U.S. Department of Transportation
Federal Aviation Administration

Advisory Circular

Subject: CIVIL RIGHTS REQUIREMENTS FOR THE AIRPORT IMPROVEMENT PROGRAM (AIP)

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Change:

1. PURPOSE. This Advisory Circular (AC) encompasses the basic civil rights requirements for the Airport Improvement Program (AIP). It is intended for sponsors using program assistance and for contractors and subcontractors working on projects under the program. This AC is updated to reflect the Disadvantaged Business Enterprises Program requirement mandated by the Airport and Airway Safety and Capacity Expansion Act of 1987, and also to include the general civil rights provision for airport employment which sponsors are to include in all leases and contracts.

2. CANCELLATION. AC 150/5100–15, Civil Rights Requirements for the Airport Improvement Program (AIP), dated September 24, 1984, is canceled.

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CONTENTS

Section 1. Introduction

1. Background 1
2. General 1
3. Contents 1
4. Related Reading Material 2
5. Grant Assurance 2
6.–9. Reserved 2

Section 2. Nondiscrimination in Benefits for and Services to the Public

10. Authority 2
11. Applicability 2
12. Title VI Requirements and Implementation 3
13.–19. Reserved 4

Section 3. Nondiscrimination in Employment in Federally–Assisted Construction Contracts

20. Authority 4
21. Applicability 4
22. Executive Order 11246 Requirements and Implementation – Sponsor 4
23. Executive Order 11246 Requirements and Implementation – Contractor 5
24. Sponsor Assistance and Sanctions 7
25. Preaward Compliance Review 7
26. Enforcement 7
27.–29. Reserved 7

Section 4. Nondiscrimination in Airport Employment Opportunities

30. Authority 8
31. Applicability 8
32. Airport Employment Requirements 8
33.–39. Reserved 8

Section 5. Disadvantaged Business Enterprises Program

40. Authority 8
41. Applicability 8
42. DBE Requirements – Sponsor 8
43. DBE Requirements – Contractor 10
44. Implementation 10
45. Compliance 10
46.–49. Reserved 10

Section 6. Nondiscrimination in Benefits for, Services To, Employment of and Accessibility for the Handicapped

50. Authority 11
51. Applicability 11
52. Requirements and Implementation 11
53.–99. Reserved 11

APPENDICES

Appendix 1. Civil Rights Grant Assurance (2 pages)
Appendix 2. Standard DOT Title VI Assurances (5 pages)
Appendix 3. Notice of Nondiscrimination (2 pages)
Appendix 4. Equal Employment Opportunity Clause (2 pages)
Appendix 5. Requirements for Certification of Nonsegregated Facilities (3 pages)
Appendix 6. Notice for Solicitations for Bids (2 pages)
Appendix 7. Standard EEO Specifications (6 pages)
Appendix 8. Notices to be Posted Per Paragraphs (1) and (3) of the EEO Clause (2 pages)
Appendix 9. General Civil Requirements Provision for Contracts, Leases, and Other Airport Agreements (2 pages)
Appendix 10. DBE Required Statements (2 pages)
Appendix 11. Handicapped Accessibility Requirements (3 pages)

CIVIL RIGHTS

SECTION 1. INTRODUCTION

1. BACKGROUND. Since the passage of the Civil Rights Act of 1964, many other laws have been passed and Executive orders issued which pertain to various aspects of civil rights. Some refer to discrimination in employment; some deal with discrimination in providing services; some with discrimination in program accessibility for persons with disabilities, etc. In many instances, the U.S. Department of Transportation and other Federal agencies issued regulations to implement the different laws and Executive orders. Many of these regulations levy requirements on recipients of Federal assistance under the airport grant program, administered by the Federal Aviation Administration (FAA).

2. GENERAL. Each applicable civil rights statute or Executive order and the implementing regulations affect the FAA grant program in a different way. While the sponsor is responsible to the FAA for the particular requirement levied, the action may actually lie with another party. (Sponsor is the term used to refer to the recipient of a grant under the airport grant program and may be an airport owner, a State, a unit of local government, or a planning agency). For example, a prime construction contractor, paid with Federal funds, is required to make good faith efforts to meet the Disadvantaged Business Enterprise Program goals; but the development of and adherence to the Program is the responsibility of the sponsor. Each area of civil rights also may require its own grant language, contract language, and assurances.

3. CONTENTS.

a. The basic requirements to comply with the various Civil Rights laws and regulations are compiled in this Advisory Circular (AC) for ready reference. In the event of amendment to existing statutes, Executive orders, regulations, policy guidelines, and requirements, or new enactments, or any other situation resulting in a discrepancy between the requirements in this AC and the legal authorities upon which they are based, the legal authorities govern. (The word "shall," used in places within this AC, signifies a compliance obligation on the part of the sponsor or contractor which is a requirement of the statute or regulation and is not mandated by the AC.)

b. Because of the complexity of the various civil rights requirements, this Advisory Circular has been divided into the following subject areas, each of which is related to a different aspect of these requirements. Not all areas apply to all grants, nor are all sponsors subject to the various laws and regulations within each area:

(1) **Section 2.** Nondiscrimination in Benefits for and Services to the Public;

(2) **Section 3.** Nondiscrimination in Employment in Federally–assisted Construction Contracts;

(3) **Section 4.** Nondiscrimination in Airport Employment Opportunities;

(4) **Section 5.** Disadvantaged Business Enterprises Program;

(5) **Section 6.** Nondiscrimination in Benefits for, Services to, Employment of, and Accessibility for the Handicapped.

c. To help simplify the material contained in this AC, the following structure has been used in each section when appropriate:

(1) Authority, including legislation, Executive order, or regulation;

(2) Applicability – who is subject to the particular requirement;

(3) Requirements and implementation.

4. RELATED READING MATERIAL. This AC references various statutes, Executive orders, and implementing regulations, the latter contained in the Code of Federal Regulations (CFR). Because of the length of some of

these laws, Executive orders, and regulations, they are not included in this publication, per se. The local FAA Airports field office or the Regional Office can direct interested parties to the source material cited. In certain instances, this AC uses terminology which appears in a statute or Executive Order, which may not as yet appear in a regulation due to the time lag between enactment of the underlying authority and the amendment of existing regulations or promulgation of new ones.

