



**Federal Aviation
Administration**

DBE, Title VI, and ADA Compliance – How To Be Better Prepared When FAA Calls

FAA Presentation Materials

Office Of Civil Rights

*ACHIEVING SAFETY
THROUGH DIVERSITY*

Presented to: ACI Business of Airports Conference

Date: June 11, 2019



FAA Contract Requirements



- Civil rights obligations must be passed on through contracts, regardless of the project funding source
 - Prime contracts, leases, licenses, etc.
 - Subcontracts
- Required FAA contract provisions
 - https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/
 - Airport sponsors must incorporate the FAA contract provisions into their procurement documents **verbatim**
- Special case: air carriers and airport agreements for accessible boarding equipment (49 CFR 27.72)
- Verify compliance

Provisions/Clauses	Dollar Threshold	Solicitation	Professional Services	Construction	Equipment	Property (Land)	Non-AIP Contracts
<u>Access to Records and Reports</u>	\$0	NIS	Required	Required	Required	Required	n/a
<u>Affirmative Action Requirement</u>	\$10,000	Required	Limited	Required	Limited	Limited	n/a
<u>Breach of Contract</u>	\$150,000	NIS	Required	Required	Required	Required	n/a
<u>Civil Rights – General</u>	\$0	NIS	Required	Required	Required	Required	Required
<u>Civil Rights - Title VI Assurances</u>	\$0	REF	Required	Required	Required	Required	Required
(1) Notice - Solicitation	\$0	Required	Required	Required	Required	Required	Required
(2) Clause - Contracts	\$0	NIS	Required	Required	Required	Required	Required
(3) Clause – Transfer of U.S. Property	\$0	NIS	n/a	n/a	n/a	Limited	Required

FAA Contract Requirements



- DBE Program common issues:
 - Conduct and document required monitoring of DBE, participation including reviewing subcontracting records
 - Proactively monitor and enforce prompt payment requirements (applies to all subcontractors, not just DBEs)
 - Ensure adequate staffing to administer the program

FAA Contract Requirements



- ACDBE Program common issues:
 - Conduct and document required monitoring of ACDBE participation
 - Secure FAA approval of long-term and exclusive lease agreements
 - Review joint venture agreements to ensure they are consistent with the joint venture guidance
 - Ensure adequate staffing to administer the program

Nondiscrimination Notice

- Appendix C to Part 21
 - Post FAA-furnished notice
 - Add airport coordinator information
 - Changes are not permitted
 - https://www.faa.gov/about/offices/headquarters/offices/acr/com_civ_support/non_disc_pr/

Unlawful Discrimination

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:


Discriminación Ilegal

Se prohíbe a los operadores de aeropuertos y a sus arrendatarios, inquilinos, concesionarios y contratistas discriminar contra cualquier persona por motivo de raza, color, nacionalidad de origen, sexo, creencias religiosas, impedimento físico o discapacidad en lo que respecta a servicios públicos y oportunidades de empleo. Las alegaciones de discriminación deberán ser dirigidas inmediatamente al Administrador del Aeropuerto o a:

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

Los reglamentos sobre discriminación ilegal están a la disposición de los interesados para su examen en la oficina del Administrador del Aeropuerto.

Coordinador:
Teléfono:
Dirección:


U.S. Department of Transportation
Federal Aviation Administration

HC 10108E

Complaints

- Complaint procedures
 - Include all covered civil rights bases (race, color, national origin, sex, creed, age, disability)
 - Have clear complaint procedures – use complaint forms
 - Notify FAA of Title VI complaints within 15 days of receipt
 - Ensure due process for ADA/Sec. 504 complaints
- Ensure tenants and contractors forward complaints

Limited English Proficiency (LEP)

- Four-Factor Analysis and LEP Plan
- 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 with LEP individuals for recipient's services
 3. Importance of the service provided by the recipient
 4. Resources available to the recipient and costs
- Emergency Planning

