

SESSION 7: Upcoming Title VI Requirements for all Airports

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Upcoming Title VI Requirements for All Airports

Georgia Airports Association
Annual Conference

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Kevin Weeden, Senior Vice President

- **Experience:** 24 years with KWA
- **Expertise:**
 - DBE and ACDBE Goals
 - Title VI Plans
 - Community Participation Plans





TITLE VI

Civil Rights Act

TITLE VI – HISTORY

Civil Rights Act of 1964

Title VI grew out of the Civil Rights movement, which challenged the historic legacy of discrimination against people of color and women.



TITLE VI – Synopsis

Prohibits
discrimination based
on race, color, or
national origin

Ensures that public
funds are not used to
support discriminatory
practices

COVERAGE UNDER TITLE VI INCLUDES:

“Persons”— no citizenship required- any “person” in the United States

“United States” - properties, facilities, within U.S. jurisdiction.

“Race, Color, National Origin”- broad coverage

“Program or Activity”- if an entity receives federal assistance, then Title VI applies to the WHOLE entity, not just the funded activity.

“Federal Financial Assistance”- not federal services, e.g., the TSA in airports.

“Dear Airport Sponsors” Letter

Issued: August 12, 2022

Notification of DOT Order 1000.12C (Jun. 11, 2021)

Reminder of Title VI and related nondiscrimination obligations

“Tentative” FAA Implementation Schedule

Large and Medium hub airports → FY 2023

Small and Non-hub airports → FY 2024

Block Grant States and smaller commercial service/reliever airports → FY 2024

General Aviation Airports → FY 2025



Title VI Pre-Award Checklist

DOT Order Requirement: “During the Pre-Award Review period, each Operating Administration (OA) **must** conduct a Title VI assessment of **each applicant** for Federal financial assistance”

FAA is using the Checklist for the assessment

Determine “probable” compliance or noncompliance

Title VI Plans and Community Participation Plans could meet assessment requirement



Title VI Plan Overview

DOT Order Requirement: “Each OA providing formula or continuing Federal financial assistance shall require that each recipient develop and adopt a Title VI Plan that outlines the recipient’s measures to ensure compliance with Title VI..”

Title VI Plan Overview, continued

Sample Airport Sponsor Title VI Plan

1. Title VI Policy Statement¹

[Airport Sponsor] assures that no person shall on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex (including sexual orientation and gender identity), creed, or age, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 (PL 100.259), Section 520 of the Airport and Airway Improvement Act of 1982, and related authorities (hereafter, “Title VI and related requirements”), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives U.S. Department of Transportation (DOT) funding. Title VI also prohibits retaliation for asserting or otherwise participating in claims of discrimination.

[Airport Sponsor] further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs are federally funded or not **[If applicable: “, including any programs or activities of our sub-recipients”]**. The Airport Sponsor agrees, among other things, to understand the communities surrounding or in the flight path, as well as

Title VI Plan Overview, continued



Ensures awareness of nondiscrimination authorities

Title VI of the Civil Rights Act of 1964 (Title VI), Airport and Airway Improvement Act of 1982, etc.

Related regulations, orders, and policies



Defines protected bases: race, color, national origin (including limited English proficiency), age, sex (including sexual orientation and gender identity), and creed (“Title VI” bases)



Describes administrative requirements and obligations



Provides guidance for employees and tenants

Title VI Plan Overview, continued

Ensures awareness of nondiscrimination authorities

Title VI of the Civil Rights Act of 1964 (Title VI), Airport and Airway Improvement Act of 1982, etc.

Related regulations, orders, and policies

Defines protected bases: race, color, national origin (including limited English proficiency), age, sex (including sexual orientation and gender identity), and creed (**“Title VI” bases**)

Describes administrative requirements and obligations

Provides guidance for employees and tenants

Section 1 – Policy Statement

- “Airport Sponsor agrees, among other things, to understand the communities surrounding or in the flight path, as well as customers that use the airport...
- [and] to involve them and the general public in the decision-making process...
- [and] requires nondiscrimination assurances, as prescribed by FAA, from each tenant, contractor, and concessionaire providing an activity, service, or facility at the airport.”
- Identify the Title VI Coordinator, and their contact information
- Airport Director (or equivalent) signature



Section 2 – Administration

- ✓ Identify any sub-recipients
- ✓ List pending grant applications, and locations of public records of grant award information

As of the date of this plan, **Airport Sponsor** has the following pending applications for Federal financial assistance: ***[list AIP and other grants below (if known) or write “none”]***

Federal Source	Grant Number	Amount
<i>DHS</i>	<i>TZ-12345</i>	<i>\$1,000,000</i>
<i>FAA AIP</i>	<i>AB-12345</i>	<i>\$2,000,000</i>
[...]		