5. GRANT ASSURANCE (Appendix 1). In applying for a grant, a sponsor agrees to a set of assurances which accompany the grant application, one of which is a general assurance concerning civil rights. This assurance covers all the subject areas discussed in this AC, though some civil rights regulations require separate assurances, as well, such as Title VI of the Civil Rights Act of 1964. For a planning grant, the duration of the assurance is the time during which the planning takes place; for grants for equipment, the duration is the time the sponsor retains ownership or possession of the equipment. For grants involving the purchase of land, or for an airport or noise implementation project involving construction, the duration is the period the property or facility is used for the purpose for which the Federal assistance was extended or for as long as the sponsor retains ownership or possession of the property.

6.–9. RESERVED.

SECTION 2. NONDISCRIMINATION IN BENEFITS FOR AND SERVICES TO THE PUBLIC

10. AUTHORITY.

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*). Title VI states that "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." These requirements are primarily concerned with discrimination in benefits for and service to the public.

b. 49 CFR Part 21. To implement the requirements of Title VI, the Department of Transportation (DOT) issued 49 CFR Part 21, Nondiscrimination in Federally–assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964.

c. Section 520 of the Airport and Airway Improvement Act of 1982. Section 520 and its predecessor, Section 30 of the Airport and Airway Development Act of 1970, added sex and creed to the list of race, color, or national origin as prohibited bases of discrimination with regard to nondiscrimination in the FAA's grant program. Therefore, where Title VI is referenced in this AC, sponsors are prohibited from discriminating because of sex and creed in addition to the Title VI grounds stated in a. above.

11. APPLICABILITY.

a. Sponsors. Title VI applies to sponsors who receive grants under the current airport grant program for planning purposes, airport development, land acquisition, and noise compatibility programs. It also applies to sponsors who received grants under the Airport Development Aid Program (which expired in 1981) and under the Federal Aid to Airport Program (which expired in 1970) if the grant contained the Title VI assurances. Documents transferring surplus property after 1964 under the Surplus Property Act of 1944 also contain a compliance obligation.

b. Concessionaires, Tenants, Lessees. While there is no requirement levied by the Federal government directly on the concessionaire, tenant, or lessee, the airport owner is required to pass on to them the Title VI requirements prohibiting discrimination. Thus, an airport owner is obligated to include in all leases and contracts with a concessionaire, tenant, or lessee specific requirements for nondiscrimination when entering into a new contract, agreement, or lease after receiving a grant obligating its airport(s) to 49 CFR Part 21.

12. TITLE VI REQUIREMENTS AND IMPLEMENTATION.

a. Employment. Discrimination in employment practices based on race, color, or national origin is not normally covered by Title VI, unless such practices result in discrimination in the provision of benefits or services to the public or in programs designed to provide employment.

b. Services and Benefits. Appendix C of 49 CFR Part 21 lists the following examples of nondiscrimination, which, without being exhaustive, illustrate the application of nondiscrimination provisions of Part 21:

(1) An obligated airport owner and any of its lessees, concessionaires, tenants, or contractors must offer to all members of the public the same degree and type of service without discrimination;

(2) There can be no distinction between members of the public in respect to waiting rooms, passenger holding areas, aircraft tiedown areas, restaurant facilities, restrooms, or facilities operated on land acquired with Federal assistance;

(3) There must be the same degree of service offered on a nondiscriminatory basis by: fixed base operators, restaurants, snack bars, gift shops, ticket counters, baggage handlers, car rental agencies, or limousines and taxis franchised by the airport sponsor, insurance underwriters, and other businesses catering to the public at the airport;

(4) An aircraft operator may not be required to park his/her aircraft at a location that is less protected, or less accessible from the terminal facilities offered to others.

(5) The pilot of an aircraft may not be required to help more extensively in fueling operations, and may not be offered less incidental services (such as windshield wiping) than other pilots.

(6) No pilot or crewmember eligible for access to a pilot's lounge or to unofficial communication facilities such as a UNICOM frequency may be restricted in that access.

(7) Access to facilities maintained at the airport by air carriers or commercial operators for first–class transportation tickets or frequent users of the carrier's or operator's services may not be restricted.

(8) Passengers and crewmembers seeking ground transportation from the airport may not be assigned to different vehicles, or delayed or embarrassed in assignment to vehicles, by the airport sponsor or his lessees, concessionaires, or contractors.

(9) Where there are two or more sites having equal potential to serve the aeronautical needs of the area, the airport sponsor shall select the site least likely to adversely affect existing communities. Such site selection shall not be made on the basis of race, color, or national origin.

c. Standard DOT Title VI Assurances (Appendix 2). When an airport sponsor applies for its first grant to purchase land or for an airport or noise implementation project involving construction, it will be required to execute the standard DOT Title VI Assurances. Thereafter, the clauses in attachment 1 of the Assurances must be inserted in all contracts and leases, not only in those resulting from the initial grant, but in all instruments from that point on. Planning agencies will be required to execute the Assurance each time it receives a grant for system planning.

(1) **Duration.** These Assurances need only be executed once, since they obligate the sponsor for the period the property is used for the purpose for which the financial assistance was extended, or for as long as the sponsor retains ownership or possession of the property.

(2) **Property Acquisition or Improvement.** When real property is acquired or improved with Federal funds, the appropriate Title VI covenants in attachment 2 of Appendix 2 must be included in any subsequent deed, license, lease, permit or other agreement pertaining to the property.

(3) **Reverter Clauses.** A reverter clause gives the sponsor the right to reclaim property conveyed, leased, or otherwise made available through a legal agreement to a third party if the party fails to comply with conditions, assurances, and covenants in the agreement established under Title VI. The reverter clause concept also applies to contracts, but is termed a cancellation. The FAA will make a determination whether the sponsor will be required to use reverter clauses on a case–by–case basis. Insertion of the reverter clauses in a grant agreement binds the sponsor to use the clauses in all future deeds, leases, licenses, permits and similar agreements.

d. Availability of 49 CFR Part 21. The sponsor is required to have a copy of 49 CFR Part 21 available at its offices for inspection during normal working hours.

e. Notice of Nondiscrimination (Appendix 3). The sponsor is required to conspicuously display FAA furnished signs in the main public areas of the airport, stating that discrimination based on race, color, national origin, sex, creed, or handicap in public services and employment is prohibited on the airport.

f. Complaints. The sponsor must forward to the FAA all complaints received alleging discrimination because of race, color, national origin, sex, or creed.

