INDOT'S TITLE VI & ADA TECHNICAL ASSISTANCE GUIDE FOR CITIES & TOWNS

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INTRODUCTION

The purpose of this document is to provide technical assistance only, not legal advice, to subrecipients of federal funds from the Indiana Department of Transportation (INDOT) to assist in obtaining and maintaining compliance with accessibility and nondiscrimination requirements. In addition, use of this guide does not guarantee compliance. Cities and towns should work closely with legal counsel to determine their level of compliance and to monitor all areas of federal regulatory compliance for risk mitigation and deficiency resolution on an ongoing basis.

As a recipient of federal funds, INDOT is required to monitor compliance of subrecipients and, pursuant to the Assurances of Nondiscrimination signed by INDOT as a condition of receiving those funds, to ensure that funds are not used in a discriminatory manner and that subrecipients are not deficient and are eligible to receive federal funds. See 23 CFR 200 for more information.

http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0200.htm

In addition to reviewing this technical assistance guide, INDOT would recommend that attendance at a Nondiscrimination and Accessibility Training session every 2 years. Session dates and online registration are available on our website at: http://www.in.gov/indot/2751.htm .

Our goal is to assist all Indiana communities in achieving compliance with the provisions of Title VI and the ADA. If you have further questions or require technical assistance, please contact INDOT's Title VI & ADA Program Manager or Compliance Specialist by phone or e-mail:

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OVERVIEW OF THE REGULATORY REQUIREMENTS

Recipients of federal funds ("Recipients") and public entities have direct legal requirements to comply with Title VI of the Civil Rights Act of 1964 ("Title VI"), the Americans with Disabilities Act of 1992 (the" ADA"), and other laws, executive orders and regulations related to nondiscrimination and accessibility.

In addition, recipients and subrecipients of federal funds (those who receive federal funds as they trickle down to develop programs and projects) have contractual obligations to comply when the Assurances of Nondiscrimination (Assurances) are signed as a condition of receiving those funds. (A copy of these Assurances can be found in the Appendix).

TITLE VI OF THE CIVIL RIGHT ACT OF 1964 AND NONDISCRIMINATION

The capstone regulation addressed in this guide is Title VI of the Civil Rights Act of 1964 (Title VI). Title VI seeks to prevent and eliminate existing discrimination and ensure that public funds are used for public benefit. Federal funds stem from tax dollars paid by all people and the programs and facilities developed from them must benefit everyone equally. This is Title VI in a nutshell. The Assurances must be signed by those who receive federal funds to create a mechanism for accountability to ensure these funds are equitably spent.

"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." (42 U.S.C. 2000d) Title VI of the Civil Rights Act of 1964

The Title VI obligation to not discriminate and to **assess, address, and eliminate discrimination** stems from the fact that we are recipients or subrecipients of federal funds designing, building and implementing programs and facilities for the beneficiaries (the general public) of these program and facilities. It does not matter if a particular program or facility we are developing uses federal funds or not. Once they receive even $1 of federal funds, a city, town or other entity must continually comply with Title VI. (See the Civil Rights Restoration Act of 1987).

The full text of Title VI prohibits discrimination on the basis of race, color, or national origin. Since Title VI was passed, additional regulations and executive orders have extended that list to also include prohibitions for discrimination against others on the basis of: Sex, Sexual Orientation, Gender Identity, Age, Disability, Religion, Income Status, or Limited English Proficiency.

Recipients of federal funds are required to have a Title VI Program Manager, grievance procedure & complaint log, evidence of regular Title VI training, signed Assurances of nondiscrimination, evidence of subrecipient monitoring, and an Annual Title VI Implementation Plan demonstrating that they have integrated Title VI requirements into their programs to remain eligible to receive federal funds.

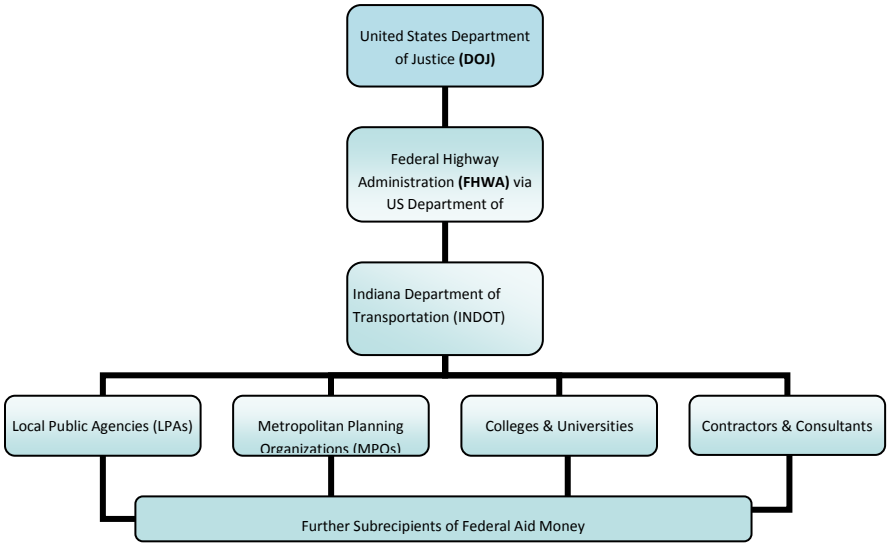
THE AMERICANS WITH DISABILITIES ACT OF 1992 AND ACCESSIBILITY REGULATIONS

Because Disability is a category of individuals we must not discriminate against, the Americans with Disabilities Act of 1990 (The "ADA"), which applies to cities and towns as public entities, and Section 504 of the Rehabilitation Act of 1973 ("Section 504"), (which applies because cities and towns receive federal funds), are also discussed as part of this guide and are areas which INDOT monitors for compliance. Most public entities except for the smallest towns are required to have ADA Transition Plans with specific key components in order to be eligible to receive federal funds. All recipients are required to have an ADA Coordinator , a nondiscrimination policy, and a grievance procedure.

OVERSIGHT & COMPLIANCE MONITORING

The Department of Justice enforces both these regulations and those regulations for transportation-related programs including (but not limited to) sidewalks, transit, and roadways.. This authority is delegated via the Department of Transportation (DOT) to the Federal Highway Administration (FHWA) who oversees compliance. (See 23 CFR 200) http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0200.htm .)

FHWA, pursuant to these regulations requires State Transportation Agencies (STAs) (such as INDOT) to take action to ensure that both its own programs and facilities, as well as those subrecipients they monitor, are compliant with all nondiscrimination and accessibility requirements.



ADDITIONAL REQUIREMENTS

Two other areas that fall under the umbrella of Title VI are Environmental Justice ("EJ") and Limited English Proficiency ("LEP") requirements. Environmental Justice requires additional public participation and mitigation strategies when programs are in a disproportionately low income or minority area. These considerations must begin at the earliest stages of scoping and planning and extend through construction and maintenance – well beyond the confines of the "environmental document" that is developed during the NEPA process.

LEP strategies begin with a four factor analysis and the development of an LEP plan as part of the Title VI Implementation Plan. It is important to track the frequency of interactions and number of LEP that are encountered to be able to determine when services are warranted and what types of services are required. The four factors used to determine whether or not language services are required are:

1. The number of persons encountered with limited English proficiency
2. The frequency of contact with limited English proficient individuals
3. The importance of the communication (a warning or safety communication vs. an informational bulletin, for example).
4. The reasonableness of providing language services including factors like cost.

These areas will be addressed in more depth and with more detail throughout this technical assistance guide.

AUTHORITIES

A short list of relevant authorities includes (but is not limited to):

- Title VI of the Civil Rights Act of 1964 (Title VI)
- Title II of the Americans with Disabilities Act of 1990 (The ADA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 USC 790)
- The Civil Rights Restoration Act of 1987
- Executive Order 12898 on Environmental Justice (EJ) Low Income & Minorities
- Executive Order 13166 on Limited English Proficiency (LEP) Linguistic Minorities
- Executive Orders 11246 on job discrimination
- The 1970 Uniform Act (42 USC 4601)
- The 1973 Federal-aid Highway Act (23 USC 324)
- The 1975 Age Discrimination Act (42 USC 6101)
- Implementing Regulations (49 CFR 21 & 23 CFR 200)
- Other related nondiscrimination laws concerning employment and affirmative action

INDOT'S TITLE VI & ADA PROGRAM OVERVIEW

INDOT has outlined its Title VI Program in its Title VI Implementation Plan. The most recent plan(s) are posted online at http://www.in.gov/indot/2751.htm. Our nondiscrimination policies, complaint procedures, and other information are also available by following this link.