[Add or delete lines, as needed]

Section 3 – Assurances

- Describe the process for ensuring that required clauses are included in solicitations and contract agreements

- b. **[Airport Sponsor]** requires, Civil Rights clauses to be included in solicitations and contracts for all subcontractors, subleases, and any other agreements. **[Add narrative discussing the methods (e.g., directives, required templates, periodic checks of sub-recipient and sub-contractor agreements, etc.)]**

Description of Oversight Methods for Subcontracts

Subcontract template must be used in all subcontracts related to the airport program. Subcontracts are audited by the Procurement Dept. to verify they include the template language, for not less than 10 percent of contractors each year.

Section 4 – Title VI Coordinator Responsibilities

Coordinator responsibilities overview

- Report to airport leadership, FAA
- Receive and process Title VI complaints (discussed in Sec. 13)
- Coordinate demographic data collection
- Ensure compliance by sharing information with staff, reviewing program compliance, and reviewing this plan
- Maintain access to FAA Civil Rights Connect system



Section 5 – Notice

Affirmation that poster at https://www.faa.gov/sites/aa.gov/files/about/office_org/headquarters_offices/acr/discrimination_poster.pdf has been completed and posted.

Identify poster locations

Outreach commitment, including effective public notices

Community Participation Plan commitment

Translated public notices commitment

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:

Discriminacion 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

Section 6 – Community Statistics



Identify affected communities



“Any readily identifiable group potentially impacted by an airport project or operation, such as the community immediately surrounding a project or a community in the flight path”



Provide demographic information for the affected communities



Identify poverty rates for the Affected Communities, the area in which the airport is located, and the surrounding area



Use U.S. Census/American Community Survey (ACS) data (www.census.gov) or EJScreen (www.epa.gov/ejscreen)

Section 7 – Community Impacts

- Identify existing and expected new facilities that could have impacts on affected communities
 - Indicate if any have disparate impacts, and if mitigated/eliminated
 - For any impacts not mitigated/eliminated, provide justification
 - Covered new facilities are those expected to open within 3 years



Section 8 – Limited English Proficiency (LEP)

- Combine languages spoken by affected communities from Sec. 6 with newly identified additional languages spoken by airport guests
- Identify translation services (vendor, languages, point of contact)
- Identify interpretation services (vendor, languages, point of contact)
- Describe Interpretation Assistance Process



Section 8 – LEP, continued

- Apply the **Four Factor Analysis** to determine LEP assistance obligations, consistent with Executive Order 13166.
- For Census data, look to language spoken at home (Census Table B16001 data)

Factor 1

Number/proportion of LEP persons in a recipient's area

Factor 2

Frequency of contact between LEP individuals and the recipient's services

Factor 3

Importance of the service provided by the recipient

Factor 4

Resources available to the recipient and costs





Section 9 – Transportation

- Affirm that coordinating with local transit authorities or planning entities to encourage transit connections
- Identify transit services that connect the airport employment centers to minority and/or disadvantaged communities
 - Not necessarily the same as the affected communities, but there may be some affected communities that are also listed here
 - Likely to be additional communities, not previously identified as affected communities

Section 10 – Minority Businesses

- Identify existing or known upcoming airport business opportunities
- For each, identify what is being done for outreach to minority owned businesses, to encourage them to submit bids/proposals
- Identify who keeps the records





Section 11: Training

- Commitment to conduct new employee training that includes:
 - Title VI nondiscrimination requirements
 - Retaliation protections
 - Information about the notices (see Sec. 5)
 - Complaint investigation procedures (see Sec. 13)
 - Title VI nondiscrimination requirements in contracts (see Sec. 3)
 - Language assistance services (see Sec. 8)
 - Cultural, community relations, and anti-harassment issues
- Commitment to refresher training; identify interval

Section 12: Investigations, Lawsuits, Reviews

- Notification commitment for reviews or audits for all types of civil rights issues, not just Title VI matters
 - EEO and disability matters
 - Sub-recipient matters
- Notification commitment for complaints, lawsuits, or investigations for Title VI discrimination allegations
- Include tenant and contractor issues, within the airport program
- Commitment to inform and keep FAA updated.