13.–19. RESERVED.

SECTION 3. NONDISCRIMINATION IN EMPLOYMENT IN FEDERALLY–ASSISTED CONSTRUCTION CONTRACTS

20. AUTHORITY.

a. Executive Order 11246, Equal Employment Opportunity. A portion of Executive Order 11246, effective October 24, 1965, is to promote and insure equal opportunity for all persons, without regard to race, color, religion, sex or national origin, employed or seeking employment with contractors performing under federally–assisted construction contracts in excess of $10,000. This Order authorizes the Secretary of Labor to adopt such rules and regulations as necessary to achieve the purpose of the Executive Order. It was amended by Executive Order 11375, which provides for equal opportunity on the basis of merit and without discrimination because of sex and by Executive Order 12084, which transfers the compliance functions to the Secretary of Labor.

b. 41 CFR Part 60. The rules and regulations adopted by the Department of Labor to implement Executive Order 11246 can be found in 41 CFR Part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

21. APPLICABILITY. The requirements in this section are applicable to federally–assisted construction contractors and subcontractors when the construction contract is in excess of $10,000, except where a different dollar amount is noted. In determining the application of the dollar ($10,000) amount to a federally–assisted construction contract or subcontract, the amount of such contract or subcontract rather than the amount of the Federal financial assistance governs.

22. EXECUTIVE ORDER 11246 REQUIREMENTS AND IMPLEMENTATION – SPONSOR. The sponsor is responsible for insuring the inclusion of the applicable clauses and certifications, as listed below, in the appropriate bid documents and in the contracts between the sponsor and the prime contractor and between the contractor and subcontractors.

a. Equal Employment Opportunity Clause – 41 CFR 60–1.4(b) (Appendix 4). The sponsor is required to:

(1) Incorporate into the contract the Equal Employment Opportunity (EEO) Clause and to assure that the Clause is incorporated into any subcontracts for construction which the contractor may enter into;

(2) Comply with the clause with respect to its own employment practices when it uses its own work force to perform the actual construction (known as "force account");

(3) Assist the FAA and the Department of Labor in obtaining the compliance of contractors and subcontractors;

(4) Not enter into a contract with a contractor debarred due to a violation of E.O. 11246.

b. Certification of Nonsegregated Facilities – 41 CFR 60–1.8 (Appendix 5).

(1) Certification by Contractors and Subcontractors. Prior to the award of any federally–assisted construction contract or subcontract subject to the EEO clause, the sponsor must require the prospective contractor to submit a certification that the contractor does not and will not maintain any facilities provided for its employees in a segregated manner on the basis of race, color, religion or national origin. The prime contractor shall also be required to get a similar certification from proposed subcontractors.

(2) **Force Account.** Sponsors of force account work in excess of $10,000 are required to accomplish the necessary certifications of nonsegregated facilities before FAA approval of the proposed project.

c. Affirmative Action Requirements – 41 CFR Part 60–4.

(1) **Solicitations for Offers and Bids.** The sponsor is required to include in all solicitations for offers and bids on all federally–assisted construction contracts and subcontracts:

(i) **The Bid Notice – 41 CFR 60–4.2 (Appendix 6).** The goals and timetable for minority and female utilization, issued by the Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor and printed in the Federal Register, are to be inserted by the sponsor.

(ii) **Equal Employment Opportunity Specifications – 41 CFR 60–4.3 (Appendix 7).** In addition to being included in all solicitations for offers and bids, these specifications will be included in all FAA assisted construction contracts or subcontracts to be performed in geographical areas designated by the Department of Labor.

(2) **Contract Award Notice.** The sponsor is required to notify the OFCCP within 10 working days of an award of a contract subject to 41 CFR Part 60–4. The notification is to include:

(i) Name, address and telephone number of the contractor;

(ii) Employer identification number;

(iii) Dollar amount of the contract;

(iv) Estimated starting and completion dates of the contract:

(v) the contract number; and

(vi) The geographical area in which the contract is to be performed.

23. EXECUTIVE ORDER 11246 REQUIREMENTS AND IMPLEMENTATION – CONTRACTOR.

a. EEO Clause – 41 CFR 1.4(b) (Appendix 4). This clause must be included in all construction contracts between the sponsor and the contractor and all subcontracts between the contractor and subcontractors in which the amount of the contract or subcontract exceeds $10,000. The following will satisfy the requirements levied by the clause:

(1) **Solicitations or Advertisements for Employees.** Contractors and subcontractors may satisfy the requirements of paragraph (2) of the EEO clause by complying with any of the following:

(i) **Solicitation or Advertising.** By stating in the solicitation or the advertising that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin;

(ii) **Insignia.** By including appropriate insignia in display or other advertising as prescribed by the Department of Labor;

(iii) **Single Advertisement.** By using a single advertisement grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants will have equal consideration for employment without regard to race, color, religion, sex or national origin; or

(iv) **Language Use.** By using the phrase "an equal opportunity employer" in a single advertisement in clearly distinguishable type.

(2) **Notices to be Posted (Appendix 8).** These notices are covered by paragraphs (1) and (3) of the EEO clause. The prime contractor or subcontractor must post copies of the notices in conspicuous places available to employees, applicants for employment and representatives of each labor union or other organization(s) representing the employees with which there is a collective bargaining agreement or other contract or understanding.

(3) **Work On or Near Indian Reservations – 41 CFR 60–1.5(a)(6).** It is not considered a violation of the EEO clause for a contractor to extend a publicly announced preference in employment of Indians on or near an Indian reservation. Any such preference, however, cannot result in a discrimination among Indians on the basis of religion, sex or tribal affiliation.

b. Contractor/Subcontractor Reporting – 41 CFR 60–1.7.

