

## Chapter 13 - Civil Rights

The Iowa DOT, transit systems and sub-providers may not discriminate in services provided, or in operations to provide those services. The state has the responsibility to ensure that transit systems receiving federal funding administered by OPT comply with civil rights requirements. Federal nondiscrimination statutes include:

1. [Americans with Disabilities Act of 1990 \(ADA\)](#) (42 U.S.C. Sections 12101 et seq.) and [Section 504](#) of the Rehabilitation Act of 1973, as amended, prohibit discrimination against individuals with disabilities in the provision of transportation service and employment opportunities;
2. [49 U.S.C. 5332](#), **US DOT's Equal Employment Opportunity (EEO) regulations**, prohibit discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
3. [Title VI of the Civil Rights Act of 1964](#), as amended, prohibits discrimination on the basis of race, color, and national origin in services provided with federal funding (age, sex and disabilities added through various amendments); and
4. **US DOT's Disadvantaged Business Enterprise (DBE) regulations**, [49 CFR Part 26](#), prohibit discrimination in contracting and assists socially and economically disadvantaged business concerns ensure an opportunity to bid on federal contracts.

As the grantee for Section 5310, 5311, and statewide 5339 programs, the Iowa DOT is required to document that its subrecipients comply with all of the civil rights requirements in conducting their transit programs. Joint participation agreements contain assurance clauses that transit agencies' sign verifying compliance.

In signing joint participation agreements, each 5310, 5311, and statewide 5339 sub-recipient provides the following assurance: *no person, on the grounds of race, color, creed, national origin, sex, age or disability be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program or activity funded in whole or in part by the FTA. In addition, the joint participation agreement contains the assurance that the sub-recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin.*

Each Section 5310 or 5311 transit system must file, on a one-time basis, a signed and dated standard DOT Title VI assurance and update it as necessary when changes occur. The certificate and three appendices are part of the grant application.

Annually Section 5310 and 5311 transit systems must submit a local civil rights assurance. This is submitted as part of the annual grant application certifying that:

- the transit system shall not discriminate on the grounds of race, color, creed, national origin, sex, age or disability when providing service funded with FTA funds.
- the transit system shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin, and shall take affirmative action to ensure that applicants and employees are not discriminated against during employment.
- The transit system shall make special efforts to provide transportation for persons with disabilities, and will comply with [49 CFR 27](#), Nondiscrimination on the Basis of Disability.
- The transit system has submitted the one time standard DOT Title VI Assurance.

Section 5310/5311 transit agencies are also required to report any civil rights complaints or pending lawsuits related to FTA funded activities and the outcome, as part of the annual funding application. All contracts with subproviders and other contractors must also include nondiscrimination clauses.

Title VI of the 1964 Civil Rights Act

[Title VI of the 1964 Civil Rights Act](#), Section 2000d, states: *No person in the United States shall, on the grounds 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.* The [Age Discrimination Acts of 1975](#) prohibited exclusion based on age, and [Title 23 USC 324](#) added that no person should be excluded from participation on the basis of sex. The [Civil Rights Restoration Act of 1987](#) reemphasized all of the anti-discrimination laws and the applicability to federal programs.

The Iowa DOT and direct FTA grant applicants must submit to FTA a Title VI Program that addresses requirements enumerated in [FTA Circular 4702.1B](#), *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*. Subrecipients shall submit Title VI Programs to the Iowa DOT in order to assist the Iowa DOT in its compliance efforts. For all recipients (including subrecipients), the Title VI **Program must be approved by the recipient's board of directors or appropriate governing entity or official** responsible for policy decisions prior to submission to FTA or to the Iowa DOT, as the case may be. Every Title VI Program shall include the following information:

1. **A copy of the transit agency's Title VI notice to the public** that indicates the transit agency complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted.
2. **A copy of the transit agency's instructions to the public regarding how to file a Title VI discrimination complaint**, including a copy of the complaint form.
3. A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the Transit Agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to allegations of discrimination on the basis of race, color, and/or national origin in transit-related activities and programs and that pertain to the transit agency submitting the report, not necessarily the larger agency or department of which the transit agency is a part.
4. A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI **Program submission. A transit agency's targeted public participation plan for minority populations** may be part of efforts that extend more broadly to include other constituencies that are traditionally underserved, such as people with disabilities, low-income populations, and others.
5. **A copy of the transit agency's plan for providing language assistance to persons with limited English proficiency**, based on the DOT LEP Guidance.
6. Transit agencies that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the transit agency, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils.
7. Primary recipient transit agencies shall include a narrative or description of efforts the transit agency used to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI Program submissions
8. If the transit agency has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the transit agency shall include a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility.
9. Additional information as required of fixed route transit systems, states, and MPOs.

