



Consultants Contractors

Title VI Subrecipient Compliance Assessment Tool Technical Assistance Guide

**Title VI Program Civil
Rights Division**

FYI 2024-2025



Table of Contents

Introduction

Authorities under Title VI

Title VI Requirements for Subrecipients

Nondiscrimination Policy Statement

Nondiscrimination Assurances

Nondiscrimination Coordinator

External Discrimination Complaints

Limited English Proficiency (LEP)

Annual Reporting

Title VI Program Visibility

Title VI, Subrecipient Compliance Procedures

Subrecipient Prequalification and Reviews

Consultant Contractor Prequalification

Subrecipient Consultants Contractors /Monitoring/Review /Audits

Audit Review Tool for Subrecipients

Sample Forms



Introduction

The Indiana Department of Transportation as a recipient of federal financial assistance from the Federal Highway Administration (FHWA), is required to comply with Title VI of the Civil Rights Act of 1964, which provides that no person in the United States, on the ground of race, color, or national origin, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any department program or activity receiving federal financial assistance.

Recipients of Federal financial assistance are required to comply with various nondiscrimination laws and regulations. "Recipient" is defined as any entity or individual to whom Federal assistance is extended, either directly or indirectly through another recipient, for any program. See 23 Code of Federal Regulations (CFR) 200.5(n). INDOT receives Federal financial assistance directly.

In this guide, the term "subrecipient" is used to identify a recipient that receives Federal assistance indirectly (i.e., through INDOT). Subrecipients include, but are not limited to, cities, counties, consultants, contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds. In accordance with 23 CFR 200.9(b)(7), INDOT is required to conduct Title VI reviews of its subrecipients to effectively monitor compliance with Title VI/Nondiscrimination requirements.

The purpose of this guide is a framework for subrecipients striving to establish a compliant Title VI program. This guide will address INDOT's subrecipient prequalification process as well as INDOT's monitoring / review/ audit process. This guide will not guarantee compliance with all aspects of Title VI. However, the intent of this guide is to improve a subrecipient's ability to comply with the Title VI/Nondiscrimination requirements. Compliance determinations are made on a case-by-case basis by either INDOT or FHWA. For additional information or technical assistance INDOT's Title VI/ADA Coordinator is:

Taffanee L. Keys
Civil Rights Counsel
ADA/Title VI Coordinator
Prequalification Division
tkeys@indot.in.gov
317-941-4512

Authorities under Title VI

The authorities applicable to INDOT's Title VI/Nondiscrimination Program include, but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21, (entitled Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);
- 23 CFR Part 200, the Federal Highway Administration's Title VI Program Implementation and Review Procedures

The following Executive Orders place further emphasis on preventing discrimination:

- Executive Order 12898, 3 CFR 859 (1995), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," addresses disproportionate adverse environmental, social and economic impacts that may exist in communities, specifically minority and low-income populations.
- Executive Order 13166, 3 CFR 289 (2001), entitled "Improving Access to Services for Persons with Limited English Proficiency," addresses improving access to services for persons whose primary language is not English and who have limited ability to read, write, speak or understand English.
- American with Disabilities Act of 1990 and Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 790), as amended: Prohibits discrimination on the basis of disability.


In brief, these laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act states that:

"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."

By contracting with INDOT, a contractor is obligated to comply with the laws and regulations listed above and agrees to comply as part of INDOT's Contractor Prequalification application and acceptance process executed between the Department and the contractor.

Title VI Requirements for Subrecipients

Recipients of Federal financial assistance are required to comply with various nondiscrimination laws and regulations. The requirements extend to subrecipients such as cities, counties, consultants, contractors, suppliers, universities, colleges, planning



agencies, and subcontractors of those subrecipients who receive federal financial assistance through the Indiana Department of Transportation (INDOT).

The following information, while not comprehensive, highlights steps subrecipients should take to achieve compliance with INDOT's Title VI program.

Nondiscrimination Policy Statement

A policy statement that assures nondiscrimination to the effect that no person shall on the grounds of race, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity.