Section 13: Title VI Complaints

Covers all Title VI and related retaliation complaints from members of the public concerning the airport program.

Applies to any Title VI complaint received by the airport sponsor or its tenants or contractors

Does not apply to complaints for employment issues outside of FAA jurisdiction

Does not apply to TSA or CBP complaints for other Federal agencies

Complaint processing commitments



Section 13: Title VI Complaints, continued



Complainant rights

Decision, with explanation

Appeal/ reconsideration option

Contact person with the airport sponsor organization



Investigation Procedure section



Timeframes for the process steps



Describe policy for making sure complaints reach the Coordinator, and then are forwarded to FAA





1.) Title VI of the Civil Rights Act of 1964 states that no person in the United States shall be excluded from participation in any programs, be denied the benefits of, or be subjected to discrimination based on what?

A.) Race, Color or National Origin

B.) Religion

C.) Age

D.) Disability



A.) RACE, COLOR OR NATIONAL ORIGIN

The law states:

"No person 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."

NONCOMPLIANCE

Failure or refusal to comply with Title VI of the Civil Rights Act of 1964, other applicable Civil Rights Laws, and implementing departmental regulations.

- Agencies found to be noncompliant with Title VI of the 1964 Civil Rights Act and other nondiscrimination authorities could be subject to:
- Withholding of payments to the recipient under the contract until the recipient complies, **and/or** cancellation, termination or suspension of the contract, in whole or in part.



2. What is Non-Compliance?

- A. Assuring Title VI compliance is met
- B. Failure or refusal to comply with Title VI of the Civil Rights Act of 1964
- C. Putting Title VI Nondiscrimination language in contracts
- D. None of the Above



2. What is Non-Compliance?

B. Failure or refusal to comply with Title VI of the Civil Rights Act of 1964

Community Participation Plan (CPP)

DOT Order Requirement: “Each OA shall develop comprehensive community participation requirements (Community Participation Plan) that applicants and recipients must satisfy as a condition of receiving an award of Federal financial assistance”

Community Participation Plan

“The goal of the Community Participation Plan requirement is to facilitate full compliance with Title VI by requiring meaningful public participation and engagement to ensure that applicants and recipients are adequately informed about how programs or activities will potentially impact affected communities, and to ensure that diverse views are heard and considered throughout all stages of the consultation, planning, and decision-making process.”

USDOT Order 1000.12 C



Community Participation Plan

Key Elements to be Addressed

- 1) Goals and Objectives
- 2) Identification of Affected Communities
- 3) Focused Outreach
- 4) Meaningful Education
- 5) Diverse Communications
- 6) Comprehensive Engagement
- 7) Meaningful Participation
- 8) Accessibility
- 9) Reported Outcomes
- 10) Recordkeeping

Title VI Resources

Airport Non-discrimination Compliance (Title VI, LEP, EJ)

- https://www.faa.gov/about/office_org/headquarters_offices/acr/com_civ_support/non_disc_pr

Unlawful Discrimination Poster

- https://www.faa.gov/sites/faa.gov/files/about/office_org/headquarters_offices/acr/discrimination_poster.pdf

Title VI of The Civil Rights Act of 1964 and Additional Nondiscrimination Requirements

- <https://highways.dot.gov/civil-rights/title-vi-civil-rights-act-1964-and-additional-nondiscrimination-requirements>

Title VI Resources

National Civil Rights
Training Conference
Presentations

https://www.faa.gov/about/office_org/headquarters_offices/acr/eeo_training/fourteenth-annual-national-civil-rights-training-conference

FAA Civil Rights
Connect

<https://faa.civilrightsconnect.com/FAA/login.asp>



Questions?

A man in a brown suit jacket and yellow shirt is talking to a woman in a blue polo shirt in an airport terminal. In the background, another woman is walking. The scene is brightly lit with large windows.

Through airports
that embrace
diversity
of the people
they serve.