For Fixed Route Transit Systems,

- a. If a transit provider:
  1. Operates 50 or more fixed route vehicles in peak service and is located in an Urbanized Area (UZA) of 200,000 or more in population; or
  2. Has been placed in this category at the discretion of the Director of Civil Rights in consultation with the FTA Administrator.

Then the transit provider's Title VI Program must contain all of the elements described in this chapter.

- b. If a fixed route transit provider does not meet the threshold in paragraph a, then the transit provider is only required to set system-wide standards and policies, as described below.

Contents of fixed route transit systems Title VI Program:

1. All fixed route transit providers shall submit:
  - a. All general requirements explained and numbered 1-9, above; and
  - b. System-wide service standards and system-wide service policies whether existing or new, as described in FTA C 4702.1B Chapter IV.
2. Transit providers that operate 50 or more fixed route vehicles in peak service and are located in a UZA of 200,000 or more in population will also include:
  - a. **A demographic analysis of the transit provider's service area;**
  - b. Data regarding customer demographics and travel patterns, collected from passenger surveys;
  - c. Results of the monitoring program of service standards and policies and any action taken, including **documentation to verify the board's or governing entity or official's** consideration, awareness, and approval of the monitoring results;
  - d. **A description of the public engagement process for setting the "major service change policy" and disparate impact policy;**
  - e. **A copy of board meeting minutes or a resolution demonstrating the board's or governing entity or official's consideration, awareness, and approval of the major service change policy and disparate impact policy;**
  - f. Results of equity analyses for any major service changes and/or fare changes implemented since the last Title VI Program submission;
  - g. **A copy of board meeting minutes or a resolution demonstrating the board's or governing entity or official's consideration, awareness, and approval of the equity analysis** for any service or fare changes required by FTA C 4702.1B.

Fixed route transit agencies are also required to set system-wide service standards and policies. These standards and policies must address how service is distributed across the transit system, and must ensure that the manner of the distribution affords users access to these assets. Providers of fixed route public transportation shall also adopt system-wide service policies to ensure service design and operations practices do not result in discrimination on the basis of race, color, or national origin. Service policies differ from service standards in that they are not necessarily based on a quantitative threshold.

FTA requires all fixed route transit providers to develop quantitative standards for the indicators listed below:

1. Vehicle load.
2. Vehicle headway.
3. On-time performance.
4. Service availability.

FTA required fixed route transit providers to develop a policy for each of the following service indicators:

1. Distribution of transit amenities.
2. Vehicle assignment.

After an initial Title VI Program has been approved, an update is required every three years.

All transit agencies must notify beneficiaries of protections afforded them under Title VI. At a minimum, transit agencies shall disseminate this information to the public by posting a Title VI notice on the **agency's website and in public areas of the agency's office(s), including the reception desk, meeting rooms, etc.** Transit agencies should also post Title VI notices at stations or stops, and/or on transit vehicles.

The Title VI notice shall include:

1. A statement that the agency operates programs without regard to race, color, or national origin.
2. A description of the procedures that members of the public should follow in order to request **additional information on the transit system's Title VI obligations.**
3. A description of the procedures that members of the public shall follow in order to file a Title VI discrimination complaint against the recipient.

Transit agencies shall inform the public of their rights under Title VI through such measures as posting the Title VI notice on posters, comment cards, or fliers placed at stations, bus shelters, and in transit vehicles.

**Notices detailing a transit agency's Title VI obligations and complaint procedures shall be translated into languages other than English, as needed and consistent with the DOT LEP Guidance and the transit agency's language assistance plan.**

**Transit agencies who are subrecipients (Iowa's 16 regional systems and urban systems** in areas under 50,000 in population) may adopt the Title VI Notice developed by the Iowa DOT; however, subrecipient transit agencies shall notify passengers and other interested persons that they may file discrimination complaints directly with the transit system.

All transit systems shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public. Transit agencies must also develop a Title VI complaint form, and the form and procedure for filing a **complaint shall be available on the transit system's website. Subrecipient transit agencies may adopt** the Title VI complaint investigation and tracking procedures and complaint form developed by the Iowa DOT, although complaints and investigations must be made to and done by the transit system.

All transit agencies must prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin: active investigations conducted by entities other than FTA; lawsuits; and complaints naming the transit system. This list shall include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the transit agency in response, or final findings related to, the investigation, lawsuit, or complaint. The list shall be included in the Title VI Program submitted to FTA or Iowa DOT, depending on the size of the system, every three years.

Nondiscrimination requirements cover such areas as land acquisition and relocation of residences and businesses, impacts of construction, fixed guide-ways, placement of routes, vehicle assignments, transit amenities available such as bus shelters, headways, passenger loads, environmental considerations, public involvement, and multilingual communication.