Requirements:

- The policy statement, signed by the head of the agency, should express the agency's commitment to the nondiscrimination provisions of Title VI:

That no person shall on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally- funded or not.

Recommendations:

- Title VI Policy Statement should be circulated internally and to the general public
- Where appropriate, publish in languages other than English
- If your agency doesn't already have a signed policy statement, consider using INDOT's template.

Nondiscrimination Assurances

Subrecipients must sign the U.S. DOT Standard Title VI Assurances. General nondiscrimination language from the assurances must be included in all solicitations for bid or requests for proposals. The clauses of Appendix A and Appendix E must be included in every contract or agreement that you execute. Form FHWA-1273 must also be physically attached to all federal-aid construction contracts of \$10,000 or more.

Assurances serve two important purposes:

- They document agency commitment to nondiscrimination and equitable service to its community.
- They serve as a legally enforceable agreement by which the Agency may be held liable for not adhering to.

The Assurances lists all the Title VI requirements that a subrecipient agrees to perform in return for receiving FHWA funds from the INDOT, including developing a nondiscrimination policy statement and a discrimination complaint handling procedure.



Nondiscrimination Coordinator

A Title VI Coordinator must be designated. This person must have a responsible position in the organization with access to the head of the agency. Subrecipients are required to identify a Title VI Coordinator and publish/post the coordinator's contact information where it is available to the public (including online). In addition, the coordinator must have unimpeded access to the head of the agency, for the purposes of discussing nondiscrimination issues. There should be a description of the Title VI Coordinator's responsibilities and an organizational chart showing the Title VI coordinator's relationship to the head of the agency.

Recommendations:

- Organizational chart or other literature should identify the Title VI Coordinator
- Point of contact for Title VI implementation and monitoring of programs and/or activities receiving federal financial assistance.
- Implementation of procedures for the prompt processing of Title VI external discrimination complaints.
- Develop Agency specific Title VI information for public dissemination

External Discrimination Complaints

Your external discrimination complaint processing procedures should also include a timeline for submitting a complaint.

A list of all external discrimination complaints and lawsuits filed against the agency must be maintained. The information in this list should include: the identification of each complainant by race, color, sex, or national origin; the name of the complainant; the nature of the complaint; the date(s) the complaint was filed, the investigation was completed; the disposition and date; and other pertinent information.


Requirements:

The subrecipient complaint handling procedures should indicate the following:

The FHWA has jurisdiction to investigate complaints of discrimination filed under:

- The Americans with Disabilities Act/ Section 504 Program
 - The Americans with Disabilities Act of 1990
 - Section 504 of the Rehabilitation Act of 1973 (Section 504)
- The Title VI Program
 - Title VI of the Civil Rights Act of 1964 (Title VI)

Any person who believes they, or any specific class of persons, to be subjected to prohibited discrimination based on race, color or national origin may file a written complaint individually or through a representative. A complaint must be filed no later than 180 days after the date of the alleged discrimination, unless the discrimination is ongoing, or the time for filing is extended by the FHWA.



Complaints alleging violations of Title VI by subrecipients may be filed in writing directly with the following local, state, and federal agencies:

(Name of your agency)
Attn: Title VI Coordinator
Street Address
City / State / Postal Code

Civil Rights Counsel
Indiana Department of Transportation
100 N. Senate Avenue – Room N758-PQ
Indianapolis, IN 46204

Federal Highway Administration
U.S. Department of Transportation
575 North Pennsylvania Street, Room 254
Indianapolis, Indiana 46204

Federal Highway Administration
Office of Civil Rights
HCR-20, Room E81-320
1200 New Jersey Avenue, SE
Washington, DC 20590

Complaint and investigation files are confidential. The contents of such should only be disclosed to appropriate agency personnel, state, and federal authorities in accordance with Federal and State laws. Subrecipients will retain files in accordance with records retention schedules and all Federal guidelines.

Roles and Responsibilities

Subrecipients must have a complaint form and keep a complaint log whether or not a complaint is ever filed with the subrecipient agency. Once a Title VI or ADA complaint is received by the subrecipient agency, the subrecipient must notify and refer the complaint to INDOT for routing.