Facility Issues

Design Standards

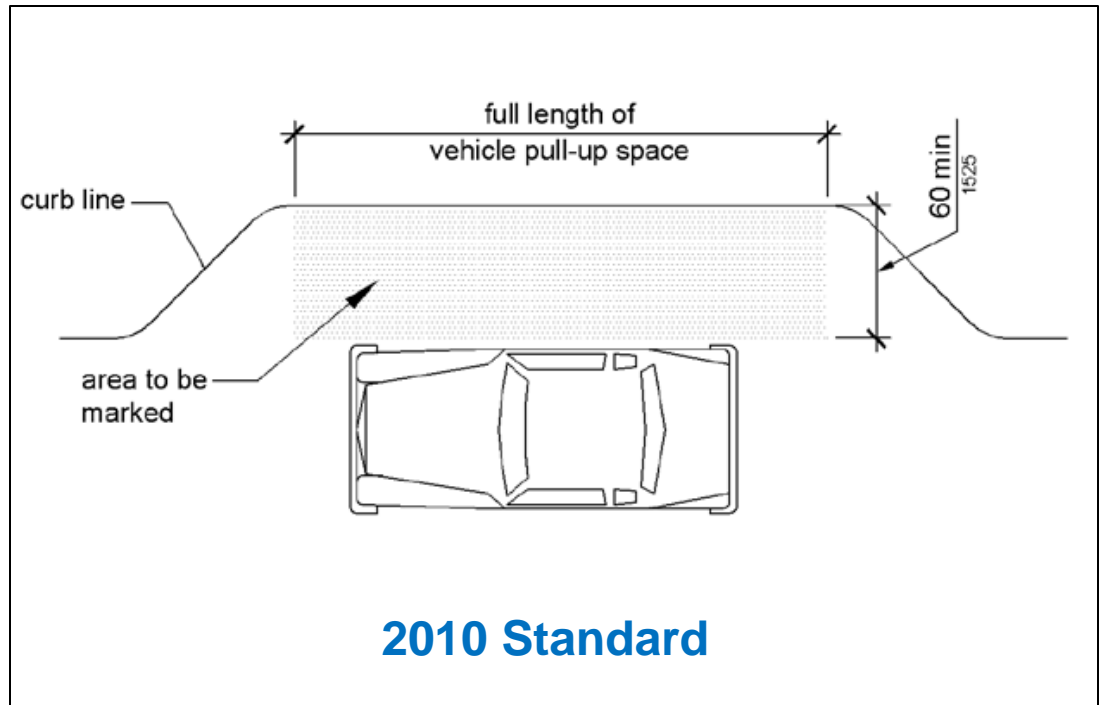
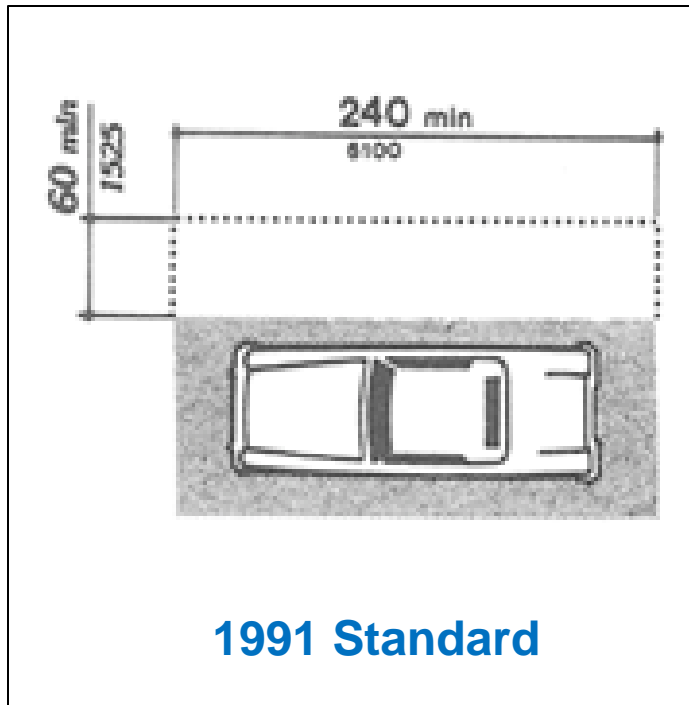
- Facility design standards: ADA Standards for Accessible Design (ADAAS)
- ADAAS accessible route and circulation path requirements
 - Continuous path connecting all accessible elements and spaces
 - 36” wide (32” at pinch points), minimal slope, accessible doors
 - 20 percent threshold for alterations to path of travel
 - No Protruding objects: >27” and <80” from floor, and >4” from wall/post
 - Applies to parking facilities
 - Applies to temporary structures / detours
- Restroom requirements
- Service animal relief areas