If a grant applicant is planning the construction of a large FTA-assisted project such as a multi-modal transportation facility or a fixed guide-way light rail system, the applicant should be taking steps to ensure compliance with Title VI and [49 U.S.C. Section 5332](#) prior to submitting a grant application for assistance. Such steps should include: informing all communities of public be considered for selection to decision making transit boards and advisory committees; and ensuring that input on a facility's accessibility and location will be obtained and decisions will be made without regard to race, color, creed, national origin, age, or sex.

## Environmental Justice

[Executive Order 12898](#), Environmental Justice (EJ), directed federal agencies to assess the impact of programs and policies on minority populations and low-income populations. Limited English Proficiency (LEP) of a community or service area must also be evaluated. If a significant portion of the community served is non-English speaking, it is the responsibility of the transit system to provide important information on services or public meetings, etc. in another language. Failure to provide information in the language of what has been determined as a significant portion of the community could result in a Title VI finding of discrimination based on national origin.

DOT Order 5610.2(a) sets forth the US DOT policy to consider EJ principles in all DOT programs, policies, and activities.

The guiding EJ principles to consider in planning and project development and through all public outreach and participation efforts are:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

In order to assist FTA in carrying out their EJ requirements, [FTA Circular 4703.1](#) provides guidance for incorporating EJ principles into plans, projects, and activities that receive funding from FTA. The Circular explains how to conduct an EJ Analysis, how to achieve meaningful public engagement with EJ populations, integrating EJ into transportation planning and service delivery, and incorporating EJ principles into the NEPA process.

### Equal Employment Opportunity (EEO)

EEO requires all recipients of FTA funds to provide equal employment to all persons. The recipient shall take affirmative action to ensure that applicants are employed without regard to race, color, religion, sex or national origin.

A grantee or sub-grantee with 50 or more transit-related employees that has received \$1 million or more in capital or operating assistance in the previous federal fiscal year must submit an EEO program to FTA, or to the Iowa DOT in the case of regional and small urban (under 50,000 population) public transit systems. The specific components of this program may be found in [FTA Circular 4704.1](#), *Equal Employment Opportunity Program Guidelines for Grant Recipients*. In this program, grantees implement steps to ensure equal opportunity for employees and job applicants, without regard to race, color, creed, **national origin, sex, age, or disability**. **A major focus of this program is an analysis of the grantee's work force to identify job categories and levels of employment in which minorities and women are underrepresented.** After identifying categories and levels, corrective action must be recommended and acted upon. After an original EEO program has been approved, an update must be submitted every three years. An organization contemplating submitting a grant application should ensure that its latest EEO program update remains current.

The major components of an EEO program include:

- a. [Statement of Policy](#) by the chief executive officer regarding EEO policy affecting all employment practices, including recruitment, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits, and other terms and conditions of employment. The EEO policy statement must be placed in conspicuous locations so that **employees, applicants, and the general public are cognizant of the agency's EEO commitment.**

- b. Dissemination protocol explaining the formal communication mechanisms to publicize and disseminate the agency's **EEO policy, as well as appropriate elements of the program**, to its employees, applicants, and the general public.
- c. Designation of Responsible Personnel to manage the EEO program. The assigned person should be someone who reports and is directly responsible to the Chief Executive Officer. The EEO program manager should be identified by name in all internal and external **communications regarding the agency's EEO program**.
- d. Utilization Analysis identifying those job categories where there is an underutilization and/or concentration of minorities and women in relation to their availability in the relevant labor market. It also establishes the framework for goals and timetables and other affirmative actions to correct employment practices that contributed to any identified absence, underutilization, or concentration.
- e. Goals and Timetables to assist in the optimum utilization of human resources. Specific and detailed percentage and numerical goals with timetables must be set to correct any underutilization of specific affected classes of persons identified in the utilization analysis. In establishing the size of goals and the length of timetables, the recipient should consider results which can reasonably be expected from putting forth every good faith effort to make the overall affirmative action program work. If goals and timetables are **not met, there is an obligation to justify this failure following the recipient's annual evaluation of the EEO program**.
- f. Assessment of Employment Practices to Identify Causes of Underutilization: Affirmative Action to Remedy Problem Areas involves a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization. Identification of problem areas should **evaluate the impact of the agency's employment practices on all of its employment patterns** including recruitment, selection, promotion, termination, transfer, layoff, disciplinary action, compensation and benefits, training, etc.
- g. Monitoring and Reporting System should be established.