Complaints are routed in the following ways:

1. All complaints are routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against INDOTs or Subrecipients of Federal financial assistance.
2. Complaints are forwarded from the initial receiving agency through the Federal aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with a Subrecipient City, that receiving agency should forward the complaint to INDOT, which should forward the complaint to the State's

FHWA Division Office, which should forward the complaint to HCR. If a complaint is filed with INDOT, then INDOT should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR.

3. INDOT and Subrecipients must log all complaints received.
4. When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, INDOT, and Subrecipient (where applicable).

Recommendations:

- External discrimination complaints filed under Title VI with the subrecipient in which the subrecipient or its lower tier subrecipient is named as the respondent must be forwarded to INDOT for routing within 10 calendar days.
 - Develop an external discrimination complaint form.
 - Distribute written discrimination complaint handling procedures to agency personnel.
 - Make the public aware of the procedures for filing a discrimination complaint, such as making the information available on the agency's Web site or in a brochure.
 - Maintain a complaint log, to include any complaints or lawsuits filed against the agency, that identifies:
 - 1) Each complainant by race, color, sex, or national origin
 - 2) The recipient
 - 3) The nature of the complaint
 - 4) The dates the complaint was filed and the investigation completed
 - 5) The disposition
 - 6) The date of the disposition
 - 7) Other pertinent information
 - 8) The status of the complaint investigation or lawsuit
 - 9) Corrective actions taken, if any.
 - Maintain all correspondence related to the complaint

Limited English Proficiency (LEP)

Responsible steps must be taken to ensure meaningful access to the benefits, services, information, and other important portions of your programs and activities for individuals who are LEP.

Recommendations:

- Develop an agency Language Assistance Plan that establishes guidelines in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
- Translate written information and outreach materials into regularly encountered languages other than English.



Annual Reporting

Subrecipients must develop an annual work plan to document how the agency is effectively implementing its Title VI/Nondiscrimination responsibilities.

Title VI Program Visibility

Subrecipients are required to identify how it advises the public of nondiscrimination policies, procedures, and other related information. Electronic or web-based posting of Title VI program information alone is insufficient. The agency must post in publicly accessible locations, such as main lobbies, town halls, community centers and other public facilities.

Title VI, Subrecipient Compliance Procedures

Subrecipient Prequalification and Reviews

23 CFR 200.9(b)(7). Also required for Title VI per 28 C.F.R § 42.410: "Each state agency administering a continuing program which receives federal financial assistance shall be required to establish a Title VI compliance program for itself and other recipients which obtain federal assistance through it."

INDOT evaluates and verifies information submitted by subrecipients to:

1. Ensure compliance with Title VI;
2. Identify subrecipients requiring immediate Title VI Program technical assistance; and
3. Monitor Title VI Program compliance which is evaluated.

Consultant Contractor Prequalification

Prequalification

A company **MUST** be prequalified by INDOT as a contractor if:

- (1) The company bids on INDOT work as prime contractor
- (2) The company subcontracts for more than \$300K in total INDOT at one time
- (3) The company bids or subcontracts for more than \$300K in local government work that is the construction, improvement, alteration, repair, or maintenance of a highway, street, or road or alley.

Only companies deemed qualified and responsible are eligible to do business with INDOT. A company's eligibility is regulated throughout the duration of their certificate of qualification.

To monitor compliance, each contractor, and sub-contractors, during the Prequalification process are required to submit a "Statement of Compliance with Nondiscrimination Requirements". This Statement of Compliance is an affirmation, pursuant to 105 Ind. Admin. Code 11-2-1(c) that it operates in compliance with Title VI of the Civil Rights Act of 1964 and all related laws, executive orders, rules, and regulations. As part of the application process, companies are required to review their operating procedures to ensure they comply with the following requirements.

