

# Title VI

## **Non-Discrimination Compliance Information for INDOT Subrecipients**

**Presented by INDOT Prequalification Division  
Taffanee L. Keys  
Civil Rights Counsel  
Title VI and ADA Coordinator**



# OVERVIEW

The purpose of this presentation is to,

- 1) ensure all subrecipients of the Federal Aid Highway Program are aware of the provisions of Title VI of the Civil Rights Act of 1964,
- 2) know the minimum requirements to be in compliance civil rights rules, laws, and regulations,
- 3) know how to integrate requirements into business practices, procedures, and activities,
- 4) know how requirements are enforced.



# Expected Outcomes

- **Understand Title VI.**
- **Understand Recipients vs. Subrecipients.**
- **Understand Local Public Agencies.**
- **Understand the statutory and authorities that govern Title VI.**
- **Understand required compliance actions.**
- **Understand INDOT's compliance review process.**
- **Limited English Proficiency**
- **Processing complaints.**
- **Wrap up and review Title VI.**



# Statutory and Regulatory Authorities

- **Title VI of the Civil Rights Act of 1964** is a federal law that protects individuals, groups, and organizations from discrimination on the basis of **race, color or national origin** in federally assisted programs and activities. (**42 U.S.C. 2000d**)
- **The Civil Rights Restoration Act of 1987**, further clarified the intent of Title VI to include all programs and activities of entities whether those programs and activities are federally funded or not.
- **The 1970 Uniform Act (42 U.S.C. 4601)** prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired as a result of federally assisted programs or activities.
- **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.
- **Federal Highway Act of 1973 - Gender Added (23 U.S.C. 324)**: Prohibits discrimination on the basis of sex.
- **The 1975 Age Discrimination Act (42 U.S.C 6101)**, as amended: Prohibits discrimination on the basis of age.
- **Executive Order (EO) 13166**, Improving Access to Services for Persons with Limited English Proficiency, addresses access to services for persons whose primary language is not English and who have limited ability to read, write, speak or understand English.



# What is Title VI?

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

**"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"**



Ethnicity



Complexion



Origin or  
perceived origin  
foreign country (LEP)

# How Does Title VI Apply & Who Must Comply?

- Protections afforded under Title VI apply to anyone regardless of whether the individual is lawfully present in the United States, or a citizen of a state within the United States.
- Applies to all programs and operations of entities that receive federal financial assistance, including **recipients** and **subrecipients**.
- Recipients of federal funds must comply with:
  - 1) Title VI of the Civil Rights Act of 1964
  - 2) The Civil Rights Restoration Act of 1987
  - 3) All related nondiscrimination statutes
- Title VI Shall be applied institution-wide; it is not limited to programs that are federally funded.



# How Does Title VI Apply & Who Must Comply continued...

## Definitions—Program, Activity & Financial Assistance

**“Program or activity”** is defined as:

- A department, agency, special purpose district, or other instrumentality of a state or local government, or;
- The entity of such state or local government that distributes such assistance and each department or agency (and each other state or local government entity) to which the assistance is extended...

**“Federal Financial assistance”**: means more than just money. It is also aid that enhances the ability to improve or expand allocation of a recipient’s own resources:

- Award or grant of money
- Any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance
- Loans, below fair market value subsidies
- Use or rent of federal land or property
- Training of employees
- Loan of federal personnel
- Tax incentives and tax exempt-status
- Technical assistance
- Other arrangements with the intention of providing assistance



## Recipient vs Subrecipient

A primary recipient is an entity or person that directly receives Federal financial assistance and/or manages a program or activity, INDOT is the primary recipient. 23 CFR 200.5(n)

A subrecipient is an entity or person to whom federal financial assistance is indirectly extended either through a recipient or another subrecipient. 23 CFR 200.5(n))

A “recipient” receives FFA and/or operates a program or activity (e.g. a state, local or municipal department/ agency, or other entity)

### *Primary Recipient -*

Transfers or distributes assistance to another recipient or subrecipient

### *Subrecipient –*

Distributes assistance to an ultimate beneficiary (e.g., contractors, subcontractors or grantees)