Facility Issues

Design Standards

- Loading Zones
 - 1991 Standard: provide signage
 - 2010 Standard: provide street marking for aisle, every 100 feet



Facility Issues

Concessionaire and Airline Space Issues

- Concessionaire spaces
 - Lowered accessible service counter space: 36 inches high
 - Accessible dining areas: 5 percent rule
- Maintenance Obligation
 - Failure to maintain = failure to comply
 - Maintenance Policies



Reasonable Accommodation / Modification

- These are general assistance obligations, in addition to the more specific facility and service requirements
 - Receive and respond to requests
 - Advance notice
 - Undue burden, direct threat, and fundamental alteration
- Best practice: address foreseeable issues through clear policies

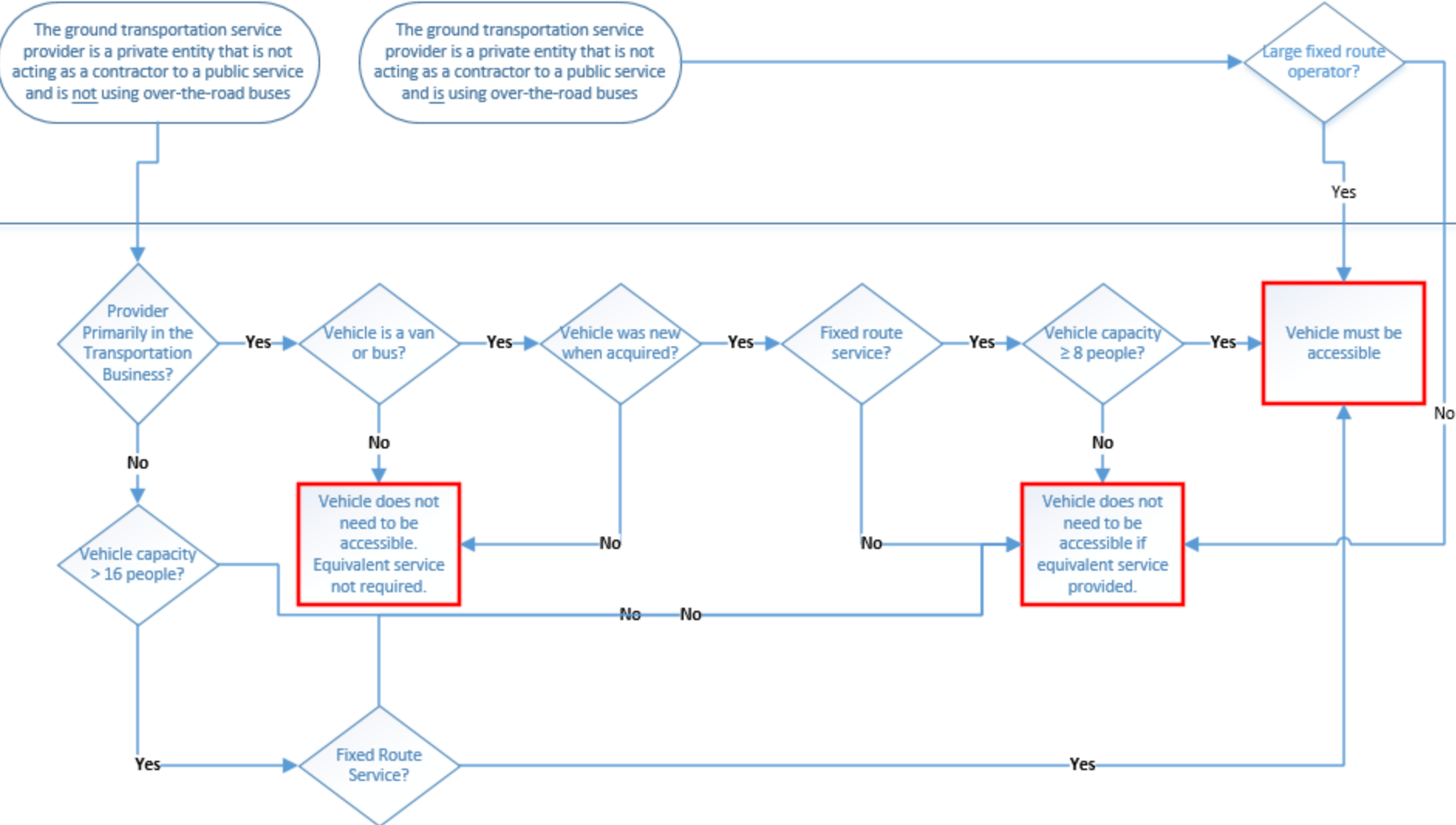


Ground Transportation

- Public Transportation
- Private Transportation Licensees
 - Primarily in the transportation business: taxi's, TNC's, airport shuttle services
 - Not primarily in the transportation business: Hotel, rental car center, and offsite parking shuttles
- Obligations
 - Accessible vehicles or equivalent service, as applicable (see next slide)
 - Route and stop announcements
 - Use of lifts/ramps and securement devices
 - Maintain accessibility features
 - Personnel (including drivers and schedulers) trained to proficiency



Handout - Private Entity Vehicle Requirements



Title VI, LEP, EJ Websites

Description	Website Link
DOT Title VI regulations	www.ecfr.gov for 49 CFR Part 21
FAA Order 1400.11 (Appendix 4)	http://www.faa.gov/documentLibrary/media/Order/FAA_1400_11.pdf
FAA Title VI Brochure	https://www.faa.gov/about/office_org/headquarters_offices/acr/com_civ_support/non_disc_pr