(1) **Monthly Utilization Reports (SF 257).** Based on paragraph (5) of the EEO clause, Monthly Utilization Reports (SF 257) may be required to be submitted to the area office of the OFCCP. This requirement applies to contracts to be performed in areas designated by the Department of Labor. Contractors should contact the area office of the Department of Labor to see if this report is required.

(2) **Employer Information Report (SF–100).** Contrators/subcontractors working on federally–assisted projects are required to file with the sponsor annually, on or before March 31, complete and accurate reports on Standard Form 100 (Employer Information Report, EEO–1). The first such report is required within 30 days after award unless the contractor/subcontractor has submitted such a report within 12 months preceding the date of award (the FAA or the Department of Labor can designate other intervals). This form is normally furnished based on a mailing list, but can be obtained from the Equal Employment Opportunity Commission (EEOC) – Survey Division, 2401 E St., NW, Washington, D.C. 20507 or by calling (202) 634–6750. This report is required if a contractor or subcontractor meets all of the following conditions:

(i) **Nonexempt.** If contractors/subcontractors are not exempt based on 41 CFR 60–1.5;

(ii) **Number of Employees.** Has 50 or more employees;

(iii) **Dollar Level.** Has a contract, subcontract or purchase order amounting to $50,000 or more or serves as a depository of government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and saving notes; and

(iv) **Contractor/Subcontractor.** Is a prime contractor or first tier subcontractor. Some subcontractors below the first tier who work at the site are required to file if they meet the above requirements.

c. **Certification of Nonsegregated Facilities – 41 CFR 60–1.8.** See paragraph 22b. and Appendix 5.

d. **Affirmative Action Requirements – 41 CFR Part 60–4.**

(1) **Bid Notice – 41 CFR 60–4.2 (Appendix 6).**

(i) **Goals.** The goals are applicable to all the contractor's construction work (whether or not it is federally assisted) performed in the covered area.

(ii) **Contract Award Notice.** The bid notice requires the prime contractor to provide notification to the Department of Labor within 10 working days of award of any construction subcontract in excess of $10,000 at any tier. The notification shall include:

(A) Name, address and telephone number of the subcontractor;

(B) Employee identification number of the subcontractor;

(C) Estimated dollar amount of the subcontract;

(D) Estimated starting and completion dates of the subcontract; and

(E) The geographical area in which the subcontract is to be performed.

(2) **Standard Equal Employment Opportunity Specifications – 41 CFR 60–4.3 (Appendix 7).**

(i) The contractor is required to implement the specific affirmative action standards provided in paragraphs 7a through p of the EEO Specifications;

(ii) Whenever the contractor or any subcontractor at any tier subcontracts a portion of the work involving any construction trade, it will physically include in each subcontract in excess of $10,000 the provisions of the EEO specifications and the bid notice in (1) above which will contain the applicable goals for minority and female participation;

(iii) The contractor is required to designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out.

e. **Records.** The FAA or the Department of Labor may require a contractor to keep employment or other records and to furnish, in the form requested within reasonable limits, such information as necessary.

f. **Other Requirements.** Contractors and subcontractors should refer to the regulations listed below for affirmative action guidelines in employee selection:

(1) **Employee Selection.** Guidelines for employee selection are contained in 41 CFR Part 60–3.

(2) **Sex Discrimination.** Complete details on nondiscrimination requirements are contained in 41 CFR Part 60–20.

(3) **Discrimination Because of Religion or National Origin.** See the guidelines contained in 41 CFR Part 60–50.

24. SPONSOR ASSISTANCE AND SANCTIONS.

a. Contractor/Subcontractor Compliance. A sponsor shall assist and cooperate actively with the Department of Labor in obtaining compliance of contractors and subcontractors with the EEO clause and the rules, regulations and relevant orders of the Secretary of Labor.

b. Information. A sponsor shall furnish the Department of Labor such information as required for the supervision of compliance matters.

c. Debarred Contractors. A sponsor shall refrain from entering into any contract or contract modification subject to Executive Order 11246, as amended, with a contractor debarred from, or who has not demonstrated eligibility for government contracts or federally–assisted construction contracts pursuant to Executive Order 11246, as amended.

d. Sanctions/Penalties. A sponsor shall carry out such sanctions and penalties for violation of the EEO clause as may be imposed on contractors and subcontractors by the Department of Labor based on Part II, Subpart D of the Executive Order. If the sponsor fails or refuses to comply, the FAA may terminate or suspend in whole or in part any contractual agreement it may have with the sponsor. It may refrain from extending any further assistance under any of its programs subject to the Executive Order until satisfactory assurance of future compliance has been received from the sponsor. Additionally, the DOL may refer the case to the Department of Justice for legal proceedings.

25. PREAWARD COMPLIANCE REVIEW. Upon the request of the Department of Labor, a sponsor shall not enter into contracts or approve the entry into contracts or subcontracts with any bidder, prospective prime contractor or proposed subcontractor named by the Department of Labor until a preaward compliance review has been conducted and approved with a determination that the bidder, prospective prime contractor or proposed subcontractor will be able to comply with the provisions of the Equal Opportunity clause.

26. ENFORCEMENT. Enforcement of the requirements of Executive Order 11246, as amended, is the responsibility of the Department of Labor, which may institute an administrative enforcement proceeding or refer the matter to the Department of Justice for enforcement of contractual provisions. (See 41 CFR 60–1, Subpart B – General Enforcement, Compliance Review and Compliant Procedure.)

27.–29. RESERVED.

SECTION 4. NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES

30. AUTHORITY. Section 520 of the Airport and Airway Improvement Act of 1982 concerns nondiscrimination and affirmative action in three areas: employment practices; benefits and services to the public; and disadvantaged business enterprises (DBE). Section 2 of this AC pertains to nondiscrimination in benefits and services to the public and Section 5 to the DBE program. The remaining area, employment practices on the airport, is treated in this section.