INDOT's ADA Transition Plan(s) are also available online at http://www.in.gov/indot/3036.htm .

INDOT is a large transportation agency. To effectively implement Title VI requirements, INDOT employs the following strategy: Title VI liaisons are identified for each Program Area (e.g. maintenance, design, communication, contracts) and for each District Office. These liaisons are the key point of contact for the Title VI Program Manager. The liaisons ensure data collection and tasks for their program area or District office remain on track and that the Title VI Program Manager receives the information required for recordkeeping and reporting.

In addition, Program Area Representatives (PARs) are identified within a program area as subject matter experts for each area where data is being collected or a policy is being implemented or revised. For example, INDOT has a liaison for its Real Estate Division and a PAR for the areas of Appraising, Buying, Condemnation, and Relocation within that Division. This puts branches on the tree and limbs on the branches to ensure Title VI is fully implemented at INDOT and that there are enough people to effectively monitor all of our diverse program areas for discrimination. It spreads the workload across a broader network of individuals and ensures that subject matter experts are involved in analyzing our programs. You can read more about INDOT's Title VI implementation in our 2015-16 Title VI Implementation Plan located here: http://www.in.gov/indot/2751.htm

INDOT's ADA Transition Plan reflected completion of its vast inventory and development of a prioritization schedule in June of 2015. INDOT maintains a database of measurements of each pedestrian feature of an intersection (curb ramp slope, pedestrian signal pushbutton size, detectable warning width, etc.). These features are weighted according to criteria established with public input and the intersections are weighted according to additional factors, such as whether or not they are located near a hospital, school or government building. The resulting score determines the placement of each intersection within INDOT's priority schedule.

From there, INDOT determines whether lower-priority intersections should be combined with higher priority ones on the basis of proximity when developing projects using its annual budget for ADA remediation. INDOT also tracks items remediated as parts of other ongoing projects not developed solely to address ADA remediation. INDOT's most recent ADA Transition Plan will be posted online once it has been accepted by FHWA.

INDOT also has an ADA Technical Advisory Committee that addresses technical infeasibility requests for ADA assets as well as provides responses to inquiries about challenges in designing and / or constructing compliance ADA assets. This committee promotes a consistent approach to ADA issue resolution throughout the state.

INDOT'S SUBRECIPIENT MONITORING PROCEDURES

Keep in mind that this technical assistance tool is designed for Cities, Towns, Counties, Communities & Public Entities. Contractors or Consultants Title VI requirements differ as does INDOT's subrecipient monitoring process.

LPA ANNUAL PRE-AWARD CERTIFICATION & ASSURANCE SURVEY

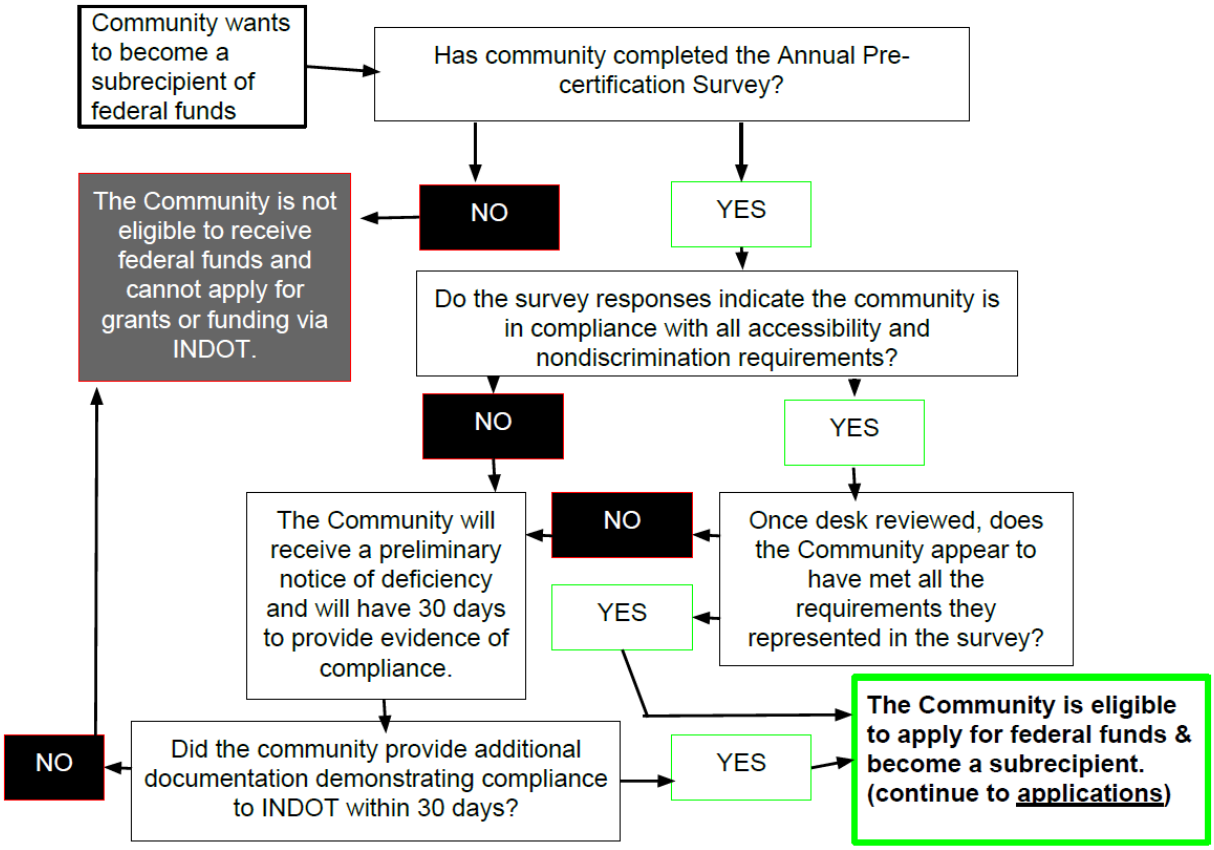
LPA subrecipient monitoring begins with the Annual Pre-Award Certification & Assurance Survey. The Pre-Award Certification and Assurance is a self-reporting tool accessible online via the following link: https://itap.indot.in.gov/. The purpose of the Annual Pre-Award Certification and Assurances is to monitor LPA compliance with the civil rights laws on an ongoing basis. The Annual Pre-Award Certification and Assurance is an online survey that the LPA completes each year. MPOs and other public subrecipients may be asked to take a similar survey or provide similar assurances by INDOT.

The LPA Annual Pre-Award Certification and Assurance outlines the basic requirements to ensure nondiscrimination in LPA transportation projects and is now used by INDOT to determine funding eligibility. An LPA or MPO must be Title VI and ADA compliant to be eligible to receive federal funds. INDOT is responsible for monitoring subrecipients to ensure compliance. A copy of the Title VI & ADA questions included on the 2014-15 survey is included in the Appendix.