- This company displays the "It's the Law" poster in English and in Spanish on all job sites.
- This company does not discriminate on the basis of religion, race, color, national origin, sex, sexual orientation, gender identity, age, disability, income level, or limited English proficiency in any aspect of its operations.
- This company has a grievance procedure and maintains a log of any and all external complaints of discrimination.
- This company has a Title VI Coordinator who has received Title VI training within the past two (2) years.
- This company includes any and all required language from the Assurances of Nondiscrimination in its subcontracts.
- This company monitors further subrecipients of federal funds for compliance with the assurances.
- This company provides Title VI training to its staff upon hire and at least every two (2) years.

Please note that to be in compliance with federal regulation 23 CFR 200 all the above are required. Self-Certification provides documentation that a contractor has procedures in place to prevent discrimination in programs and services based on Title VI. If compliance with the above are not being met, INDOT provides training tools on INDOT's Title VI resource page at <http://www.in.gov/indot/3586.htm>. Contractors / Consultants can also contact INDOT's Title VI Subrecipient Compliance Auditor.

Subrecipient Consultants Contractors / Monitoring/Review / Audits

In compliance with 23 CFR 200.0(b)(7) Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.

INDOT conducts periodic reviews of subrecipients to monitor Title VI Compliance. These reviews ensure Title VI compliance and an opportunity to provide technical assistance/training to subrecipients. Subrecipient selection criteria are:

- Program funding amount and type received by year
- Number of complaints against a subrecipient
- Subrecipient with previously identified deficiencies
- Length of time between reviews

Notification

The subrecipient will receive an email or notification letter stating it has been selected for review. The notification letter includes an itemized list of information and documentation to be submitted to INDOT within no longer than thirty calendar days.

Any Subrecipient who fails to respond to a notice of compliance review, including the request for information, within the prescribed deadline shall receive written notification

of the subrecipient's deficiency status from the Title VI Manager. The subrecipient will be notified that failure to comply may result in a suspension of federal funding.

Desk Audit Review

INDOT's Title VI Manager reviews subrecipients submitted material. The Title VI Manager will offer assistance and recommendations to strengthen the subrecipients Title VI program, including corrective action(s).

On-Site Review and Interview

- a. Depending on the findings of the desk audit, a request for an on-site review may be made, including inspection of the subrecipient's facilities and interview with relevant personnel. If an on-site review is necessary, the subrecipient will be notified by email and/or mail. The following factors will play a role in determining whether an on-site review is necessary:
 - Deficiencies are directly related to improvements being constructed or maintained by the Subrecipient.
 - Deficiencies include missing entire program components or are otherwise considered major deficiencies.
 - The Subrecipient's program Manager or representative has not been identified and/or does not appear to have the support of the executive leadership of the agency in ensuring program compliance; and,
 - The review is based upon the receipt of a complaint.

On-site interview sample topics include but are not limited to:


- Organization, staffing, and training
- Nondiscrimination Policy and Notice
- Limited English Proficient (LEP) Executive Order 13166
- Complaints, Form and Procedures
- USDOT 1050.2A Title VI/ Nondiscrimination Assurances
- Access for Individuals with Disabilities under Section 504 Rehabilitation Act and ADA Act
- Subcontracts

Compliance Review Letter – Findings

A compliance review letter or email will be issued following the completion of a desk audit and /or on-site review. The findings will

- Document any deficiencies observed and direct the sub recipient to come into compliance within a specified date
- Require that any deficiencies, which cannot be resolved within a specified date, be reflected in a corrective action plan to be submitted to the Title VI Manager for approval within the specified period.

If the subrecipient fails to submit appropriate and complete documentation to support its commitment to comply with Title VI, INDOT's Title VI Manager will issue a noncompliance letter and forward a copy to FHWA and may then take or



participate in other legally available action against the subrecipient for failure to comply, such as withholding payment on a contract, and/or suspending or terminating the contract.

Follow-Up Monitoring

INDOT will determine whether any follow-up monitoring is necessary to ensure on-going Title VI compliance.

Training

INDOT provides Title VI training materials on it's website at: <http://www.in.gov/indot/3586.htm>. Onsite Title VI training is conducted on an as needed basis or requested by consultant contractor subrecipients.