# How Does Title VI Apply & Who Must Comply continued...

A **contractor** is a **subrecipient** or a person who holds a FHWA direct or federally assisted construction contract or subcontract regardless of tier. (23 CFR 230.407 (i))

A **contractor** is any person who participates through a contract or subcontract in a DOT assisted highway, transit or airport program. (49 CFR 26.5)



# Discriminatory Practices Under Title VI

## Types of Discrimination

### Intentional Discrimination/ Disparate Treatment

- Engaging in treating persons differently because of their race, color, national origin, sex, disability, or another protected basis.
- Does not require evidence of “bad faith, ill will or any evil motive.”
  - Where direct evidence is unavailable, may be shown with demonstration that similarly situated persons received benefit or more favorable treatment.



# Discriminatory Practices Under Title VI

## Title VI Prohibits

- **Denying an individual** any service, financial aid, or other benefit because of race, color or national origin.
- **Providing a different service or benefit or** providing these in a different manner from those provided to others under the program.
- **Segregation or separate treatment** in any manner related to receiving program services or benefits.
- **Requiring different standards or conditions** as prerequisites for serving individuals.
- **Discriminatory activity** in a facility built in whole or part with Federal funds.
- **Locating facilities in any way that would limit or impede access** to a Federally funded service or benefit.



# Discriminatory Practices Under Title VI

## Types of Discrimination

### Unintentional Discrimination/ Disparate Impact

- Discrimination that occurs as a result of a neutral policy which appears harmless on the surface, but negatively affects a group.
- Focus concerns the consequences of a recipient's practices, rather than intent.



# Retaliation

Occurs when a recipient or another person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with any right or privilege secured by Title VI, or because a person made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under Title VI.



# Subrecipients – Contractors / Consultants

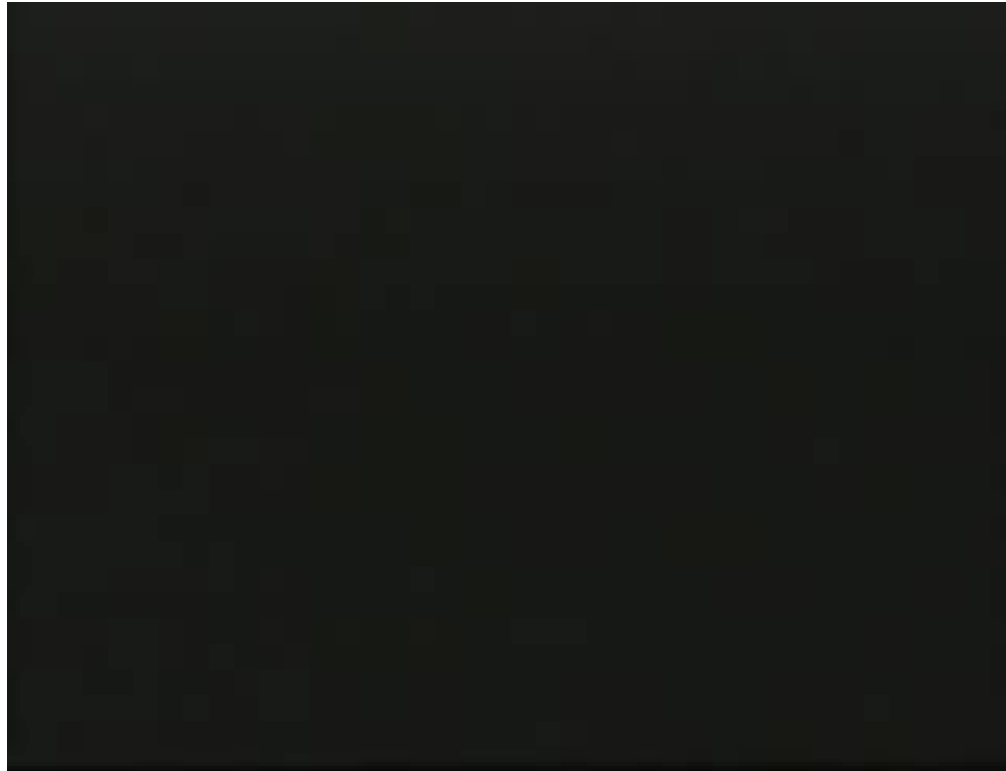
1. Designate a Title VI Coordinator and ensure the Coordinator has received Title VI training.
2. Develop a Title VI Nondiscrimination Policy Statement which must be made public.
3. Develop and maintain a complaint process and complaint form and maintain a complaint log.
4. Conduct regular training on Title VI and all related laws.
5. 504 ADA Nondiscrimination Policy Statement which must be made public.
6. Include Title VI Assurances in all contracts.
7. Post Title VI “It’s the Law” Poster.
8. Monitor Subrecipients to ensure that all of its’ (contractors and subcontractors) awarded INDOT funded contracts adhere to Title VI and all other applicable civil rights laws and regulations.