31. APPLICABILITY.

a. Sponsors. Section 520 applies to sponsors who receive grants under the current grant program for planning purposes, airport development, land acquisition, and noise compatibility programs.

b. Contractors, Tenants, Concessionaires, Lessees. The sponsor is required to pass on to all contractors, tenants, concessionaires, and lessees the general civil rights requirement prohibiting discrimination by inserting the civil rights provision in Appendix 9 in all contracts, leases or other agreements with such contractors, tenants, concessionaires and lessees. Further, the sponsor shall require that this provision will be included in all subcontracts, subleases and other agreements at any tier.

32. AIRPORT EMPLOYMENT REQUIREMENTS. All sponsors are required to display federally furnished posters which give notice that the airport operator, lessees, tenants, concessionaires, and contractors shall not discriminate because of race, color, national origin, sex, creed, or handicap in public services and employment. (See paragraph 12e and Appendix 3.)

33.–39. RESERVED.

SECTION 5. DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

40. AUTHORITY. Executive Order 11625 required Federal agencies to develop plans and programs to encourage minority business enterprises. The DOT regulation implementing this mandate is 49 CFR Part 23, Participation by Minority Business Enterprise in Department of Transportation Programs. Until May 23, 1988, sponsors complied with the minority business enterprise (MBE) subparts of the regulation. With the passage of the Airport and Airway Safety and Capacity Expansion Act of 1987 (see section 105(f), amending section 505(d) of the Airport and Airway Improvement Act and amendment of Subpart D of the implementing regulations, 49 CFR Part 23) and effective on May 23, 1988, sponsors now comply with the disadvantaged business enterprise (DBE) subpart of the regulation (Subpart D). Disadvantaged Business Enterprise (DBE) means a small business concern that is owned (51%) and controlled by one or more socially and economically disadvantaged individuals, including, for purposes of this definition, women. Other legal authorities which support the DBE rule in relation to the FAA's grant program are Title VI of the Civil Rights Act of 1964, Sections 511(a) and 520 of the Airport and Airway Improvement Act of 1982, as amended, and Executive Orders 12138 and 12432.

41. APPLICABILITY. All sponsors are required, as a condition of project approval, to assume certain DBE obligations as set forth in 49 CFR Part 23. In addition, there is passed on to contractors (both construction and nonconstruction) a responsibility to make good faith efforts to meet the DBE participation goals contained in the sponsor's bid solicitations.

42. DBE REQUIREMENTS – SPONSOR.

a. All Sponsors. All sponsors are required to meet the following four general requirements:

(1) Policy and Obligation Statements (Appendix 10). Each sponsor shall include the policy and obligation statement in Appendix 10 in all contracts between the sponsor and any contractor;

(2) Advise Contractors. The sponsor shall advise each contractor that failure to carry out the requirements of the DBE regulations will constitute a breach of contract;

(3) Long–Term Exclusive Lease. The sponsor shall not enter into long–term (5 years or more) exclusive leases with nonminorities, unless the FAA concurs that local circumstances warrant this and the sponsor and the lessor provide for adequate DBE participation throughout the term of the lease.

(4) Lessees Must Avoid Discrimination. While lessees are not required to establish an affirmative DBE program, they are required to practice nondiscrimination in their activities and to provide DBE participation in their leases as required by the sponsor, in order to meet the sponsor's goals, or required by the FAA in order to obtain an exemption from the prohibition against long–term exclusive leases.

b. Sponsors Required to Have a Basic DBE Program. Sponsors required to have a basic DBE program are those who receive grants as listed below:

Value of Grant	
all applicants for Planning Grants	over $ 75,000
G.A. Development Assistance	over $250,000
Non–hub Development Assistance	over $400,000

In addition to a. above, these sponsors shall adopt a basic DBE program comprised of the following:

(1) DBE Directory. As a minimum, the sponsor shall make available to all bidders a list of DBEs in the area who are potential contractors or subcontractors. This directory should include:

(a) Name of the company;

(b) Type of business/speciality;

(c) Address;

(d) Telephone;

(e) Type and extent of ownership (minority/female);

(f) Contact person.

(2) Procedures for DBE Certification. The sponsor shall follow the procedures in Appendix C of Subpart D of Part 23 for making a determination of social and economic disadvantage.

(a) Before making a determination of social and ecomonic disadvantage, the sponsor shall always determine whether the firm is a small business concern, as defined in Subpart D of the regulation. If it is not, then the firm is not eligible to be considered a disadvantaged business, and no further determinations need be made.

(b) For persons belonging to certain named groups in Subpart D, the sponsor makes a "rebuttable presumption" that such persons are socially and economically disadvantaged. This means that a third party may present evidence that the firm's owners are not truly socially and/or economically disadvantaged, even though they are members of one of the presumptive groups. In this case, the sponsor shall follow the challenge procedures in 49 CFR 23.69.

(c) Individuals, who are not presumed to be socially and economically disadvantaged by virtue of membership in one of the named groups, may be found to be socially and economically disadvantaged on a case–by–case basis as outlined in Appendix C of Subpart D.

(3) Percentage Dollar Goals. There are two types of goals which need to be set – the overall goals and the contract goals. The contract goals need not be submitted with the DBE program, but the methodology used shall be included.

(4) Good Faith Efforts. As a condition of awarding a DOT–assisted contract, the sponsor shall determine whether a contractor, who fails to meet the goals, has made good faith efforts to do so.

(5) Overall Goals for DBE Leasing Opportunities. Reserved.

(6) Records and Reports. These will be submitted as required by the Department of Transportation.

c. Sponsors Required to Have a Full DBE Program. Sponsors of large, medium, or small hub airports receiving development grants of over $500,000 are required to comply with a. and b. above plus develop a full DBE program consisting of:

(1) Policy Statement. The sponsor's policymaking body shall issue a policy statement, expressing its commitment to the program;

(2) **Liaison Officer.** A liaison officer shall be designated to administer the program;

(3) **Procedures to Ensure DBE Opportunity to Compete for Contracts and Subcontracts.** The sponsor shall develop and use affirmative action techniques to facilitate DBE participation in contracting activities;

(4) **Use of Minority and Women Banks.** The full extent of services offered by minority owned banks shall be thoroughly investigated;

(5) **Procedures to Assure Contractor Compliance.** Included in the DBE program shall be a description and the specific language of any preconditions to contracts pertaining to the use of DBEs;

(6) **Set Aside Procedures.** Where not prohibited by State or local law, set–aside procedures may be used if the sponsor determines it is necessary to meet DBE goals and there are at least three DBEs who can meet the requirements and actually submit bids in response to a sponsor's solicitation.