#### Americans with Disabilities Act (ADA)

The [Americans with Disabilities Act of 1990 \(ADA\)](#), (42 U.S.C. 12101 et seq. and [49 CFR](#) parts 27, 37, and 38) prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services provided by public or private entities. It applies to all governmental and commercial entities. It extends coverage to all entities that provide passenger transportation, whether or not they receive federal financial assistance and whether or not they are open to the public. It establishes detailed standards for the operation of public transit systems. [Section 504](#) of the Rehabilitation Act of 1973, as amended, ([29 U.S.C. Section 794](#)) prohibits discrimination on the basis of disability in employment and services by recipients of federal financial assistance. ADA Assistance: Toll Free Telephone Line: 1-888-446-4511 ADA Assistance: E-mail: [ada.assistance@fta.dot.gov](mailto:ada.assistance@fta.dot.gov).

FTA funds may not be used to purchase vehicles that are not accessible by persons with disabilities, unless the vehicles are purchased for demand-responsive services and the transit system provides equivalent access to persons with disabilities when service is viewed in its entirety. FTA requires self-certification by applicants that it meets the accessibility requirement. Sub-recipients of OPT must provide an analysis showing this is the case before non-accessible vehicles will be funded in a statewide grant.

Transit agencies and sub-contractors must meet the ADA service provision requirements found in [49 CFR Part 37](#). Systems with fixed-route services must comply with the ADA complementary paratransit requirement, assuring that their paratransit service meets all comparability standards in the rule. Recipients of funding administered by OPT that change either their fixed-route services or their paratransit services shall notify the OPT and provide assurance that the paratransit service remains comparable. The OPT is responsible for verifying that subrecipients are in compliance.

Sub-recipients must establish a means of notifying participants, beneficiaries, applicants, employees (including vision and hearing impaired), unions, etc., that it does not discriminate on the basis of disability and is taking progressive steps to comply with [49 CFR Part 27](#).

Sub-recipients must keep on file for one year all complaints of non-compliance received. A record of such complaints must be kept for five years. An explanation of any such complaints and their resolution must be provided with each annual application for funding submitted to the OPT.

Basic Provisions – The purpose of ADA is to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities and to bring persons with disabilities into the economic and social mainstream of American life. The ADA covers a wide range of activities.

The ADA affects transportation providers in four significant ways.

1. The ADA accessible vehicle requirements pertain to vehicle acquisitions by both public and private entities for fixed route or demand responsive service.
2. The ADA contains accessibility requirements for the design and construction of new transportation facilities, alterations to existing facilities, and key stations on rail transit systems.
3. The ADA requires public entities providing fixed route service to provide complementary paratransit service to people with disabilities who cannot use fixed route service.
4. The ADA includes service requirements intended to ensure that people with disabilities are afforded equal opportunity to use transportation vehicles and facilities.

All transportation providers are prohibited from discriminating against individuals with disabilities. A person with disabilities may not be charged more for a trip than a person without disability would be charged for a similar trip.

All transit systems providing fixed route service must acquire accessible vehicles. This requirement applies to all vehicles being leased, rehabilitated or remanufactured.

Transit systems that only provide demand responsive service may purchase some non-ADA accessible vehicles if they can certify they provide equivalent service to individuals with disabilities.

A transit system may refuse service to someone who is violent and endangers others, or someone who is engaging in illegal conduct. A transit system may not refuse service to someone because the individual's disability results in appearance, odor, or involuntary behavior that may offend or annoy others.

Reasonable Modification of Policies and Practices – On March 13, 2015, the US DOT issued a Final **Rule under the ADA and Section 504 of the Rehabilitation Act of 1973, "specifically to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities."** This rule takes effect July 13, 2015, and can be found at <http://www.gpo.gov/fdsys/pkg/FR-2015-03-13/pdf/2015-05646.pdf>. 49 CFR Parts 27 and 37 are affected, as follows:

Part 27.7(e.) *Reasonable accommodations.* A public transit agency shall make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability unless the public transit agency can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden.

Part 27.13(a.) *Designation of responsible employee.* Each public transit agency shall designate at least one person to coordinate its efforts to comply with this part.

Part 27.13(b.) *Adoption of complaint procedures.* A public transit agency shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures shall meet the following requirements:

1. The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under (a) of this part, must be sufficiently advertised to the public, such as on the **public transit agency's website**.
2. The procedures must be accessible to and usable by individuals with disabilities.
3. The public transit agency must promptly communicate its response to the complaint allegations, including reasons for the response, to the complainant by a means that will result in documentation of the response.

Part 37.3 Definitions. *Origin-to-destination service means providing service from a passenger's origin to the passenger's destination. A provider may provide ADA complementary paratransit* in a curb-to-curb or door-to-door mode. When an ADA paratransit operator chooses curb-to-curb as its primary means of providing service, it must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in a fundamental alteration or direct threat.