LEP Federal Interagency Website	http://www.lep.gov
EJ Interagency Working Group	https://www.epa.gov/environmentaljustice/federal-interagency-working-group-environmental-justice-ej-iwg

DBE, ACDBE Websites

Description	Website Link
DOT DBE Regulations	www.ecfr.gov for 49 CFR Part 26
DOT ACDBE Regulations	www.ecfr.gov for 49 CFR Part 23
US DOT DBE Program	https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/
FAA Office of Civil Rights DBE Site	https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/
FAA Civil Rights Connect	https://faa.civilrightsconnect.com
FAA Advisory Circulars	www.faa.gov/regulations_policies/advisory_circulars for AC 150/5370-10H - Standard Specifications for Construction of Airports

ADA, Sec. 504 Websites

Description	Website Link
ADA regulations	www.ecfr.gov for 28 CFR 35 and 36 and 49 CFR 37, 38
Sec. 504 regulations	www.ecfr.gov for 49 CFR 27
Standards for Accessible Design	www.access-board.gov for Buildings & Sites and Transportation
DOJ ADA website	www.ada.gov
FAA Advisory Circulars	www.faa.gov/regulations_policies/advisory_circulars for AC 150/5220-21C, AC 150/5360-12F, and AC 150/5360-14A
FTA Guidance	www.transit.dot.gov/ada for ground transportation
FAA Order 1400.9A	www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1021907

Upcoming Events and Announcements

- National FAA Airports Civil Rights Training Conf.: July 16-18, 2019 at Ritz-Carlton, Pentagon City (Washington, DC area)
- FAA Civil Right Connect Upgrades:
 - Access at <https://faa.civilrightsconnect.com/FAA/login.asp>.
 - Upload documents to FAA
 - Airport Disability Compliance Review Reports
 - Complaint Investigation Closure Letters



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