43. DBE REQUIREMENTS – CONTRACTOR. While the sponsor is responsible for meeting the overall requirements of the DBE regulation, prime contractors are responsible for making good faith efforts to meet the goals for DBE participation in subcontracting opportunities.

44. IMPLEMENTATION.

a. DBE Program Development Kit. A DBE Program Development Kit has been prepared to assist sponsors in producing acceptable DBE programs. For a complete understanding of the total program and its requirements, sponsors should obtain copies of this kit from the FAA regional Airports offices or Civil Rights offices. The kit also contains the DBE regulation and the explanatory preamble to the regulation.

b. Timing. If a DBE program is required, it shall be submitted at least 45 days prior to the bid solicitation or grant agreement, whichever occurs first. In no event may a grant agreement be issued until the DBE program is submitted and approved.

d. Review Process. The review process can be expected to be completed within 45 days from receipt of the sponsor's program. The appropriate review process will be chosen from the following:

(1) **State DOT Sponsors.** For those sponsors where a state department of transportation is the grantee, the Federal Highway Administration (FHWA) has been designated lead agency to review DBE programs. The initial programs shall be submitted to the FHWA Regional Office of Civil Rights, which will coordinate the review process. Final approval is given by FHWA after concurrence from each affected agency. Following program approval, revised goals and related information shall be submitted directly to the FAA Regional Civil Rights Office which will provide comments and approval to the sponsor.

(2) **Other Sponsors.** FAA regional airports personnel receive DBE programs from all other sponsors and forward the programs to the FAA Regional Office of Civil Rights. The Regional Office of Civil Rights is responsible for review and approval of these DBE programs.

45. COMPLIANCE. The regional civil rights staff is responsible for compliance reviews and determinations in accordance with 49 CFR 23.75.

46.–49. RESERVED.

SECTION 6. NONDISCRIMINATION IN BENEFITS FOR, SERVICES TO, EMPLOYMENT OF AND ACCESSIBILITY FOR THE HANDICAPPED

50. AUTHORITY.

a. Rehabilitation Act of 1973, as amended (P.L. 93–112). Section 504 of the Rehabilitation Act of 1973, as amended, provides that "no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

b. 49 CFR PART 27. The regulation, 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, implements Section 504 for the Department of Transportation and sets out detailed requirements for grantees under Federal financial assistance programs.

51. APPLICABILITY. All recipients of Federal financial assistance from the DOT are required to comply with the requirements of Section 504 and 49 CFR Part 27.

52. REQUIREMENTS AND IMPLEMENTATION.

a. Notice. The sponsor will take steps to notify participants, beneficiaries, applicants, and employees that it does not discriminate on the basis of handicap in admission or access to, or treatment or employment in, its programs and activities.

b. Employment. The regulation prohibits employment discrimination and requires the sponsor to make reasonable accommodations to the known handicaps of otherwise qualified employees.

c. Coordinator. Each sponsor that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with the regulation. It will also adopt complaint procedures for the prompt and equitable resolution of complaints alleging any action prohibited by 49 CFR Part 27.

d. Accessibility (Appendix 11). The sponsor is required to make its existing and future facilities and programs accessible to handicapped persons by providing specific equipment to accommodate them or incorporating the Uniform Federal Accessibility Standards (49 Fed. Reg. 31528, August 7, 1984) in the development of public service facilities. These Standards were issued jointly by the General Services Administration, Housing and Urban Development, the Department of Defense, and the United States Postal Service. Subpart D of 49 CFR Part 27 lists various specific requirements for airports, such as boarding devices, ticketing and baggage check–in designs, etc.

53.–99. RESERVED.

APPENDIX 1—CIVIL RIGHTS GRANT ASSURANCE

Page 2 of this Appendix contains the general grant assurance which is incorporated in all grant agreements between a sponsor and the FAA.

Civil Rights. The sponsor will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the sponsor retains ownership or possession of the property.

APPENDIX 2—STANDARD DOT TITLE VI ASSURANCES

1. The assurances found on page 2 and 3 of this Appendix must be included in each system planning grant and the first grant for construction, the purchase of land, or for noise implementation projects.

2. The clauses in Attachment 1 of this Appendix need to be inserted in all contracts entered into by the sponsor.

3. The appropriate clauses of Attachment 2 of this Appendix need to be inserted as a covenant running with the land, in any future deeds, leases, permits, and similar agreements entered into by the sponsor with other parties:

a. For the subsequent transfer of real property acquired or improved under a Federal financial assistance program of the DOT/FAA; and

b. For the construction or use of or access to space on, over or under real property acquired or improved under the Airport Improvement Program or other Federal financial assistance program of the DOT/FAA.

STANDARD DOT TITLE VI ASSURANCES

(Name of Sponsor) (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that 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 otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the Sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23(b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Sponsor with other parties:

(a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and

(b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which the Sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED:

(Sponsor)

BY

(Signature of Authorized Official)

CONTRACTOR CONTRACTUAL REQUIREMENTS

ATTACHMENT 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports.** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

   b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

APPENDIX 3—NOTICE OF NONDISCRIMINATION

The notice on page 2 of this Appendix is required to be displayed in the public areas of the airport. FAA will furnish this notice.

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 handicap 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, SW.
Washington, DC 20591

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

DISCRIMINACION ILEGAL

Se prohibe a los empresarios de aeropuertos y a sus arrendatarios, inquilinos, concesionarios y contratistas discriminar contra cualquier persona por motivo de raza, color, origen nacional, sexo, creencias religiosas o impedimentos, en lo que respecta a servicios públicos y oportunidades de empleo. Las alegaciones de discriminación deberán dirigirse inmediatamente al Administrador del Aeropuerto o a:

Federal Aviation Administration
Office of Civil Rights, ACR–1
800 Independence Avenue, SW.
Washington, DC 20591

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

APPENDIX 4—EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

The clauses of Appendix 4 on the following page are required to be inserted in federally–assisted construction contracts in excess of $10,000. Prime contractors must include the clauses in each of their subcontracts. (See 41 CFR 60–1.4(b).)