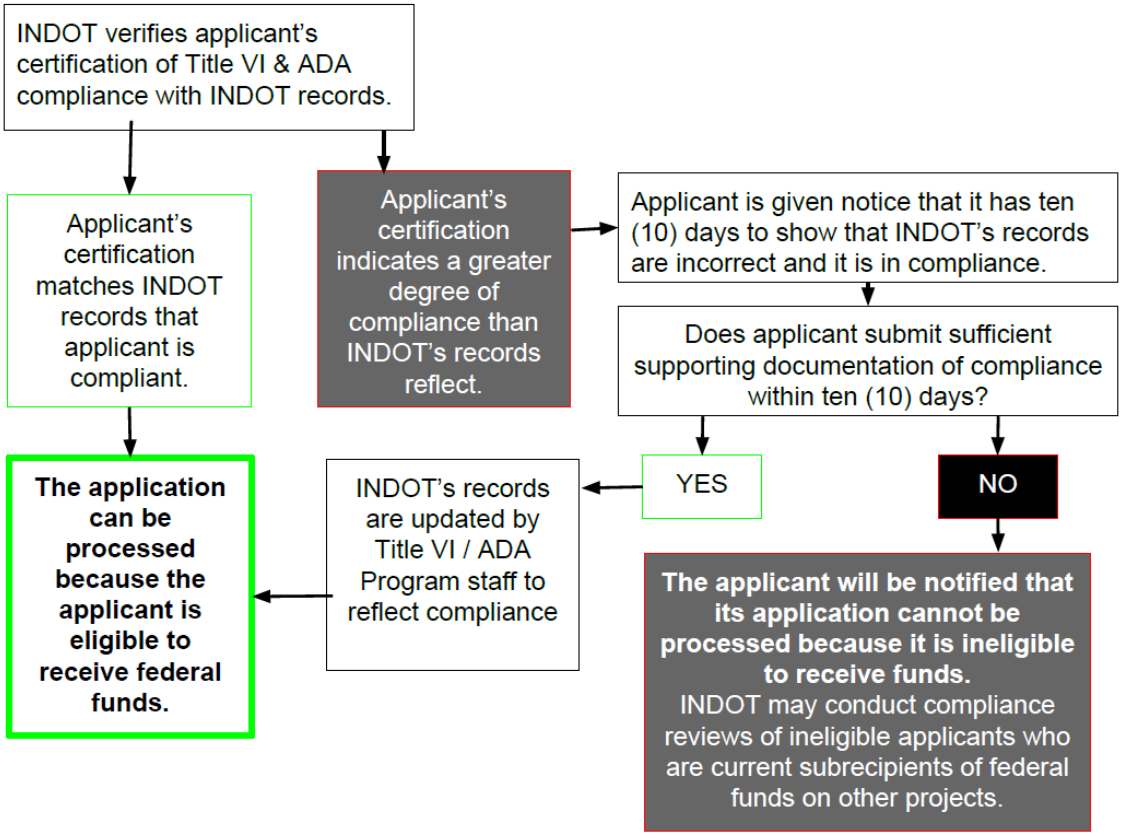
LPA PRE-AWARD SURVEY REVIEW PROCESS

The flowcharts on the following pages illustrate how subrecipient monitoring works for LPA / MPO subrecipients. A discussion of each follows.

SUBRECIPIENT ELIGIBILITY DETERMINATIONS



APPLICATIONS FOR FUNDING



STEP 1: INDOT CONDUCTS A DESK REVIEW OF THE ANNUAL PRECERTIFICATION SURVEY RESPONSES.

INDOT conducts a preliminary review of all responses submitted during the annual precertification survey period (currently June 30 to September 1 each year). INDOT staff review the website for each community to ensure information reported during the survey is accurate and contacts the LPAs directly to verify the same if necessary. This process may take several months following the end of the survey, though it begins as soon as the survey period opens.

STEP 2: INDOT SEND PRELIMINARY COMPLIANCE NOTIFICATIONS.

LPAs that completed the survey will be notified of their preliminary compliance determination and whether or not they are eligible to apply for federal funds from INDOT once the desk review is complete.

LPAs who do not complete the survey but who have completed the survey in previous years will be notified of their noncompliant status. LPAs that have never completed the survey will not be notified and will not be eligible for to apply for funds.

STEP 3: 30-DAY COMPLIANCE REVIEW PERIOD COMMENCES.

Upon receipt of their notification of a preliminary determination of deficiency or noncompliance, the LPA will have thirty (30) days to provide additional documentation or evidence of compliance that will be considered as part of the annual precertification determination. In other words, if INDOT was unable to verify that an LPA had a Title VI Implementation Plan when it looked at an LPA's website and the LPA submits a complete Title VI Implementation Plan within thirty (30) days, then the LPA will not be deficient in this area.

STEP 4: ANNUAL LPA COMPLIANCE REPORT

Once this thirty (30) day period has expired, INDOT will issue its final Annual LPA Compliance Report. LPAs that are deficient or noncompliant are not eligible to receive federal funds via INDOT until they have resolved their deficiencies and been found in compliance by INDOT. **There will not be time for INDOT to review all applicants adequately during a call for projects or an application period. This is why timely completion of the Annual survey is critical to being eligible to receive funds.**

ONSITE COMPLIANCE REVIEWS TARGET CURRENT SUBRECIPIENTS IN NONCOMPLIANCE:

Onsite reviews may not be necessary; however onsite reviews may be performed during the precertification survey review process at the discretion of the Title VI Program Manager or upon request of the subrecipient. Subrecipients who are already receiving funds from INDOT on one or more projects would likely require an onsite review for all but minor deficiencies.

PROJECTS & GRANT APPLICANT COMPLIANCE MONITORING PROCEDURES:

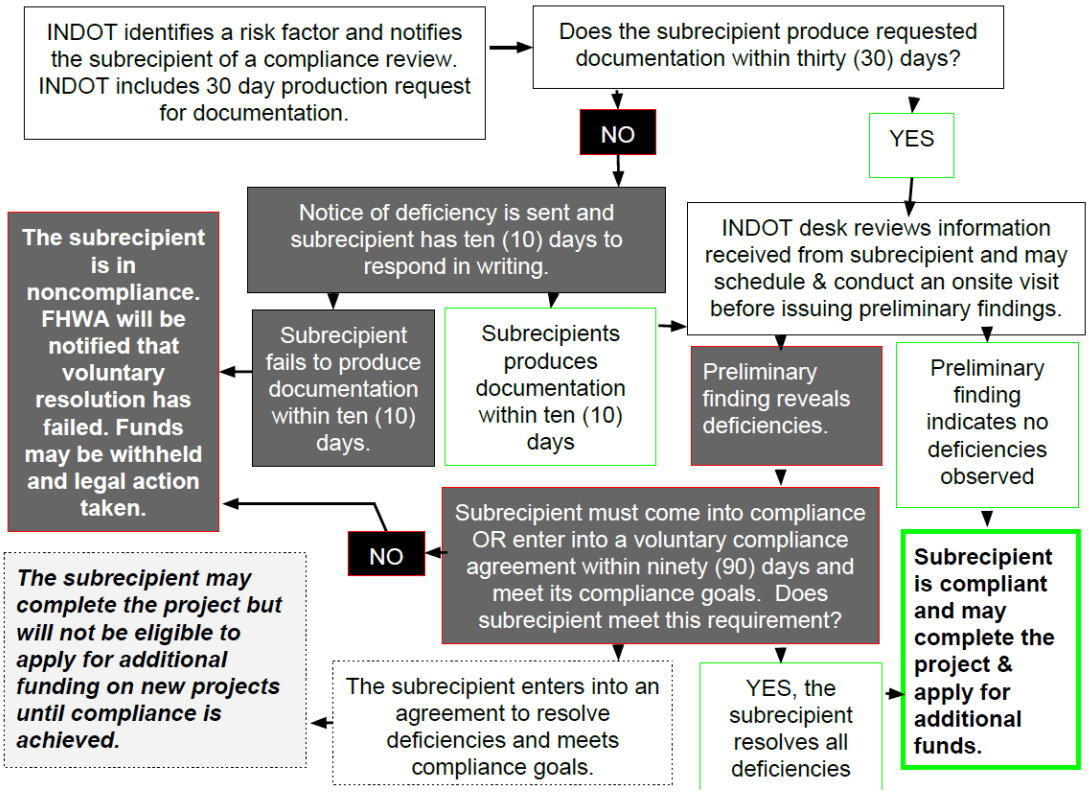
1. A Statement of compliance is submitted with the application by the subrecipient:
    - At the time of application, applicants submit a letter indicating their level of compliance with Title VI / ADA.
    - Representations made in the letter are cross-checked with INDOT's most recent reviews.
    - If the applicant indicates a higher level of compliance (i.e. Claims to have Title VI plan when our last review indicated they did not), the applicant must submit proof that the missing program element existed at the time of the last precertification survey (before September 1 of the most recent calendar year) and provide supporting documentation for review by the Title VI program staff.
2. There is a 10-day Compliance Review period for a subrecipient applicant to demonstrate an error in our determination of compliance:
    - If received, supporting documents are forwarded to the Title VI Compliance Staff for consideration and,
    - If acceptable, changes are made to the compliance level indicated in the database.
3. The applicant is informed of their eligibility status in writing.
    - A letter from INDOT's Title VI program staff will be sent to the applicant indicating whether or not the evidence has resulted in eligibility for funding.
    - The LPA division will be copied on this correspondence and noncompliant LPAs will be ineligible for funding.