Part 37.5 (h.) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others. However, an entity **shall not refuse to provide service to an individual with disabilities solely because the individual's** disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

Part 37.17 (a.) *Designation of responsible employee.* Each public transit agency subject to this part shall designate at least one person to coordinate its efforts to comply with this part.

Part 37.17 (b.) *Adoption of complaint procedures.* A public transit agency shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 27, 38, and 39. The procedures shall meet the following requirements:

1. The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under (a) of this part, must be sufficiently **advertised to the public, such as on the public transit agency's website**.
2. The procedures must be accessible to and usable by individuals with disabilities.
3. The public transit agency must promptly communicate its response to the complaint allegations, including reasons for the response, to the complainant by a means that will result in documentation of the response.

Part 37.169(a.)

1. A public entity providing designated public transportation, in meeting the reasonable modification requirement of Part 37.5(g.) (1.) with respect to its fixed route, demand responsive, or complementary paratransit services, shall respond to requests for reasonable modification to policies and practices consistent with this section.
2. The public entity shall make information about how to contact the public entity to make requests for reasonable modifications readily available to the public through the same means it uses to inform the public about its policies and practices.
3. This process shall be in operation no later than July 13, 2015.

Part 37.169(b.) The process shall provide a means, accessible to and usable by individuals with **disabilities, to request a modification in the entity's policies and practices applicable to its** transportation services.

1. Individuals requesting modifications shall describe what they need in order to use the service.

2. **Individuals requesting modifications are not required to use the term 'reasonable modification' when making a request.**
3. Whenever feasible, requests for modifications shall be made and determined in advance, before the transportation provider is expected to provide the modified service, for example, during the paratransit eligibility process, through customer service inquiries, or through the **entity's complaint process**.
4. Where a request for modification cannot practicably be made and determined in advance, operating personnel of the entity shall make a determination of whether the modification should be provided at the time of the request.

Part 37.169(c.) **Requests for modification of a public entity's policies and practices may be denied only on one or more of the following grounds:**

1. **Granting the request would fundamentally alter the nature of the entity's services, programs, or activities.**
2. Granting the request would create a direct threat to the health or safety of others.
3. Without the requested modification, the individual with a disability is able to fully use the **entity's services, programs, or activities for their intended purpose.**

Part 37.169(d.) In determining whether to grant a requested modification, public entities shall be guided by the provisions of Appendix E of this Part.

Part 37.169(e.) In any case in which a public entity denies a request for a reasonable modification, the entity shall take, to the maximum extent possible, any other actions to ensure that the individual with a disability receives the services or benefit provided by the entity.

Part 37.169(f.)

1. Public entities are not required to obtain prior approval from the DOT for the process required by this section.
2. **DOT agencies retain the authority to review an entity's process as part of normal program oversight.**

Standards for Accessible Vehicles – FTA standards for accessible vehicles are found in [49 CFR Part 38](#). Accessible vehicles must be equipped with a lift or ramp, and must offer mobility aid security systems. There must be a minimum of one securement location on vehicles under 22 feet in length, and a minimum of two securement locations on longer vehicles. Vehicles must also have a clear path from the accessible entrance to the securement location. (30" wide by 54" tall on vehicles under 22 feet and 30" wide by 68" tall on larger vehicles.) Additional standards involve lift/ramp door and engine or brake interlocks, slip resistance properties of the flooring, color contrast of the interior lighting and signage. Larger vehicles used for fixed-route service must have public address systems and separate stop request signaling systems for persons in the securement locations. The regulation also sets specific minimum standards for each lift or ramp and for the mobility aid securement system.

Paratransit Eligibility – An individual is eligible for paratransit service if:

- Environmental barriers and the individual's disability prevent the individual from getting to or from a bus stop, boarding a fixed-route transit vehicle, or navigating the system.
- An individual applied for eligibility and 21 days from the submission of a complete application, the transit system has not acted on his or her application. Such eligibility is good until and unless the transit system denies the application. There is an administrative appeal process for denials.
- The transit system may suspend paratransit service to someone for a reasonable period of time for a pattern or practice of missing scheduled trips. Administrative due process must be provided prior to a suspension.
- Paratransit service must be provided for 21 days to out-of-town visitors with disabilities.
- Residency must not be considered and transit systems must honor eligibility cards issued by other transit agencies.

Public transit systems are not limited to serving ADA eligible persons aboard their paratransit services. They can provide paratransit service to anyone they choose. However, only the cost of service to ADA eligible persons counts in the context of a request for an undue financial burden waiver.