AUDIT REVIEW TOOL FOR SUBRECIPIENTS



INDOT Sub-Recipient Title VI Desk Audit Compliance Assessment Tool

23 Code of Federal Regulations (CFR) Part 200 requires that the Indiana Department of Transportation (INDOT) conduct periodic reviews of its cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds. of federal-aid highway funds to ensure they are complying with Title VI of the Civil Rights Act of 1964. Title VI states that “no person in the United States shall be excluded from participation, denied the benefits of, or be subjected to discrimination in any Federally funded program, policy, or activity on the basis of race, color or national origin.”

INDOT has developed this assessment as a means of determining sub-recipient compliance; helping sub-recipients understand their Title VI responsibilities; and assisting INDOT in planning future training and technical assistance. This assessment is part of INDOT's Quality Assurance Review (QAR) process.

Please email the completed questionnaire with attachments, to Taffanee Keys, Civil Rights Counsel, Title VI Coordinator, @ tkeys@Indot.in.gov by no later than _____ . Questions or concerns may be e-mailed to tkeys@indot.in.gov or you may call 317-941-4512.


Desk Audit Questionnaire


1. Name of your Agency:

2. Number of full-time and part-time employees:

3. Who is the Title VI contact person for your agency? Does this person accept complaints from the public? If not, who does? Please include title, email and telephone number for each person listed.

4. Staff designated to have Title VI coordination responsibilities (in conjunction with other duties).

- 
5. Does your agency have a current Title VI Implementation Plan?
 6. Has your agency provided written Title VI Assurances to INDOT? Please attach a copy.
 7. Does your agency have a Title VI Policy or Policy Statement in place for your organization, signed by the Sponsor? If so, attach proof of public dissemination of Title VI Policy or Policy Statement.
 8. Does your agency have a written discrimination complaint process? If so, please provide a copy as an attachment.
 9. Has your agency made the public aware of the right to file a complaint? If so, by what mechanism? Provide as attachment.
 10. In the past three years, has your agency been named in a discrimination complaint or lawsuit? If so, when and what was the nature of the complaint or lawsuit and the outcome?
 11. Does your agency provide free translation services for persons with Limited English Proficiency (LEP)? Explain.
 12. Does your agency physically include the Civil Rights Special Provisions (FHWA-1273) in all contracts and ensure they are included in all sub-contracts, including the third-tier?
 13. Does your contracts/agreements contain Title VI non-discrimination assurances.

- 
14. Has staff received any Title VI training (formal or informal). If so, please list the dates and time, the instructor. Attach sign-in sheets if any and provide copies of the training documents, for example, PowerPoints.
 15. Please state, in detail, how your agency monitors its' subrecipients. Please attach a copy of your subrecipient contract.
 16. Do you have any questions regarding this assessment or Title VI? Please include them here along with your email address or phone number and an INDOT representative will respond.
 17. Would your agency like Title VI training or other Civil Rights technical assistance from INDOT? If yes, please explain. Does your agency have teleconferencing ability?
 18. Please list each attachment provided with the desk audit.
 19. Please provide the Name, Title, and contact information of the person who completed this baseline assessment.



SAMPLE FORMS

Disclaimer: This sample document is provided by INDOT for informational purposes only. It does not constitute legal advice.

POLICY STATEMENT AND AUTHORITIES

Title VI Policy Statement

[Insert Agency Name] is committed to ensuring that no person shall, on the grounds of race, color, national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (PL 100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, whether those programs and activities are federally funded or not.

[Insert Agency Name]'s Title VI Manager is responsible for initiating and monitoring Title VI activities, preparing required reports, and other responsibilities as required by Title 23 Code of Federal Regulations ("CFR") Part 200, and Title 49 CFR Part 21.

Signature of Authorizing Official

Date

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (refer to 49 CFR Part 21). The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub recipients, and contractors, whether such programs and activities are federally assisted or not.

