities, transportation and job advertisements
- Fixed Base Operator operations



Employment

Interested in A Career Related to the Airport?

Check out the new BWI Marshall Job Center located on the ticketing level, Concourse C next to American Airlines. Except for Federal Holidays (when the Center is closed), the Job Center is currently open Monday through Friday from 11:00 a.m. until 4:00 p.m. and aims to provide career information to job seekers and

AIP Grant Assurances

- AIP Grant Assurances are *obligations* that airports agree to when accepting an AIP grant. The assurances define what is required:
 - For FAA to approve a grant application (such as the sponsor must own an airport, having the local share)
 - For the sponsor to build the project (Davis Bacon Wages, water and air quality)
 - For the sponsor to operate and maintain the airport (such as keeping the runway safe)

AIP Grant Assurances

- The AIP grant assurances had to be revised to incorporate the Title VI Assurances.
- The AIP Grant Assurances were revised by the FAA Office of Airports and the Office of the Chief Counsel.

AIP Grant Assurances



Federal Register / Vol. 79, No. 64

Revised Assurances
Were Published in
the Federal Register
Volume 79, No. 64
April 3, 2014

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2014-0210]

Airport Improvement Program (AIP) Grant Assurances

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of modification of
Airport Improvement Program (AIP)
grant assurances.

modifications through
future notice in the I

ADDRESSES: You may
[identified by Docket
2014-XXXX] using a
methods:

- Government-wide
site: Go to *http://www*
and follow the instru
your comments elect
- Mail: Docket Op
Department of Trans
Building, Ground Fl

All assurances are online:

http://www.faa.gov/airports/aip/grant_assurances/



Title VI Obligations

- By accepting a grant, an airport is bound to follow the Title VI assurances for as long as the airport operates as an airport.
- Problems?
 - Title VI issues are handled by the appropriate office in the Civil Rights Office (ACR).
 - The Office of Airports typically refers these matters to ACR.
 - Airport contracting issues are typically handled by the ADO or Regional Office.
 - Airport compliance issues are handled by the Regional Office with support by ACO in HQ.

Federal Contract Provisions

By accepting a grant, the airport has agreed to include the federal contract provisions in the contracts, subcontracts, property purchases, property sales, concessions contracts.

List of Procurement Opportunities at Atlanta Int'l Airport (ATL)

Doing Business with the Airport

- ▶ Overview
- ▶ Contracts and Procurement
- ▶ Airport Advertising
- ▶ Available Bids
- ▶ Upcoming Bids
- ▶ Concessions Bid Opportunities
- ▶ Bids and Awards
- ▶ Business Development Events
- ▶ Airline Competition Plan
- ▶ Planning and Development Guidelines
- ▶ Concessions Database

What Issues have we run into with Federal Contract Provisions?

Issues: Changes, Dollar Value, Types of Contracts

- If the requirement says,
Must be used without modification...
- If the requirement says,
Must be used in all contracts and subcontracts
- Including all of the background, explanation, AND the required language in the specifications.
- Not using the latest language.
- Not realizing that some provisions are required, *regardless of source of funds.*

Federal Contract Provisions

All contract provisions, including the revised Title VI provisions are online:

<http://www.faa.gov/airports/aip/procurement/>

The document lists what provisions need to be used in each case.

Note: The contract provisions are being updated now to incorporate the 2 CFR part 200 changes and to add clarity and will be ready for FY16 contracts.

Federal Contract Provisions Matrix

- New Matrix will be easy to follow and link to required language

Table 1 – Applicability of Provisions

| Provision | Dollar Threshold | Professional Services | Construction | Equipment | Property (Land) | Non-AIP Contracts |
|--|------------------|-----------------------|--------------|-----------|-----------------|-------------------|
| a. Access to Records and Reports | \$ 0 | REQD | REQD | REQD | REQD | n/a |
| b. Buy American Preferences | \$ 0 | Limited | REQD | REQD | Limited | n/a |
| (1) Buy American Statement | \$ 0 | Limited | REQD | REQD | Limited | n/a |
| (2) Buy American – Total Facility | \$ 0 | Limited | REQD | REQD | Limited | n/a |
| (3) Buy American – Manufactured Product | \$ 0 | Limited | REQD | REQD | Limited | n/a |
| c. Civil Rights – General | \$ 0 | REQD | REQD | REQD | REQD | REQD |
| d. Civil Rights - Title VI Assurances | \$ 0 | REQD | REQD | REQD | REQD | REQD |
| (1) Notice - Solicitation | \$ 0 | REQD | REQD | REQD | REQD | REQD |
| (2) Clause - Contracts | \$ 0 | REQD | REQD | REQD | REQD | REQD |
| (3) Clause – Transfer of U.S. Property | \$ 0 | n/a | n/a | n/a | REQD | REQD |
| (4) Clause – Transfer of Real Property | \$ 0 | n/a | n/a | n/a | REQD | REQD |
| (5) Clause - Construct/Use/Access to Real Property | \$ 0 | n/a | n/a | n/a | REQD | REQD |
| (6) List – Pertinent Authorities | \$ 0 | REQD | REQD | REQD | REQD | REQD |
| e. Disadvantaged Business Enterprise | \$ 0 | REQD | REQD | REQD | REQD | n/a |
| f. Energy Conservation Requirements | \$ 0 | REQD | REQD | REQD | REQD | n/a |
| g. Federal Fair Labor Standards Act (Minimum Wage) | \$ 0 | REQD | REQD | REQD | REQD | REQD |

Federal Contract Provisions

- Title VI Solicitation Language
 - Must be used in all contract solicitations, regardless of dollar value or source of funding.
 - Language must not be modified.

Use of Provision - The sponsor must incorporate the text of the provision without modification.

A6.3 CONTRACT LANGUAGE.

A6.3.1 Title VI Solicitation Notice

Title VI Solicitation Notice:

The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Title VI and AIP, PFC and Airports

A year later,

- Airports are including the provisions.
- People are familiar with the requirements, but still struggle with the concept of *Applies Regardless of Source of Funds*



Civil Rights Contract Requirements

- **AIP Civil Rights provision is *in addition to Title VI Assurances***
- **Applies regardless of funding source**
- **Applies to Race, Creed, Color, National Origin, Sex, Age or Handicap**
- **There are two contract provisions to use –
Sponsor Contracts
Sponsor Lease Agreements/Transfer Agreements**

Title VI Assurances Solicitation Notice

- **The sponsor must insert the Title VI Solicitation Notice in:**
 - All solicitations for bids, requests for proposals work, or material subject to the nondiscrimination acts and regulations made in connection with Airport Improvement Program grants; and
 - All proposals for negotiated agreements regardless of funding source
 - Without Modification

Title VI Clauses for Compliance with Nondiscrimination Requirements

- **The sponsor must insert the Title VI required contract clause in every contract or agreement**
- **Without Modification**

Title VI Required Clause for Property Interests Transferred from the United States

- **Sponsor must include in land transfers**
- **Without Modification**

Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program

- **Not only land, but if something is built on, over or under the land**
- **Again, without modification**

Title VI List Of Pertinent Nondiscrimination Acts And Authorities

- **In every contract or agreement**
- **Without modification**

What's the issue about “Without Modification”

- **Language is different from the usual AIP contracts**
- **FAA traditionally allows some contract modification to do things like:**
 - Change *owner* to the actual name of the airport authority;
 - Insert airport-specific language or requirements
- **This inability to change language has caused some confusion among airports**

Title VI Required Clause for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program.

- **Transfers of property**
- **Without Modification**