### Paratransit - Service Criteria

**Service Area** – Paratransit must serve origins and destinations within corridors 3/4 of a mile wide on each side of each scheduled bus route, **including areas that may be outside the transit system's** jurisdiction. Small areas surrounded by these corridors must also be served. The paratransit service area can be enlarged, such as covering all other areas within the city limits. For systems receiving 5311 funding, paratransit services in expanded areas must be open to the general public.

**Response Time** – When advance reservation scheduling is used, reservations must be accepted the prior day (including Sundays). Real time scheduling may be used. The transit system may negotiate pickup times with the individual, but cannot insist that a trip begin more than an hour from the individual's requested time.

**Fares** – Fares may not exceed twice the fare for a similar fixed route trip (not taking discounts into account). Companions are eligible for the same fare. Personal attendants or aides ride free.

**Trip Purpose** – There can be no restrictions on the purpose of the trip.

**Capacity** – Capacity constraints are prohibited, including restrictions on the number of trips an individual can use, waiting lists, and patterns or practices that significantly limit the availability of service (e.g., substantial numbers of trip denials, untimely trips, or excessively long trips).

Subscription service is permitted, and may involve trip purpose priorities and capacity constraints. However, subscription service may not absorb more than half the paratransit capacity available at any given time of day unless there is excess capacity on the system.

Paratransit service must be available throughout a fixed route service area, except in areas only served by commuter bus service.

Public transit systems are not limited to only providing service required by these criteria.

**Service Provision Requirements** – All transportation providers must maintain accessibility features and equipment and repair out-of-order equipment promptly.

Public transit systems must establish a system of regular and frequent checks of lifts. When a lift fails, the vehicle must be taken out of service and the lift repaired. However, if there is no spare vehicle available, the transit system can keep the vehicle in service for three days (larger transit systems) or five days (smaller transit systems) to prevent a reduction in service. Alternative accessible transportation must be provided if a vehicle is in service with an inoperative lift and the headway to the next accessible vehicle exceeds 30 minutes.

Transit systems must transport a wheelchair and occupant if the lift and vehicle can physically accommodate them, unless doing so is inconsistent with legitimate safety requirements. **“Legitimate safety requirements” include such circumstances as a wheelchair of such size that it would block an aisle, would block the vestibule, or would interfere with the safe evacuation of passengers in an emergency. These “legitimate safety requirements” must be based on actual risks, not on speculation, stereotypes, or generalizations about individuals with disabilities or about the devices they use for mobility purposes.**

**The transit system may require that the individual use the vehicle's securement devices, but cannot deny service** because the securement system does not secure the wheelchair satisfactorily. Transfers to vehicle seats may be suggested, but not required.

Any passenger must be allowed to use lifts, even while standing, and must be allowed to face any direction.

Stops must be announced aboard fixed routes at major intersections and transfer points, or on request.

Transit systems may not refuse to let a passenger get off a vehicle using a lift at a stop, unless the lift will not deploy or could be damaged if used at that location.

Individuals who use a respirator or personal oxygen supply can travel with these devices, consistent with DOT hazardous materials rules.

Waiver to purchase non-accessible vehicles – The requirement to purchase only accessible vehicles may be waived for vehicles used for demand-responsive services, provided disabled persons have service equal to that offered other persons. The service for disabled persons must also be integrated with that for non-disabled persons to the maximum extent possible. Non-accessible vans and small buses may only be programmed for use in demand-responsive service when the system is able to certify that all of its services provide equivalent levels of service accessibility for disabled persons. In addition, any vehicle purchased without accessibility features must be readily convertible to wheelchair access. This will include purchase of a lift door on small buses.

Before any non-accessible equipped vehicle can be programmed for Section 5310/5311 or statewide 5339 recipients, an analysis of the demand-responsive service showing that it is equal in all seven areas listed below must be included as part of the funding application or as part of the TIP:

1. Response time;
2. Fares;
3. Geographic area of service;
4. Hours and days of service;
5. Restrictions based on trip purpose;
6. Availability of information and reservations capabilities; and
7. Constraints on capacity or service availability.

The transit system must file a certification that this criteria has been met before any non-accessible demand-responsive vehicle may be purchased. Transit systems receiving FTA funds through a statewide grant must make this certification to the state; direct FTA recipients must certify directly to FTA. A certification is not valid for more than one year ([Certificate of Equal Access for Persons with Disabilities](#)).

A written plan of how a transit system responds to a call for accessible transportation under each contract and in each service area will help provide documentation of procedure. Public participation is an important part of ADA and should be part of an ADA written plan. Documentation of this participation may be beneficial if the transit system is sued.

Sanctions – Failure to comply with ADA not only results in the transit system being ineligible for federal funds, but could also subject the system to private lawsuits. The OPT needs to be notified of any lawsuit filed against a transit system. Section 5307 systems must also notify FTA.