Additional authorities and citations include: Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d); Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.); Department of Justice regulation, 28 CFR part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs" (December 1, 1976, unless otherwise noted); U.S. DOT regulation, 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" (June 18, 1970, unless otherwise noted); Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, "Environmental Impact and Related Procedures" (August 28, 1987); Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, "Planning Assistance and Standards," (October 28, 1993, unless otherwise noted);

U.S. DOT Order 5610.2, "U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations," (April 15, 1997); U.S. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons, (December 14, 2005), and Section 12 of FTA's Master Agreement, FTA MA 13 (October 1, 2006)

ATTACHMENT
DOT Standard Title VI Assurances and Non-Discrimination Provisions
(DOT 1050.2A) - Assurance Appendix A and Assurance Appendix E

Assurance Appendix A

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, 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, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
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 will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement

as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Assurance Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), (“...*which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 *et seq.*

Disclaimer: This sample document is provided by INDOT for informational purposes only. It does not constitute legal advice.

FHWA Title VI Complaint Procedure for _____ (Agency)

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities that receive Federal financial assistance (*See* 23 CFR Part 200 and 49 CFR Part 21).

Who is eligible to file an FHWA Title VI complaint?

The Federal Highway Administration (FHWA) requires that _____ (Agency) report Title VI discrimination complaints. Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any _____ (Agency) program or activity related to road and highway transportation programs because of their race, color, or national origin may file an FHWA Title VI complaint.

Discrimination includes lack of access, harassment, retaliation and disparate impacts from a program or activity. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors. Retaliation includes intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they filed a complaint or otherwise participated in a discrimination investigation.

How do you file a complaint?

Title VI complaints must be filed within 180 days from the last date of the alleged discrimination unless the time for filing is extended by the processing agency. Reasonable efforts will be made to assist persons with disabilities, non-English speakers, and others unable to file a written complaint. For assistance in filing a complaint, please contact _____ (Agency's Title VI Coordinator).

Complaints should be filed in writing and signed, and may be submitted via mail, email, fax or in person to:

_____ (agency contact information)

Complaints may also be filed directly with the following agencies:

Title VI Coordinator/ Program Manager

Indiana Department of Transportation

100 N. Senate, Room N758
Indianapolis, IN 46204
Email address: AccessForAll@indot.in.gov

Indiana Division
Federal Highway Administration
575 N. Pennsylvania Street
Room 254
Indianapolis, IN 46204
Phone: (317) 226-7475

Federal Highway Administration Headquarters - Office of Civil Rights
1200 New Jersey Avenue, SE HCR-40, Room E81-101
Washington, DC 20590
202-366-0693 or Fax: 202-366-1599
TTY: 202-366-5751

What happens after a complaint is filed?

_____ (Agency) must forward any Title VI complaint related to a Federal-aid highway program to the Indiana Department of Transportation (INDOT) within three (3) business days. INDOT will then forward the Title VI complaint to the appropriate FHWA Division Office for further processing.

Once an FHWA Title VI complaint is received, _____ (Agency) will log the complaint information in its records. After forwarding the complaint to INDOT, _____ (Agency) will provide the complainant with the name and contact information of the INDOT employee responsible for coordinating the complaint.

FHWA Headquarters Office of Civil Rights (HCR) will determine whether a Title VI complaint is accepted or dismissed, as well as whether FHWA or INDOT will investigate the complaint. FHWA HCR will notify the complainant, as well as appropriate agencies, of its decision. For more information, please visit the FHWA website at https://www.fhwa.dot.gov/civilrights/programs/title_vi/titleviqa.cfm.

Complainants are encouraged, but not required, to use the following complaint form when filing a complaint with _____ (Agency) or INDOT. At a minimum, each complaint should contain a written explanation of the alleged discrimination, complainant's contact information, the basis of the complaint (e.g., race, color, national origin), the names of specific individuals or agencies involved, sufficient information to understand the facts that led the complainant to believe that

discrimination occurred in a program or activity that receives Federal financial assistance, and date(s) of the alleged discrimination.

Attach complaint form here:

Equal Employment Opportunity is

THE LAW

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

GENETICS

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

RETALIATION

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected: The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

RETALIATION

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

INDIVIDUALS WITH DISABILITIES

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.