POST-AWARD SUBRECIPIENT COMPLIANCE MONITORING

Post –award Subrecipient Compliance Monitoring is focused on ensuring compliance with the assurances of nondiscrimination and is risk-based. Post-award procedures apply to those subrecipients already approved and with projects underway. A post-award compliance review may be conducted based upon the following:

- A high-dollar or high-impact project is being undertaken by the LPA. Impacts may or may not be related to minority, low income, disabled, or other specifically-protected individuals;
- The LPA has received a complaint of discrimination or INDOT has received a complaint about the LPA; or
- INDOT has other reason to suspect the LPA may not be in compliance with nondiscrimination requirements. This may be based upon the manner of construction of improvements, content present or absent from the LPAs website, responses of the LPA to the annual precertification survey or lack thereof, comments made in the official capacity of the LPA, actions taken that generate concern regarding the level of the LPAs compliance, or other reasonable basis identified by INDOT including a history of noncompliance.

LPA / MPO Compliance Reviews



STEP 1: NOTICE OF COMPLIANCE REVIEW

When a post-award compliance review commences, the Title VI program staff will send a notice of compliance review providing the reason for the review and a request for documents to the subrecipient.

The subrecipient will have thirty (30) days to produce the requested documentation. FHWA's district office will also be notified of the post-award compliance review. Notice of deficiency or compliance:

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 his or her deficiency status from the Title VI Program Staff. (see preliminary findings below)

STEP 2: DESK REVIEW OF SUBRECIPIENT

Information received from the subrecipient is desk reviewed by the Title VI Compliance staff and a telephone call is scheduled to discuss preliminary deficiencies observed and to request additional information as necessary.

The following factors will play a role in determining whether or not an onsite 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 coordinator or representative has not been identified and / or does not appear to have the support of the executive leadership of the LPA in ensuring program compliance;
- The review is based upon the receipt of a complaint

STEP 3: PRELIMINARY FINDINGS

Following the conclusion of the desk review and / or onsite review, the reviewer shall provide the subrecipient with a written report of preliminary findings which shall:

- Document any deficiencies observed and direct the subrecipient to come into compliance within 90 days.
- Require that any deficiency which cannot possibly be resolved within 90 days shall be reflected in the compliance plan submitted to INDOT for approval within the 90 day period and shall include dates by which compliance will be achieved and specific action steps with identified task ownership.
- In addition, it is the subrecipient's responsibility to notify INDOT that is has achieved its approved compliance plan goals. Failure to provide such notice will place the contractor or consultant in deficiency status.

FAILURE TO COMPLY:

If the subrecipient does not voluntarily comply within 90 days of the original notification, INDOT will issue a notice of noncompliance.

If the subrecipient fails to submit appropriate and complete documentation to support its commitment to comply with Title VI, INDOT will issue a noncompliance letter and forward a copy to FHWA and may then pursue other legally available action against the subrecipient for failure to comply.

STEP 4: CERTIFICATION OF COMPLIANCE OR DEFICIENT STATUS

Following the expiration of ninety (90) days, INDOT will either:

- Certify the current subrecipient eligibile to receive funds,
- Identify the current subrecipient as deficient but on an approved corrective action plan[1], or
- Issue a notice of noncompliance and ineligibility to receive funds.

Copies of all notices will be provided to FHWA.

REQUIREMENTS FOR LPA'S DEFICIENCY RESOLUTION:

An LPA who completed the annual precertification survey may become compliant at any time by submitting sufficient documentation to the Title VI Compliance Specialist for review that demonstrates resolution of their deficiencies, however, INDOT requires time to review the documentation submitted and compliance determinations will not be able to made in a manner that would improve eligibility at the time of application or a call for projects given the number of applications received and the tight timeframe.

Compliance documentation is generally reviewed by the Title VI program staff in the order it is received unless INDOT or FHWA priorities determine otherwise. Those subrecipients who resolve their deficiencies mid-year would become eligible to apply for funding following the next precertification period, which currently occurs annually (June 30- September 1). INDOT is exploring the possibility of conducting additional survey periods to permit more flexibility in compliance determinations and will communicate these additional opportunities to cities and towns if they become available.

[1] Keep in mind that corrective action plans apply to current subrecipients of federal funds for a current and ongoing project only. Applications for new funding will be deferred if a subrecipient is deficient until the deficiency is resolved.

RECORDKEEPING & REPORTING

INDOT shall maintain a log of all compliance reviews for three (3) years following the completion date of each review determined by the date the final compliance determination letter was sent to the subrecipient or the last action on the file, whichever is later.

Each complete compliance review file should contain the following documentation and evidence before INDOT notifies the sub-recipient of Title VI compliance[2]:

- Title VI Compliance Review Checklist,
- Reviewer Name/Title,
- Proof of Notification of the Onsite Review,
- A copy of the completed request for information with supporting documentation,
- A copy of the subrecipient's Title VI Implementation plan, if applicable,
- A copy of the subrecipient's nondiscrimination policy,
- A copy of the subrecipient's complaint log & policy,
- A copy or description of the sub-recipient's method used to monitor subrecipients, if any;
- A copy of the Title VI contract assurance language used in the subrecipient's contracts,
- A copy or description of the method of providing and soliciting contracting opportunities,
- Any notes or meeting minutes made by the reviewer and any exceptions, notes or objections provided by the subrecipients to be maintained in the file.

EXAMPLES OF TITLE VI DEFICIENCIES:

- Title VI coordinator has not been identified
- A Title VI Implementation Plan does not exist or meet requirements
- The subrecipient does not collect, analyze and report data sufficient to identify program areas where discrimination may occur.
    - The subrecipient does not address discrimination that occurs.
    - The subrecipient does not provide Title VI training to its staff.
    - The subrecipient does not sufficient nondiscrimination policies.
- Title VI Coordinator needs to participate in Title VI training;
- Subcontracts do not contain nondiscrimination assurance language;
- No method exists to solicit participation from the broader scope of Title VI protected individuals regardless of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status, and limited English proficiency.
- No method exists to provide services to LEP persons;
- No Title VI complaint log;
- No Title VI complaint and hearing procedure; and
- No method to monitor race, ethnicity and gender of subrecipients.

[2] This list may be revised during the VCAP period and periodically as the review process is further developed and implemented.

ACCESSIBILITY REQUIREMENTS

Pursuant to the ADA or Section 504 & other accessibility laws and regulations, subrecipients are required to meet the following requirements to be eligible to receive federal funds:

1. Have a designated ADA Coordinator
2. Develop and post an ADA accessibility policy
3. Complete a self-evaluation of all public facilities & programs as applicable*
4. Develop a transition plan, if applicable (recipient type/size)*
5. Design & build accessible facilities & programs
6. Have a complaints and public input / request procedure
7. Review & monitor compliance

**Certain communities who are recipients of federal funds, but who are very small may not be required to have ADA Transition Plans; however they should have an accessibility plan that fits the size of their community.*

The following pages provide specific guidance, resources and technical assistance targeting each of the above requirements. INDOT's goal is to assist all of our subrecipients in achieving and maintaining compliance. Laws and regulations change, and it is each individual entity's responsibility to ensure current requirements. Again, none of the material included in this guide is intended to constitute legal advice. If believe your community may be exempt from any of these requirements or would like a legal opinion regarding your level of compliance, please consult with your community attorney.

DESIGNATING AN ADA COORDINATOR

Requirements:

- An ADA Coordinator must be designated.
- This individual must be identified by name.
- Their contact information must be provided
- This information should be included in the ADA Transition plan and posted on the subrecipient's website.

Recommendations:

It may be beneficial to include these duties in the job description of an individual role within the subrecipient's organization in order to ensure when political transitions occur that the duties are maintained. However, a subrecipient cannot merely identify the ADA Coordinator by a job position, such as "Town Clerk". The individual's name must be provided. The ADA coordinator may be the same person as the Title VI Program Manager. This determination is dependent on how the subrecipient operates as these are related but different roles. The ADA Coordinator should be someone in a position to implement policies and effectuate change. They should have some training in ADA requirements.

DEVELOPING AND PUBLISHING AN ADA ACCESSIBILITY POLICY

Requirements:

- The subrecipient must develop and publish an ADA Accessibility Policy
- INDOT's ADA Notice of Nondiscrimination can be found here: http://www.in.gov/indot/files/DBE_Assurances_2013.pdf . This is also included in the Appendix as a resource for you.
- The policy must be signed or adopted by the subrecipient to be made official.
- The policy should be published and posted
- The policy should be included in the ADA Transition Plan

Recommendations:

There are a number of similar Cities and Towns who have posted their nondiscrimination policies online. INDOT's is also posted and may be used or referenced as a template. Nondiscrimination policies should be periodically re-adopted when leadership changes. You may not wish to identify the ADA Coordinator in the policy if a new ordinance must be passed to change Coordinators, although it is helpful to post and publish the ADA Coordinator's name with the ADA policy.

