



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Assistant Administrator
Office of Civil Rights

800 Independence Ave. S.W. Room 1030
Washington, DC 20591

FEB 11 2019

Dear Airport Sponsor:

Re: FAA Reauthorization Act of 2018 (Public Law No: 115-254)
Prompt Payment Complaint Reporting Requirements

The Federal Aviation Administration (FAA) Reauthorization Act of 2018 (Public Law No: 115-254), signed into law on October 5, 2018, requires compliance with the prompt payment and timely return of retainage requirements, found in 49 CFR Section 26.29.

New requirements for airport sponsors and the FAA, along with the plan to meet those requirements, are:

- Section 157 of the 2018 FAA reauthorization requires airport sponsors to track and report the number of complaints received from subcontractors regarding alleged non-compliance with the prompt payment requirements, including the timely return of retainage by prime contractors.
- Section 157 also requires the FAA to assess and improve airport sponsor compliance with prompt payment requirements, including:
 - whether requirements relating to the inclusion of prompt payment language in contracts are being satisfied;
 - whether and how you, as the airport sponsor, are enforcing prompt payment requirements;
 - the processes by which covered complaints are received and resolved by airport sponsors;
 - whether improvements need to be made to better track and resolve covered complaints; and
 - whether changes to prime contractor specifications need to be made to ensure prompt payments and release of retainage to subcontractors.
- Section 157 further requires the FAA to make available to the public, on an appropriate FAA website, a report describing the results of the assessment completed, including a plan to respond to such results.

To meet the requirements of the law, we are directing airport sponsors to track and report to the FAA prompt payment complaints, including complaints regarding untimely return of retainage, beginning October 1, 2018. The data that you must track and report to FAA is identified in

Attachment A - Data Needed for Prompt Payment and Timely Return of Retainage Complaints.
The website to report the complaints and related data can be found at the following link:
<https://www.surveymonkey.com/r/PromptPaymentComplaints>.

If you have any questions regarding these new requirements related to prompt payment complaints, please reach out to your FAA Regional DBE/ACDBE Program Compliance Specialist. Contact information can be found on our website at:
https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/contact/.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Courtney L. Wilkerson', written in a cursive style.

Courtney L. Wilkerson
Acting Assistant Administrator for Civil Rights

Attachment

Attachment A

Data Needed for Prompt Payment and Timely Return of Retainage Complaints

1. Date of complaint, Complaint tracking # (if any), and Complaint format (Phone, email, letter)
2. Sponsor (Name, Location ID, and DBELO contact info)
3. Project (#, Name, FAA Grant #)
4. Complainant (name and contact info, DBE or Non-DBE)
5. Name of firm that allegedly did not make the required payment and relationship to complainant
6. Description of complaint
7. Resolution for complaint
8. Did all project contracts include the following:
 - a. Contract assurances as required by 49 CFR § 26.13(b) (Yes or No)
 - b. 90-06 Partial Payment clause as required by AC150/5370-10G (Yes or No)
 - c. Additional prompt payment language related to 49 CFR § 26.29(a)-(c) (Yes or No)
 - d. Prompt payment enforcement provision as required by 49 CFR § 26.29(d)-(e). (Yes or No). If yes, please describe how contractual enforcement provisions are included
9. Does the Sponsor proactively monitor prompt payment of subcontractors? (Yes or No). If yes, please describe how.
10. Did the Sponsor implement enforcement actions with this complaint to prevent repeat prompt payment complaints? (Yes or No). If yes, please describe how.
11. Has the Sponsor's DBE program been updated to address USDOT prompt payment guidance released in 2016 and 2018? (Yes or No). If yes, have you uploaded a copy into the FAA Civil Rights Connect system? (Yes or No).
12. Was FAA involved in the resolution of the complaint (Yes or No). If yes, provide FAA staff name.