# Title VI Explained / Required Video

## Understanding and Abiding Title VI Video

**Click on Box Below**



# Title VI Coordinator & Duties

Title VI Coordinator is responsible for providing leadership, direction and policy to ensure compliance with Title VI of the 1964 Civil Rights Act and environmental justice principles.

Title VI Coordinator ensures timely departmental updates on reportable activities, addressing areas of non-compliance, providing recurring training and offering expert advice to address civil rights challenges and policy needs.





# Title VI Nondiscrimination Policy

## Title VI 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 must be signed by the head of the agency and circulated internally and to the general public.

**Title VI/Nondiscrimination Policy Statement** (Rev. 04/20)  
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The  as a recipient of federal financial assistance and under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person shall on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any Department programs or activities.

Signature of Authorized Official \_\_\_\_\_ Date



# Title VI Nondiscrimination Plan...

**Nondiscrimination Plan** Subrecipients must have a Title VI Nondiscrimination plan that communicates how the agency implements its nondiscrimination policies.



# Title VI Nondiscrimination Plan Includes LEP...

## Limited English Proficiency (LEP) Video

Click on Box Below



# Complaint Process, Complaint Form, Complaint Log

**The FHWA has jurisdiction to investigate complaints of discrimination filed under Title VI of the Civil Rights Act of 1964 (Title VI)**

- All complaints are routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing
- HCR determines to accept, dismiss, transfer to INDOT for disposition
- Complaints Hierarchy:

Complainant



to Subrecipient



Subrecipient to INDOT-



NDOT to FHWA Indiana Division Office



FHWA Division Office – FHWA HCR

*Direct all complaints of discrimination pursuant to Title VI to:*

**Title VI Coordinator/ Program Manager**

**Indiana Department of Transportation**

**100 N. Senate, Room N755**

**Indianapolis, IN 46204**

**Email address: [AccessForAll@indot.in.gov](mailto:AccessForAll@indot.in.gov)**

■ **And/or**

**Indiana Division**

**Federal Highway Administration**

**575 N. Pennsylvania Street**

**Room 254**

**Indianapolis, IN 46204**

**Phone: (317) 226-7475**

■ **And/or**

**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**



# FHWA – Complaint Process

1. If a subrecipient of Federal Highway Administration (FHWA) funds receives a Title VI complaint, forward it to INDOT who will then forward the complaint to the FHWA Indiana Division Office.
  2. All Title VI complaints received by the Division Office will be forwarded to Federal Highway Administration Office of Civil Rights (HCR) for processing and potential investigation.
  3. If HCR determines a Title VI complaint against a subrecipient should be investigated by INDOT, HCR may delegate the task of investigating the complaint to INDOT. INDOT will conduct the investigation and forward the Report of Investigation to HCR for review and final disposition.
  4. The disposition of all Title VI complaints will be undertaken by HCR, through either (1) informal resolution or (2) issuance of a Letter of Finding of compliance or noncompliance. A copy of the Letter of Finding will be sent to the Division Office.
- USDOT regulations, 49 CFR 21.11(b), a complaint must be filed no later than 180 days after the date of the alleged discrimination.