COMPLETING A SELF-EVALUATION OF FACILITIES & PROGRAMS

Requirements:

- The ADA requires that ALL programs and facilities, including everything from websites, public outreach policies, to city buildings, parks, and sidewalks be evaluated for ADA compliance.
- Measuring all features of facilities and maintaining a record is required.
- Assessing programs and identifying areas of noncompliance is required.
- The self-evaluation will form the basis for the prioritization schedule in the ADA transition plan.

Recommendations:

Maintain all data in its raw form. If your records include the actual measurement of the slope of a curb ramp and the measurement in its width in inches, you won't have to recollect the information as the regulations change as you would if you merely recorded whether or not they were compliant. Include the year the asset was built if you have this information. Be sure to make this inventory a living document and update it or else it will be more work later to periodically redo the entire inventory.

Don't forget to evaluate your programs as you do your facilities. Is your website accessible? How about your public meetings? Does your city operate other programs such as leagues and camps?

DEVELOPING, IMPLEMENTING AND MAINTAINING AN ADA TRANSITION PLAN

Requirements:

- Identify your ADA Coordinator by name and include contact information
- Include the ADA policy
- Include the grievance procedure for ADA complaints
- Include the ADA self-evaluation results (for programs and facilities)
- Identify the design standards for all facilities (buildings & roadway assets)
- Include a prioritization schedule for remediating assets and programs that are not ADA compliance with a means of identifying the subrecipient's commitment to complete the schedule by identifying either (if not both) of the following:
    - The completion date for each item on the schedule or
    - A budget to be applied to the items on the prioritization schedule together with cost estimates for their remediation.
- **Demonstrate that there were ample public involvement opportunities involved in the development of this plan**
- Identify how often the plan will be updated (every two years, for example).
- Effectuate the plan by signature, ordinance or other means of adoption.

Recommendations:

Keep the plan simple. Put most of your data in the appendix but do include your inventory and prioritization schedule with the plan. It is not acceptable to have all of the plan components (such as a nondiscrimination policy, a grievance policy, and an inventory but not have them all pulled together in one place to form an ADA Transition Plan. The ADA Transition Plan must be complete and comprehensive. It should also be a living document, updated on an ongoing basis as work is completed, even if the plan itself isn't updated for publication every year. The minute you stop keeping track of the work that has been accomplished or identifying things that need remediation, the plan will cease to function and you (or your successor) will be left to start over. This could limit your eligibility for funding.

DESIGNING AND BUILDING ACCESSIBLE FACILITIES & PROGRAMS

Requirements:

- Identify the design standards used (ADAAG, PROWAG, etc).
- Identify how you ensure that what you build and operate is compliant.

Recommendations:

You are responsible for ensuring your facilities and programs are accessible. While ADAAG (ADA Accessibility Guidelines) apply to buildings and facilities, FHWA maintains that the PROWAG, (Proposed Guidelines for Accessible Rights-of-way) are the best practices for public rights-of-way even though they have not been made official as of the date of this publication. Accordingly, INDOT is in the process of revising its design standards to meet the PROWAG requirements. Subrecipients should identify which design standards they use. These categories should be identified as ADAAG and PROWAG designations, not "INDOT standard drawings", for example. Adopting "INDOT" or any other entities "standard drawings" does not constitute an adoption of design standards.

DEVELOPING AND IMPLEMENTING A GRIEVANCE PROCEDURE

Requirements:

- Adopt a grievance procedure for ADA complaints (Sample included in the Appendix)
- Protect the confidentiality of the complainant
- Maintain a log of all complaints received (Sample included in the Appendix)
- Train employees on your complaint procedure to ensure proper processing of complaints

Recommendations:

Clearly state what constitutes and complete complaint and when that complaint is considered received. Clearly indicate your timelines and ensure you notify the Complainant of all of their rights and other options for filing a grievance. Follow your complaint procedure to the letter if and when you receive complaints.

OBTAINING PUBLIC INPUT

Requirements:

- Obtain **continual and ongoing** public input on your ADA Transition Plan
- Offer continuing opportunities for Input on ADA Prioritization and other policy and program decisions

Recommendations:

Hold public meetings as you develop or update your ADA Transition Plan. Create a mechanism for ongoing public comment and input as the plan is implemented and ongoing. Keep records of all public meetings, public comments, and attendance. Include a discussion about public input in your Transition Plan.

MONITORING AND MAINTAINING COMPLIANCE

Requirements:

- Implementation is required for ADA Transition Plans: it is not enough to merely have them, they must be used.
- Subsequent plan updates must demonstrate and evidence progress that has been made in order to reflect good faith efforts to comply with the requirements.

Recommendations:

Identify key individuals in your community who can meet periodically and ensure that the underlying data is maintained. Meet with policy makers and stakeholders to discuss and evaluate the effectiveness of your plan. Don't let the Transition Plan sit on a shelf and collect dust. If it's not in use, it doesn't exist and it is not evidence of you ADA Compliance.

NONDISCRIMINATION REQUIREMENTS

Pursuant to Title VI and other nondiscrimination executive orders and regulations, subrecipients are required to meet the following requirements to be eligible to receive federal funds:

1. Have a Title VI Coordinator / Program Manager
2. Develop and post a nondiscrimination policy
3. Sign the Assurances of Nondiscrimination
4. Obtain Title VI Training and Train Staff regularly
5. Have a Grievance Procedure and a Complaint Log
6. Have an Annual Title VI Implementation Plan
7. Monitor Subrecipients for Compliance
8. Have a Public Involvement Plan (including EJ & LEP segments of your community)
9. Review and Monitor your own Compliance

HAVE A TITLE VI COORDINATOR OR PROGRAM MANAGER

Requirements:

- Designate a Title VI Coordinator who has a responsible position in the organization and has easy access to the head of the agency. The Title VI Coordinator should be responsible for monitoring Title VI activities.
- Identify the Title VI Coordinator by name and include his or her contact information in the Title VI Plan, on your website and with your grievance procedure.

Recommendations:

Your organizational chart or other literature should identify the Title VI Coordinator.

The Title VI Coordinator's responsibilities should include:

- Assisting program personnel to correct Title VI problems or discriminatory practices or policies found through self-monitoring and review activities.
- Being the focal point for Title VI implementation and monitoring of programs and/or activities receiving federal financial assistance including development of an Implementation Plan.
- Ensuring that Title VI requirements are included in policy directives and that the procedures used have built in safeguards to prevent discrimination.

- Implementation of procedures for the prompt processing of Title VI external discrimination complaints.
- Attendance at training on Title VI and other nondiscrimination authorities.
- Efforts to coordinate the development and implementation of a Title VI and related statutes training program.
- Developing Title VI information for public dissemination, and where appropriate, in languages other than English.
- Maintain meeting agendas/minutes demonstrating that civil rights requirements are being addressed by the Title VI Coordinator.

DEVELOP AND POST A NONDISCRIMINATION POLICY

Requirements:

- Develop a Title VI Nondiscrimination Policy Statement assuring nondiscrimination in the agency's programs and activities.

Recommendations:

Issue a policy statement, signed by the head of the agency, which expresses the agency's commitment to the nondiscrimination provisions of Title VI:

That no person shall on the grounds or race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status, or Limited English Proficiency 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.

Circulate the policy statement internally and to the general public including publishing it in language other than English where appropriate. Publish the statement on your website and include it in your implementation plan. Placement of the same in your Employee Handbook with retained signature pages from employees that they have read and agree to abide by the same is good practice.

SIGN THE ASSURANCES OF NONDISCRIMINATION

Requirements:

- Have a signed assurance to establish full and affirmative compliance with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities. (See Appendix for a copy of the Assurances)
- Ensure the Assurances are signed by the head of the agency
- The head of the agency should re-sign the U.S. DOT Standard Title VI Assurances every three years or within 30 days of the accession of a new head of the agency
- Include the required paragraph from the Title VI Assurances in all bid solicitations. (See Appendix for a copy of this language.)

Recommendations:

Include a copy of the assurances with the Title VI Implementation Plan. Post them on your website. Include the appropriate appendices in your contracts with subrecipients. Use the assurances for the basis of your subrecipient monitoring.

TITLE VI TRAINING

Requirement:

- Ensure your Title VI Coordinator has received Title VI Training
- Train your staff on Title VI requirements as this is necessary to demonstrate that Title VI has been integrated into your agency.
- Retain records of agendas, training materials, attendees, and training dates to "show your work".