APPENDIX 4—EQUAL EMPLOYMENT OPPORTUNITY CLAUSE (FOR INCLUSION IN ALL AIP CONSTRUCTION CONTRACTS IN EXCESS OF $10,000)

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX 5—REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

The notice for certification of nonsegregated facilities and the certification, itself, are required for federally–assisted construction contracts in excess of $10,000 (41 CFR 60–1.8). The required clauses are found on pages 2 and 3 of this Appendix and consist of:

a. The notice to contractors to be included in the Invitation for Bids (this actually consists of the notice stating that contractors are required to submit a certification and the notice the contractors must provide to prospective subcontractors;

b. The certification required from the contractor and the subcontractors;

c. The certification of the sponsor who is using force account to perform the construction.

NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

1. A Certification of Nonsegregated Facilities must be submitted prior to the award of a federally–assisted construction contract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity Clause.

2. Contractors receiving federally–assisted construction contract awards exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed $10,000 and are not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making statements in offers is prescribed in 18 U.S.C. 1001.

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

1. A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity Clause.

2. Contractors receiving subcontract awards exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed $10,000 and are not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

CERTIFICATION TO BE SUBMITTED BY FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS AND THEIR SUBCONTRACTORS (APPLICABLE TO FEDERALLY ASSISTED CONSTRUCTION CONTRACTS AND RELATED SUBCONTRACTS EXCEEDING $10,000 WHICH ARE NOT EXEMPT FROM THE EQUAL OPPORTUNITY CLAUSE)

CERTIFICATION OF NONSEGREGATED FACILITIES

The federally–assisted construction contractor certifies that he does not maintain or provide, for his employees, any segregated facilities at any of his establishments and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally–assisted construction contractor certifies that he will not maintain or provide, for his employees, segregated facilities at any of his establishments and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The federally–assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The Federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that he will retain such certifications in his files.

CERTIFICATIONS OF NONSEGREGATED FACILITIES BY SPONSORS OF FEDERAL ASSISTANCE WHO ARE THEMSELVES PERFORMING CONSTRUCTION CONTRACTS

The Sponsor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. It further certifies that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Sponsor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. It further agrees that it will obtain identical certifications from proposed contractors prior to the award of contracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed contractors:

NOTICE TO PROSPECTIVE CONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a contract or subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making false statements in offers is prescribed in U.S.C. 1001.

APPENDIX 6—NOTICE FOR SOLICITATIONS FOR BIDS

The Bid Notice on page 2 of this Appendix must be included in all solicitations and bids on all federally–assisted construction contracts in excess of $10,000 to be performed in the geographical area designated by the Director, OFCCP. (See 41 CFR 60–4.2.)

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246, as amended)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	Insert goals for each year	Insert goals for each year

These goals are applicable to all the contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60–4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60–4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project, for the sole purpose of meeting the contractor's goals, shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60–4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director, OFCCP, within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

APPENDIX 7—STANDARD EEO SPECIFICATIONS

The Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246, as amended) are to be included in all federally–assisted construction contracts or subcontracts (including the Solicitations for Bids) in excess of $10,000 to be performed in geographical areas designated by the Director, OFCCP. (41 CFR 60–4.3.)

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246, as amended)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

d. "Minority" includes:

(1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60–4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally–assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure Equal Employment Opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off–the–street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on–the–job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serv-

ing the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60–3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single–user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide Equal Employment Opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Program. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to

achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60–4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

APPENDIX 8—NOTICES TO BE POSTED PER PARAGRAPHS (1) AND (3) OF THE EEO CLAUSE

Page 2 of this Appendix contains the notices which are to be posted as required by paragraphs (1) and (3) of the Equal Opportunity Clause for federally–assisted construction contracts in excess of $10,000. (41 CFR 60–1.42)

APPENDIX 8—NOTICES TO BE POSTED PER PARAGRAPHS (1) AND (3) OF THE EEO CLAUSE

Equal Employment Opportunity is the Law—Discrimination is Prohibited by the Civil Rights Act of 1964 and by Executive Order No. 11246

Title VII of the Civil Rights Act of 1964—*Administered by:*

The Equal Employment Opportunity Commission

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin by Employers with 75 or more employees, by Labor Organizations with a hiring hall of 75 or more members, by Employment Agencies, and by Joint Labor–Management Committees for Apprenticeship or Training. After July 1, 1967, employers and labor organizations with 50 or more employees or members will be covered; after July 1, 1968, those with 25 or more will be covered.

ANY PERSON – Who believes he or she has been discriminated against
SHOULD CONTACT the:

The Equal Employment Opportunity Commission
2401 E Street, NW
Washington, DC 20506

Executive Order No. 11246—*Administered by:*

The Office of Federal Contract Compliance Programs

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

By all Federal Government Contractors and Subcontractors, and by Contractors Performing Work Under a Federal Assisted Construction Contract, regardless of the number of employees in either case.

ANY PERSON – Who believes he or she has been discriminated against
SHOULD CONTACT the:

The Office of Federal Contract Compliance Programs
U.S. Department of Labor
Washington, DC 20210

APPENDIX 9—GENERAL CIVIL RIGHTS PROVISION FOR CONTRACTS, LEASES, AND OTHER AIRPORT AGREEMENTS

Page 2 of this Appendix contains the General Civil Rights provision which shall be inserted by the sponsor in all airport contracts, leases, and other agreements with tenants, concessionaires, and lessees. Furthermore, this provision shall be inserted in all subcontracts, subleases, and other agreements at all tiers.

The contractor/tenant/concessionaire/lessee assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the contract.

APPENDIX 10—DBE REQUIRED STATEMENTS

Page 2 of this Appendix contains the Policy and DBE Obligation statements which are to be included in all DOT–assisted contracts between the sponsor and any contractor. These statements are taken from 49 CFR 23.43 which includes additional language which is applicable to the sponsor.