Private Taxis and the ADA – A private taxi company owning its own vehicles and receiving no public funding is still covered by the provisions of the ADA. Taxi companies may not discriminate against person with disabilities. They may not refuse service to person with disabilities, including persons using folding wheelchairs if the person can transfer to a vehicle seat. If the taxi driver loads packages or luggage in the

vehicle for other passengers, the driver is required to stow the folded wheelchair in the vehicle. A person with a disability may not be charged a higher fare than other passengers; however, if other passengers would be charged extra for stowing packages or luggage, the same fee may be applied to stowage of wheelchairs.

Private taxi companies are not required to purchase accessible vehicles if only automobiles are used. If larger vehicles such as vans or buses are purchased, taxi companies are required to purchase accessible vehicles unless they can demonstrate that equivalent service is provided to persons with disabilities when the total demand responsive service is considered. Private taxis under contract to public transit systems must meet the standards applicable to the transit system and will be viewed in conjunction with the transit system to determine whether equivalent service is available to persons with disabilities.

**ADA Employment Provisions and Public Transit** – Transit systems are reminded that the employment provisions of the ADA must also be met. Persons with disabilities may not be discriminated against in employment.

Each transit employer should have job descriptions in place for each position that describes the functional requirements of the position. These functional requirements should be reviewed periodically to verify that they remain valid. Transit systems are encouraged to consider recombining job responsibilities to facilitate employment of qualified persons with disabilities.

Employers, including transit systems, are required to make reasonable accommodations for otherwise qualified employees with disabilities. The reasonable accommodations may include purchase of assistance equipment, changing placement of files, etc. All work stations should be accessible.

#### Disadvantaged Business Enterprise (DBE) Program

The overall purpose of the DBE program is to ensure nondiscrimination in the award and administration of FTA assisted contracts. The program helps remove barriers for socially and economically disadvantaged firms to have the opportunity to participate in federal contracts. All recipients of FTA funds must demonstrate a *good faith* effort to obtain participation by DBE firms in FTA assisted contracts and report contracts awarded to DBE firms.

Each FTA recipient that receives more than \$250,000 in contracting opportunities is required to have a DBE program and goal. Contracting opportunities include purchase orders or contracts for the purchase of goods, services, or construction projects, excluding rolling stock. Recipients are required to have a goal only for years when more than \$250,000 in contracting opportunities is expected.

As an FTA recipient, the Iowa DOT is required to have a DBE program and FTA goal. The Iowa DOT is required to have one DBE program for all DOT programs, but separate goals for each of the administrating agencies. OPT incorporated a small business element in the DBE program that can be found at [http://www.iowadot.gov/civilrights/documents/SmallBusinessElement\\_%20FTA.PDF](http://www.iowadot.gov/civilrights/documents/SmallBusinessElement_%20FTA.PDF). Each subrecipient is required to report anticipated contracting opportunities to OPT, where the information is compiled to calculate a DBE goal and submitted to FTA. Additional DBE information can be obtained from the U.S. DOT DBE Web Site: <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise> and the Best Practices Procurement Manual [http://www.fta.dot.gov/grants/12831\\_6037.html](http://www.fta.dot.gov/grants/12831_6037.html).

**Certification as a DBE** – A firm seeking certification as a DBE must demonstrate that it meets the federal requirements. The firm must be a for-profit small business concern that:

1. Is at least 51% owned (or 51% of stock owned) by one or more individuals who are *socially* and *economically* disadvantaged
2. Is managed and controlled on a daily basis by one or more individuals of the disadvantaged owners

Members of the following groups are presumed to be socially disadvantaged: Black-Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, women, and others designated by the small business administration. Any individual who is not a member of a protected minority group may provide evidence showing social disadvantage in education or business. For example, persons with disabilities may be able to show they are socially disadvantaged on a case-by-case basis.

Individuals are considered to be economically disadvantaged if they are socially disadvantaged individuals with a personal net-worth that does not exceed \$1.32 Million. Personal net-worth does not include the value of the primary residence or the value of the business.

**The Iowa DOT's Office of Employee Services** coordinates the Unified Certification Process (UCP) program that only requires one certification to do business as a DBE under any FTA, FAA, or FHWA assisted contract. For additional information or assistance in helping a firm receive certification as a DBE, contact: Iowa DOT Civil Rights Team, DBE Supportive Services, 515-239-1833, [Hector.Torres-Cacho@dot.iowa.gov](mailto:Hector.Torres-Cacho@dot.iowa.gov).