Recommendations:

Ensure training is renewed every 2-3 years. Include training as part of new employee orientation as well as making training available for existing employees. Consider conducting roundtable discussions with specific program areas about how Title VI impacts their work area. Maintain records of attendance and training materials as well as meeting agendas where Title VI was discussed. INDOT retains its records for three (3) years.

GRIEVANCE PROCEDURE & COMPLAINT LOG

Requirements:

- Develop a grievance procedure. (sample included in the Appendix)
- Notify INDOT of any complaints received within ten (10) days.
- Develop a complaint form that clearly identifies the Title VI Coordinator.
- Maintain a log of all complaints received that identifies:
    1. Each complainant by race, color, sex, national origin or other pertinent basis
    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

Recommendations:

Make sure all of your staff is trained on what constitutes a complaint and what to do with a complaint. Ensure the policy is clear as to what is required for a complete complaint and when a complaint is considered received.

Be prepared to take a complaint in any format but always make sure there is a written outcome. You may have the complainant sign your written version if needed.

An empty complaint log is meaningless if employees aren't trained in the complaint policy. Keep in mind that Title VI complainants have legal rights and are able to file their complaints in other venues, including taking legal action. Be certain to follow your complaint policy precisely and have the same reviewed by legal counsel periodically to ensure that the policy comports with the law.

ANNUAL TITLE VI IMPLEMENTATION PLAN

Requirements:

- Develop a Title VI/Nondiscrimination Plan that communicates how the agency implements the Title VI/Nondiscrimination requirements (including Environmental Justice and Limited English Proficiency).
- The Title VI/Nondiscrimination Plan should contain procedures, strategies, and activities to facilitate and assure nondiscrimination in federally assisted programs and activities of the agency.
- The plan should identify the Title VI Coordinator, the grievance procedure, and include all policies and nondiscrimination statements.
- Include mechanisms to guarantee effective and efficient implementation, compliance, and enforcement of Title VI.
- Include maps of Environmental Justice (EJ) and Limited English Proficient (LEP) populations (based upon the most recent Census data).
- Include organizational charts.

Recommendations:

Think of the Title VI Implementation plan as your program manual. It should be something the next coordinator or any member of the public could pick up and read that would explain how you operate your Title VI program. It should start with a "who's who" and a "what's what" identifying key people and policies in your community.

The plan should cover all program areas and identify what risks, if any, exist and what data has been or is being collected to assess those risks for discrimination. That data collected must be analyzed and reported on to determine if discrimination exists. You should identify how the data will be used AND how it is being used. What actions will you take and are you taking to remediate discrimination you have identified? It is not enough to simply collect and report data. You must identify how the information collected is used.

Annual tasks and progress reports should be specific. You may wish to identify liaisons and program area representatives as INDOT has done to have team of subject matter experts that will help you identify and address discrimination. Put all of your data and policies in the Appendix of your plan to make the document more readable and use this guide as a checklist to ensure you have the required elements. Ensure that your plan is adopted. "Unofficial" or "pending approval" plans do not "exist" until they are adopted by your agency / entity. Your first plan may in essence be a "plan to make a plan" but should contain clear action steps, ownership, and objectives for the development of the same.

MONITORING FURTHER SUBRECIPIENTS OF FEDERAL FUNDS

Requirements:

- Develop and implement pre and post-award subrecipient monitoring policies to ensure those further subrecipients who receive federal funds from you are compliant and remain compliant with Title VI.
- Ensure post-award compliance reviews are risk-based
- Ensure pre-award compliance monitoring strategies exist to ensure subrecipients are compliant with Title VI before receiving federal funds as this is the best opportunity to ensure discrimination does not occur.

Recommendations:

Develop subrecipient policies that fit the size and function of your community but that meet the requirements for monitoring. Consider FHWA and INDOT policies when designing your own. Clearly communicate your expectations with potential and current subrecipients to ensure compliance. Train your staff of the importance of compliance monitoring as well as the procedures and participate in conducting adequate compliance reviews.

Include your monitoring policies and practices in your Title VI Implementation plan and provide an annual report on your findings. Maintain records of all compliance reviews for at least three (3) years from the date the project is complete, NOT the date of the review.

PUBLIC INVOLVEMENT

Requirements:

- Providing an opportunity for public involvement and access to the transportation decision making process in every stage of the planning and development of transportation projects to everyone, including minority or low-income communities and populations who are not proficient in English is required.
- Develop an agency Public Participation Plan with maps of the identified EJ and LEP populations (based upon the most recent Census data) that details how public participation is solicited, captured, and utilized.

Recommendations:

Engage the public at the earliest stages of any project and maintain participation throughout the process. Document your solicitation efforts, participation (numbers of participants as well as their self-identification of race, national origin, income status, disability, Limited English Proficiency, gender, etc.), and comments. Keep good records. Demonstrate how you utilized the comments received and what actions you are taking to broaden public participation where your data reveals participation is lacking across any segment of your community. Keep in mind that if you are in a Metropolitan Planning Organization's (MPO's) area, much of this data may be available from the MPO for your use.

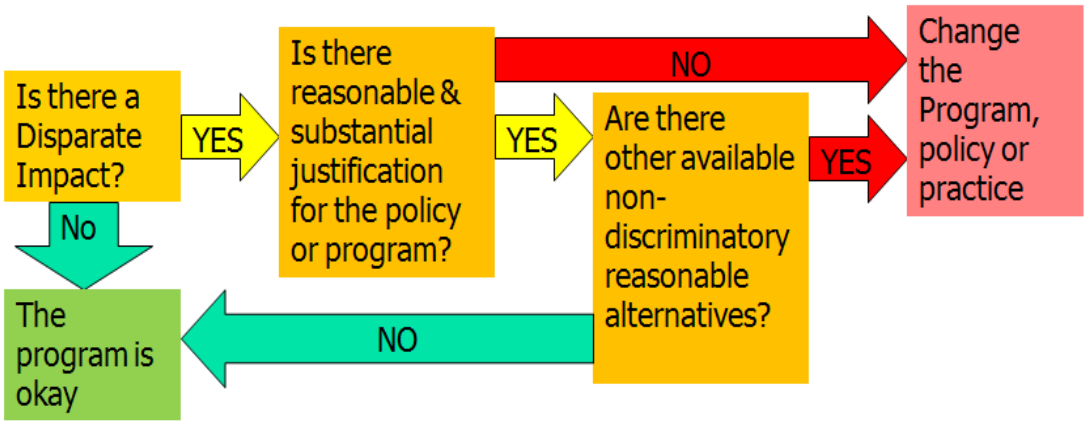
INTERNAL COMPLIANCE REVIEWS & MONITORING

Requirements:

- Develop and implement procedures for the collection of statistical data (race, color, national origin, sex, disability, and age) of participants in and beneficiaries of an agency's programs (e.g., relocatees, impacted citizens and affected communities).
- Work with your liaisons, Program Area Representatives, or other Title VI team members to analyze data and information collected and make adjustments to programs as necessary to reduce discriminatory impacts, documenting your efforts.

Recommendations:

Conduct a disparate impact analysis whenever data collected reveals the potential for discrimination. The following chart indicates how a disparate impact analysis may be conducted. This is a legal analysis and should be done with the participation of counsel.



Using maintenance as an example, consider how a citizen might perceive that your city always plowed or always maintained the roads in his or her neighborhood last. They may believe that is because they are a minority or live in a low income area. You could collect data about how and where your city maintains its roads to determine if this occurs. If so you would determine whether it was justified and there were no other alternatives. If not, you might make changes to the policies and practices surrounding maintenance of public roads in your city or town. This is one example of how Title VI compliance and program monitoring can be done utilizing disparate impact analysis.

NONDISCRIMINATION & ACCESSIBILITY CHECKLIST FOR COMMUNITIES

The following checklists can be used to determine whether or not your community is in compliance with nondiscrimination & accessibility laws. This is a resource and technical tool only. Other factors will play a role in determining whether or not your community is determined to be compliant or not. Keep in mind that having all the required components is only one small part of compliance; putting the plans and policies into practice and keeping good records is what really counts!