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.

DBE Obligation. The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT–assisted contracts.

APPENDIX 11—HANDICAPPED ACCESSIBILITY REQUIREMENTS

The following pages contain Subpart D of 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance. This subpart contains specific requirements with which airports receiving Federal financial assistance must comply.

Subpart D—Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, Highways and Mass Transit

§22.71 Federal Aviation Administration—Airports.

(a) *Fixed facilities; New terminals*– (1)Terminal facilities designed and constructed by or for the use of a recipient of Federal financial assistance on or after the effective date of this part, the intended use of which will require it to be accessible to the public or may result in the employment therein of physically handicapped persons, shall be designed or constructed in accordance with the ANSI standards. Where there is ambiguity or contradiction between the definitions and the standards used by ANSI and the definitions and standards used in paragraph (a)(2) of this section, the ANSI terms should be interpreted in a manner that will make them consistent with the standards in paragraph (a)(2) of this section. If this cannot be done, the standards in paragraph (a)(2) of this section prevail.

(2) In addition to the ANSI standards, the following standards apply to new airport terminal facilities:

(i) *Airport terminal circulation and flow.* The basic terminal design shall permit efficient entrance and movement of handicapped persons while at the same time giving consideration to their convenience, comfort, and safety. It is also essential that the design, especially concerning the location of elevators, escalators, and similar devices, minimize any extra distance that wheel chair users must travel compared to non-handicapped persons, to reach ticket counters, waiting areas, baggage handling areas, and boarding locations.

(ii) *International accessibility symbol.* The international accessibility symbol shall be displayed at accessible entrances to buildings that meet the ANSI standards.

(iii) *Ticketing.* The ticketing system shall be designed to provide handicapped persons with the opportunity to use the primary fare collection area to obtain ticket issuance and make fare payment.

(iv) *Baggage check-in and retrieval.* Baggage areas shall be accessible to handicapped persons. The facility shall be designed to provide for efficient handling and retrieval of baggage by all persons.

(v) *Boarding.* Each operator at an airport receiving any Federal financial assistance shall assure that adequate assistance is provided for enplaning and deplaning handicapped persons. Boarding by jetways and by passenger lounges are the preferred methods for movement of handicapped persons between terminal buildings and aircraft at air carrier airports; however, where this is not practicable, operators at air carrier airport terminals shall assure that there are lifts, ramps, or other suitable devices not normally used for movement of freight that are available for enplaning and deplaning wheelchair users.

(vi) *Telephones.* Wherever there are public telephone centers in terminals, at least one clearly marked telephone shall be equipped with a volume control or sound booster device and with a device available to handicapped persons that makes telephone communication possible for persons wearing hearing aids.

(vii) *Teletypewriter.* Each airport shall ensure that there is sufficient teletypewriter (TTY) service to permit hearing-impaired persons to communicate readily with airline ticket agents and other personnel.

(viii) *Vehicular loading and unloading areas.* Several spaces adjacent to the terminal building entrance, separated from the main flow of traffic, and clearly marked, shall be made available for the loading and unloading of handicapped passengers from motor vehicles. The spaces shall allow individuals in wheelchairs or with braces or crutches to get in and out of automobiles onto a level surface suitable for wheeling and walking.

(ix) *Parking.* In addition to the requirements in the ANSI standards the following requirements shall be met:

(A) Curb cuts or ramps with grades not exceeding 8.33 percent shall be provided at crosswalks between park areas and the terminal;

(B) Where multi-level parking is provided, ample and clearly marked space shall be reserved for ambulatory and semi-ambulatory handicapped persons on the level nearest the ticketing and boarding portion of the terminal facilities, and

(C) In multi-level parking areas, elevators, ramps, or other devices that can accommodate wheelchair users shall be easily available.

(x) *Waiting area/public space.* As the major public area of the airport terminal facility, the environment in the waiting area/public space should give the handicapped person confidence and security in using the facility. The space shall be designed to accommodate the handicapped providing clear direction about how to use all passenger facilities.

(xi) *Airport terminal information.* Airport terminal information systems shall take into consideration the needs of handicapped persons. The primary information mode shall be visual words and letters, or symbols, using lighting and color coding. Airport terminals shall also have facilities providing information orally.

(xii) *Public services.* Public service facilities such as public toilets, drinking fountains, telephones, travelers aid and first aid medical facilities shall be designed in accordance with ANSI standards.

(b) *Fixed facilities; existing terminals.*

(1) *Structural changes.* Where structural changes are necessary to make existing air carrier terminals

which are owned and operated by recipients of Federal financial assistance accessible to and usable by handicapped persons, such changes shall be made in accordance with the ANSI standards as soon as practicable, but in no event later than three years after the effective date of this part.

(2) *Ongoing renovation.* In terminals that are undergoing structural changes involving entrances, exits, interior doors, elevators, stairs, baggage areas, drinking fountains, toilets, telephones, eating places, curbs, and parking areas, recipients shall begin immediately to incorporate accessibility features.

(3) *Transition.* Where extensive structural changes to existing facilities are necessary to meet accessibility requirements, recipients shall develop a transition plan in accordance with §27.65(d) and submit it to the Federal Aviation Administration (FAA). Transition plans are reviewed and approved or disapproved by the FAA as expeditiously as possible after they are received.

(4) *Boarding.* Each operator at an airport receiving any Federal financial assistance shall assure that adequate assistance is provided incident to enplaning and deplaning handicapped persons. Within three years from the effective date of this part, recipients operating terminals at air carrier airports that are not equipped with jetways or passenger lounges for boarding and unboarding shall assure that there are lifts, ramps, or other suitable devices, not normally used for movement of freight, are available for enplaning and deplaning wheelchair users.

(5) *Passenger services.* Recipients operating terminals at air carrier airports shall assure that there are provisions for assisting handicapped passengers upon request in movement into, out of, and within the terminal, and in the use of terminal facilities, including baggage handling.

(6) *Guide dogs.* Seeing eye and hearing guide dogs shall be permitted to accompany their owners and shall be accorded all the privileges of the passengers whom they accompany in regard to access to terminals and facilities.