**Bidders List** – Agencies required to have a DBE program are required to maintain a bidders list of all **vendors submitting bids on solicitation. Bidder's lists are** intended to be used to identify available and willing vendors for any particular type of work. The bidders list will provide the most accurate data possible about the universe of available firms for use in setting goals. Information to be obtained and maintained in a bidders list must include: name and address of firm, dollar range of annual gross receipts, age of firm, and DBE status.

**DBE Directory** – A searchable [directory](#) of DBE firms certified by the Iowa DOT is available online and updated in real time.

**DBE Goal** – A DBE goal is the anticipated percent of DBE participation that an agency will try to achieve through race neutral or race conscious efforts. The goals are set with knowledge of relative availability of DBEs. No quotas are allowed in federal contracting. The statutes authorizing the DBE program set 10% as the national aspirational goal. However, grantees must set goals based on what will achieve a level playing field for DBEs in their own area. Individual recipients do not have to justify a goal that is less than the national goal.

The Iowa DOT sets a DBE goal every three years (FFY 2017– 2019 FTA DBE goal was 0.15%). Goals must be established 60 days prior to the start of the federal fiscal year.

Goals must now also be determined what portion will be achieved with race conscious or race neutral methods.

**Race conscious:** (also refers to gender) Specific selection method that consciously selects firms based on DBE status, for example, through use of a contract goal, or using DBE participation in selection criteria.

**Race neutral:** (also includes gender neutral) – Measures are used to increase opportunities for all small businesses, not just DBEs, and do not involve contract specific goals. Measures may include outreach and technical assistance in the procurement process actively encouraging firms to obtain DBE certification, actively soliciting quotes and proposals from DBE certified firms, and by requiring contractors to actively pursue DBE firms when sub-contracting. Selection is based on competitive bid or price consideration with no specific DBE goal.

**Section 5307 transit agencies work directly with the FTA regarding DBE programs. Iowa's small urban and regional transit systems are not required to have their own DBE program or individual goal, unless they receive in excess of \$250,000 in contracting opportunities. However, as sub-recipients of FTA funds,**

they are expected to use good faith efforts in any of their contracting with federal dollars to help achieve the statewide goal, and provide semi-annual reporting of their efforts. Any system receiving a capital grant for a construction project in excess of \$250,000 (other than rolling stock) is required to develop a contract goal or a DBE program and goal for their agency. A contract goal must be submitted to the OPT for approval.

Contract Goals: Contract goals may be used if there is a possibility for subcontracting the project. For a particular project, it is possible to determine a project goal by dividing the total number of available bidders in your local market area, by the number of available DBE vendors in your market area. If there is more than one type of industry that will be included in the project, such as heavy construction and trucking, the percentages should be computed separately for each type and weighted by the approximate amount of the contract spent on each.

$$.9 \times \frac{\text{heavy construction DBEs}}{\text{total heavy construction firms}} + .1 \times \frac{\text{\# trucking DBEs}}{\text{total trucking firms}}$$

Past experience and other regional information must also be considered after the initial percent is calculated to determine if an adjustment should be made. More details on goal setting can be obtained on the US DOT web site <http://www.osdbu.dot.gov/dbeprogram/tips.cfm>.

If a solicitation package contains a contract goal, a *good faith effort* must be demonstrated by bidders. **The Iowa DOT's** DBE manual describes the DBE responsibilities for showing good faith effort for federal aided construction projects <http://www.iowadot.gov/civilrights/documents/DBEProgram.pdf>.

Rolling stock purchases: Transit agencies must receive certification from each transit vehicle manufacturer bidding on a federally assisted contract that the manufacturer has complied with DBE requirements in 49 CFR 26.49 <http://www.gpo.gov/fdsys/pkg/CFR-2009-title49-vol1/pdf/CFR-2009-title49-vol1-sec26-49.pdf>. Vehicle manufacturers are required to submit annual DBE goals directly to FTA. Federal funds cannot be used to purchase a vehicle from a manufacturer who has not submitted a goal to FTA. A sample certification is available at [http://www.iowadot.gov/transit/handbook/pdfs/ch9\\_dbe.pdf](http://www.iowadot.gov/transit/handbook/pdfs/ch9_dbe.pdf).

DBE Report Requirements – Current rules require FTA grant recipients to submit semiannual reports for all grantees. Currently, reports are based on federal fiscal year, due 30 days after the end of the reporting period. A current *Report of DBE Awards and Commitments* form is available at <http://www.iowadot.gov/transit/regulations/DBE%20Reporting%20Form.xlsx>.

All FTA-assisted purchases, with the exception of rolling stock, should be reported. This might include printing, janitorial services, computer services, supplies, construction contracts, facility remodeling, or other types of goods or supplies. Purchase orders, leases, contracts, and any type of purchase is included. DBE awards must also be separated into the minority group represented by the DBE.