ACCESSIBILITY CHECKLIST:

Pursuant to the ADA, Section 504 & other accessibility laws and regulations, subrecipients are required to meet the following requirements to be eligible to receive federal funds:

- ☐ Have a designated ADA Coordinator
- ☐ Develop and post an ADA accessibility policy with adopted design standards and public notice
- ☐ Complete a self-evaluation of all public facilities & programs as applicable*
- ☐ Develop a transition plan, if applicable (recipient type/size)* with:
- ☐ Design & build accessible facilities & programs
- ☐ Have a complaints and public input / request procedure
- ☐ Review & monitor compliance

**Certain communities who are very small may not be required to have ADA Transition Plans; however they should have an accessibility plan that fits the size of their community.*

NONDISCRIMINATION CHECKLIST:

Pursuant to Title VI and other nondiscrimination executive orders and regulations, subrecipients are required to meet the following requirements to be eligible to receive federal funds:

- ☐ Have a Title VI Coordinator / Program Manager
- ☐ Develop and post a nondiscrimination policy
- ☐ Sign the Assurances of Nondiscrimination
- ☐ Obtain Title VI Training and Train Staff regularly
- ☐ Have a Grievance Procedure and a Complaint Log
- ☐ Have an Annual Title VI Implementation Plan
- ☐ Monitor Subrecipients for Compliance
- ☐ Have a Public Involvement Plan (including EJ & LEP segments of your community)
- ☐ Review and Monitor your own Compliance

APPENDICES

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INDOT's Nondiscrimination Statement

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Limited English Proficiency Resource: "I Speak" Cards

ASSURANCES

BID SOLICITATION LANGUAGE:

"The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

ASSURANCES OF NONDISCRIMINATION

[Community NAME] Title VI Assurances

The **[COMMUNITY NAME]** (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation and the Federal Highway Administration, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race color, or national origin, sex (23 USC 324), age (42 USC 6101), disability/handicap (29 USC 790) and low income (Executive Order 12898) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a) (1) of the Regulations, copies of which are attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal Aid Highway Program.

1. That the Recipient agrees that each "program" and each "facility as defined in 49 CFR subsections 21.23(e) and (b) and 23 CFR 200.5(k) and (g) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal-Aid Highway Programs and, in adapted form in all proposals for negotiated agreements:

   The recipient in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Acts, hereby notifies all bidders that it will affirmatively insure that in any contact entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, sexual orientation, gender identify, age, disability/handicap, religion and / or low income in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Acts and the Regulations.

4. That the Recipient shall insert the clauses of Appendix B of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal-Aid Highway Program.

8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

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

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

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the Federal-Aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal-Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient

_____ _____

(Executive Officer name) Date

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 shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

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

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

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

(a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
(b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as INDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

A. The following clauses shall he included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the _____, as authorized by law, and upon the condition that the _____ will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United states Code of Federal Regulations, the Regulations for the Administration of Federal-Aid Highway Programs and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. .2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the _____all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the _____ and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the _____ its successors and assigns.

The _____, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of religion, race, color, or national origin, sex, sexual orientation, gender identify, age, and disability/handicap, and low income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on over or under such lands hereby conveyed [,] [and)* (2) that the _____ shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of -the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the _____shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the _____ and its assigns as such interest existed prior to this instruction.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the _____ pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of-Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.][*]

That in the event of breach of any of the above nondiscrimination covenants, INDOT shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, Indiana Department of Transportation shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of INDOT and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by INDOT pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color. or national origin, sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or he otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin, sex, age, disability/handicap and low income, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations. Department of Transportation, Subtitle A, Office of the Secretary. Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964), Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

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[*] Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

That in the event of breach of any of the above nondiscrimination covenants, INDOT shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds][*]

That in the event of breach of any of the above nondiscrimination covenants, _____ shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of _____and its assigns.

[*] Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

ANNUAL PRE-AWARD SURVEY QUESTIONS:

The following questions appeared on the most recent copy of the annual precertification survey and were used to assist INDOT in determining subrecipient compliance. These questions may be modified from year to year but the information sought will be similar to that included below:

Local Public Agency: (name)
County: (name)
Title VI Coordinator Name:
County selected: (number)
City/Corp Name selected: (name)

1. Title VI Coordinator name & contact info:
Name:
Address of Title VI Coordinator:
Zip Code:
Title VI Coordinator Email:
Phone Number:

2. Does the LPA have a population of at least 100,000?

3. How many people does the LPA employ (include part and full-time employees)?

4. Does the LPA have designated staff with Title VI coordination responsibilities (may be in conjunction with other duties)?

5. Does the LPA have a process to collect data regarding the race, color, gender and national origin of the following: (Check all that apply)

[ ] - All right-of-way relocatees and others adversely affected by transportation projects
[ ] - Attendees at public hearings, meetings, and open houses, etc.
[ ] - Communities impacted by construction projects
[ ] - Employees

6. Does the LPA have a process for collecting data regarding for the number of INDOT federally funded projects awarded or ongoing during the past two years?

7. Does the LPA have a Title VI/nondiscrimination policy statement that prohibits discrimination based on race, color, age, gender, disability or national origin in all programs and/or activities of the LPA?

8. Does the LPA have proof of public dissemination of its Title VI Policy or nondiscrimination policy statement?

9. Does the LPA have a Title VI/nondiscrimination policy that prohibits discrimination based on race, color, age, gender, disability or national origin that it makes available to contractors, consultants, beneficiaries, etc.?

10. Does the LPA have proof of public dissemination of its Title VI/nondiscrimination policy?

11. Does this policy and its corresponding processes include the LPA maintaining a complaint log showing all Title VI complaints received for the last three years (i.e. numbers, issues involved, how it was resolved)?

12. Has the LPA reviewed its planning and public involvement guidelines for compliance with Title VI?

13. Does the LPA have procedures in place to ensure that it adheres to the equal opportunity laws when hiring employees and awarding contracts/agreements?

14. Has the LPA developed a Title VI Implementation Plan?

15. Date of the last LPA Title VI Implementation Plan update.

16. How often does the LPA update its Title VI Implementation Plan?

17. Has any LPA staff received any Title VI training (formal or informal) within the past year?

18. Does the LPA actively seek out minority members of the community to participate in public hearings, meetings, open houses, etc.?

19. Does the LPA ensure it holds its public meetings, hearings, open houses, etc. in accessible locations?

20. Do the LPA public meeting announcements providing notification that auxiliary aids are available upon request?

21. Does the LPA provide or consider proving language services for limited English proficiency persons (LEP) for its public meetings, hearings, open houses, etc. as appropriate based on its LEP Plan and/or LEP Four Factor Analysis?

22. Do LPA issued contracts/agreements that include federal financial assistance contain Title VI and Section 504 nondiscrimination assurances?

23. Has the LPA reviewed its manuals, directives, operation procedures, guidelines and policies for compliance with Title VI, the ADA and Section 504?

24. Does the LPA incorporate Title VI language in all acquisition, negotiation, property management communications and contracts where it receives federal financial assistance?

25. Does the LPA include Title VI language and the appropriate assurance statements in all surveys for property owners and tenants after the conclusion of business when it receives federal financial assistance?

26. When applicable, does the LPA include appropriate Title VI and Section 504 assurance language in all deeds, permits and leases when it receives federal financial assistance?

27. Has the LPA reviewed its contractor selection procedures to ensure uniformity in their application to minority and nonminority contractors?

28. Does the LPA proactively inform minority contractors and subcontractors about contracting opportunities?

29. Has the LPA reviewed its directives, operational procedures, guidelines and policies for Title VI compliance?

30. Does the LPA have a designated ADA/Section 504 Coordinator that is an employee of the LPA?

ADA Coordinator Name:
ADA Coordinator Address:
Zip Code:
ADA Coordinator Email:
Phone Number:

31. Does the LPA have a disability nondiscrimination policy that includes the name, title, office address and office telephone number of the ADA/Section 504 Coordinator?

32. Does the LPA have a complaint policy or grievance procedure that prohibits discrimination based on disability under any of the LPAs programs and activities?

33. Does the LPA have proof of public dissemination of its Title VI/nondiscrimination policy?

33. Does the LPA have proof of public dissemination of its Title VI/nondiscrimination policy?

34. Are LPA website and telephone services accessible to individuals with sight and hearing impairments?

35. Has the LPA completed a self-evaluation of current services, policies, practices to determine necessary modifications to achieve program accessibility?

36. Date of completion of the ADA self-evaluation.

37. Date of last update to ADA self-evaluation.

38. Has the LPA developed and implemented a transition plan or other accessibility plan that outlines which structural modifications must be made to those programs and services that are not accessible?

39. Please provide the date of the last update to the LPA ADA Transition Plan.

40. How often does the LPA update its ADA transition/accessibility plan?

41. If not, when does the LPA plan to complete its ADA transition plan?

42. Please provide a detailed description of how the LPA made its self-evaluation and/or transition plan available for public inspection or comment.

43. Please provide a brief description of how the LPA monitors its own compliance with Title VI, the ADA and Section 504.

44. Does the LPA have a sign inventory?

45. Does the LPA have a management plan for the replacement of signs to meet the Manual on Uniform Traffic Control Devices ("MUTCD") reflectivity guidelines?

INDOT'S NONDISCRIMINATION STATEMENT:

INDIANA DEPARTMENT OF TRANSPORTATION
Driving Indiana's Economic Growth

100 North Senate Avenue
Room N750
Indianapolis, Indiana 46204

PHONE: (317) 233-4676
FAX: (317) 232-5118

Michael R. Pence, Governor
Brandye L. Hendrickson, Commissioner

NOTICE OF NONDISCRIMINATION UNDER THE AMERICANS WITH DISABILITIES ACT AND SECTION 504 OF THE REHABILITATION ACT OF 1973

Pursuant to Title II of the Americans with Disabilities Act as amended (ADA) of 1990 (42 U.S. C. §§12101 et seq.) and Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) (29 U.S.C. §794) and implementing regulations found in 28 CFR 35 and 49 CFR 27, the Indiana Department of Transportation (INDOT) does not discriminate against qualified individuals with disabilities in its policies, or in the admission of, access to, treatment of or employment in its programs, services or activities.

Upon request, INDOT will use its best efforts to provide appropriate auxiliary aids and services to facilitate effective communication for qualified persons with disabilities so that they have an equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement as provided to others. These efforts may include providing qualified sign language interpreters, Brailed documents, and other products and services to make communications accessible to individuals with speech, hearing and vision impairments.

Upon request, INDOT will make reasonable modifications to policies and programs to ensure that qualified individuals with disabilities have an equal opportunity to enjoy its programs and activities. INDOT is not required to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

INDOT will not place a surcharge on qualified individuals with disabilities to cover the cost of providing auxiliary aids, services or reasonable modifications of policies.

Inquires or complaints regarding Section 504 or the ADA should be directed to Erin Hall, Title VI/ADA Program Manager, Economic Opportunity Division, 100 N. Senate N750, Indianapolis, IN 46204, (317) 234-6142, EHall2@indot.in.gov. INDOT will investigate all complaints in accordance with INDOT's Title VI compliant process, which is also used for ADA complaints, and promptly take any remedial action deemed necessary to provide an equitable resolution to overcome the effects of a substantiated violation.

Brandye L. Hendrickson
Brandye L. Hendrickson
Commissioner, Indiana Department of Transportation

6-3-2015
Date

www.in.gov/dot/
An Equal Opportunity Employer

SAMPLE GRIEVANCE PROCEDURE & COMPLAINT LOG

SAMPLE GRIEVANCE PROCEDURE

Disclaimer: This *sample document* is provided by INDOT for informational purposes only. It does not constitute legal advice. For legal advice, please contact legal counsel.

Sample Complaint Procedure

Any person who believes that he or she as a member of a protected class, has been discriminated against based on race, color, national origin, gender, age, disability, religion, low income status, or Limited English Proficiency in violation of Title VI of the Civil Rights Act of 1964, as amended and its related statutes, regulations and directives, Section 504 of the Vocational Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, as amended, the Civil Rights Restoration Act of 1987, as amended, and any other Federal nondiscrimination statute may submit a complaint. A complaint may also be submitted by a representative on behalf of such a person.

It is the policy of [Company] to conduct a prompt and impartial investigation of all allegations of discrimination and to take prompt effective corrective action when a claim of discrimination is substantiated.

No one may intimidate, threaten, coerce or engage in other discriminatory conduct against anyone because they have taken action or participated in an action to secure rights protected by the civil rights laws. Any individual alleging such harassment or intimidation may submit a complaint by following the procedure printed below.

Any individual who feels that he or she has been discriminated against may submit a written or verbal complaint. The complaint may be communicated to any company supervisor or to the company EEO Officer. The complaint should be submitted within 180 days of the alleged discrimination. Complaint forms may be found [INDICATE WHERE COMPLAINTS FORMS MAY BE FOUND]. Individuals are not required to use the company's complaint form. If necessary, the company will help an individual reduce his or her complaint to writing for his or her signature.

Generally a complaint should include the name, address and telephone number of the individual complaining (complainant) and a brief description of the alleged discriminatory conduct including the date of harm. An individual submitting a complaint alleging discrimination may include any relevant evidence, including the names of witnesses and supporting documentation.

Complaints should be directed to:
EEO OFFICER
ADDRESS
TELEPHONE
FACSIMILE
EMAIL

Within 60 days of the receipt of the complaint the company will conduct an investigation of the allegation based on the information provided and issue a written report of its

findings to the complainant. The company will try to obtain an informal voluntary resolution to all complaints at the lowest level possible.

A complainant's identity shall be kept confidential except to the extent necessary to conduct an investigation. All complaints shall be kept confidential.

These procedures do not deny the right of any individual to file a formal complaint with any government agency or affect an individual's right to seek private counsel for any complaint alleging discrimination.

Complaints may also be filed with the following government agencies:

Indiana Department of Transportation
Economic Opportunity Division
100 N. Senate, Room N750
Indianapolis, IN 46204
Phone: (317) 233-6511
Fax: (317) 233-0891

Indianapolis District EEOC Office
101 West Ohio Street, Ste 1900
Indianapolis, IN 46204
Phone: (800) 669-4000
Fax: (317) 226-7953
TTY: 1 (800) 669-6820

Indiana Civil Rights Commission
100 N. Senate Ave., Room N103
Indianapolis, IN 46204
Toll Free: 1 (800) 628-2909
Phone: (317) 232-2600
Fax: (317) 232-6560
Hearing Impaired: 1 (800) 743-3336

SAMPLE COMPLAINT LOG

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SAMPLE TITLE VI COMPLAINT LOG							
Case No.	**Investigator**	**Complainant**	**Sub-recipient**	**Protected Category**	**Date Filed**	**Date of Final Report**	**Disposition**

LEP "I SPEAK CARDS"

The following is a helpful resource to determine what languages are being encountered during face-to-face contacts with your community. It is taken from http://www.lep.gov/ISpeakCards2004.pdf .

2004 Census Test — United States **Census 2010**

LANGUAGE IDENTIFICATION FLASHCARD

ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.	1. Arabic
Խնդրում ենք նշում կատարեք այս քառակուսում, եթե խոսում կամ կարդում եք հայերեն:	2. Armenian
যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।	3. Bengali
ឈូមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។	4. Cambodian
Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.	5. Chamorro
如果你能读中文或讲中文，请选择此框。	6. Simplified Chinese
如果你能讀中文或講中文，請選擇此框。	7. Traditional Chinese
Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	8.Croatian
Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	9. Czech
Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	10. Dutch
Mark this box if you read or speak English.	11. English
اگر خواندن و نوشتن فارسي بلد هستيد، اين مربع را علامت بزنيد.	12. Farsi

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☐ Cocher ici si vous lisez ou parlez le français.	13. French
☐ Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	14. German
☐ Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	15. Greek
☐ Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.	16. Haitian Creole
☐ अगर आप हिन्दी बोलते या पढ़ सकते हों तो इस बक्स पर चिह्न लगाएँ।	17. Hindi
☐ Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	18. Hmong
☐ Jelölje meg ezt a kockát, ha megérti vagy beszéli a magyar nyelvet.	19. Hungarian
☐ Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.	20. Ilocano
☐ Marchi questa casella se legge o parla italiano.	21. Italian
☐ 日本語を読んだり、話せる場合はここに印を付けてください。	22. Japanese
☐ 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	23. Korean
☐ ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.	24. Laotian
☐ Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim.	25. Polish

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☐ Assinale este quadrado se você lê ou fala português.	26. Portuguese
☐ Însemnaţi această căsuţă dacă citiţi sau vorbiţi româneşte.	27. Romanian
☐ Пометьте этот квадратик, если вы читаете или говорите по-русски.	28. Russian
☐ Обележите овај квадратић уколико читате или говорите српски језик.	29. Serbian
☐ Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.	30. Slovak
☐ Marque esta casilla si lee o habla español.	31. Spanish
☐ Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog.	32. Tagalog
☐ ให้กาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.	33. Thai
☐ Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga.	34. Tongan
☐ Відмітьте цю клітинку, якщо ви читаєте або говорите українською мовою.	35. Ukranian
☐ اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔	36. Urdu
☐ Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ.	37. Vietnamese
☐ באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש.	38. Yiddish

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