# FTA – Complaint Process

**If your agency receives FTA funds, then follow FTA's process for complaints.**



**Please refer to the FTA Civil Rights website for more information:**

**<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/file-complaint-fta>**

# Complaint Process, Complaint Form, Complaint Log

## External Discrimination Complaints Process Includes:

- 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 dates the complaint was filed, and the investigation was completed;
  - the disposition and date;
  - and other pertinent information.
- Your external discrimination complaint processing procedures should also include a timeline for submitting a complaint.

Sample Title VI Complaint Log

Date Complaint Received	Name of Complainant	Address	Telephone	Basis of Discrimination	Nature of Complaint	Program Area/District	Remarks	Final Disposition



# Title VI Training is Mandatory

## Civil rights training:

- Title VI Coordinator Attend Title VI training,
- Develop an effective staff training program,
- Provide regular and comprehensive training,
- Describe how and when agency will be trained on Title VI Program requirements and responsibilities,
- Include procedures as to how and when training will be conducted.





# Required Contract Provisions Title VI Assurances



**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 enter into. Form FHWA-1273 must also be physically attached to all federal-aid construction contracts of \$10,000 or more.

# “IT’S THE LAW” POSTER

Subrecipients must  
post the Title VI  
“It’s the Law” poster  
at worksites

## Your Rights under Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 requires that no person in the United States, on the grounds of race, color or national origin be excluded from, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency.

Any person who believes that they have been excluded from, denied the benefits of, or been subjected to discrimination may file a written complaint with the [redacted] of Civil Rights. Federal and State law requires complaints be filed within one-hundred eighty (180) calendar days of the last alleged incident.

To request additional information on [redacted] non-discrimination obligations or to file a Title VI Complaint, please submit your request to:

[redacted]

Complaint Forms can also be obtained on [redacted] website at [redacted]

**Title VI is the Law**

[redacted]

Rev. 12/2008



# Overview of INDOT's Subrecipient Title VI Compliance Review

The INDOT Civil Rights Counsel Prequalification Division conducts compliance reviews annually of selected subrecipients. A summarized review process is as follows:

- 1. Notification:** Subrecipients are notified initially via email indicating if it is a desk audit or an on-site review.
- 2. Desk Audit:** Subrecipients selected for desk audits are asked to provide electronic documents for INDOT's review. If concerns are discovered during the documents review, an on-site review may be scheduled.
- 3. On-Site Reviews:** The subrecipient's site is visited, the compliance questionnaire is reviewed and discussed, and findings are documented.
- 4. Post On-site Review:** If any deficiency is found, improvement opportunities are identified and assistance by INDOT is provided to meet compliance goals. A compliance letter will be emailed when the subrecipient is found in compliance.



# Subrecipient and Contractors' Duty to Provide Information & Records

## Contractors are required to:

1. provide all information and reports required by federal and state directives, laws, orders, regulations and/or rules,
2. permit access to books, records, accounts, other sources of information, as well as facilities, as determined by INDOT or FHWA to be pertinent to ascertain Title VI compliance.



# INDOT Will Provide

## **INDOT provides training in the following area:**

Title VI overview and compliance which includes Executive Order 13166  
Limited English Proficiency.  
ADA/Section 504 compliance.

## **INDOT will provide examples as needed or upon request:**

- Title VI Nondiscrimination Statement
- Title VI Nondiscrimination Policy
- Title VI USDOT Assurances
- Title VI Complaint Process
- Title VI Complaint Form



# INDOT'S Title VI Requirements



The Indianapolis Department of Transportation (INDOT) is the agency responsible for administering Federal financial assistance through the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) programs in the State.

**23 CFR 200.9(b)(7) requires** INDOT to conduct Title VI reviews of its subrecipients to effectively monitor compliance with Title VI/Nondiscrimination.

**23 CFR 200.9(b)(9) requires** INDOT to conduct training on Title VI and related statutes.



# Wrap-up to Title VI Compliance

- Designation of a Title VI Coordinator
- Develop a Title VI Nondiscrimination Statement
- Title VI Assurances – signed annually
- Develop a Title VI Complaint process and form
- Dissemination of Title VI Information
- Title VI Training
- Data collection and analysis (keep track of demographics - race, color, and national origin, including limited English proficiency)



# Quiz

## Wrap-up to Title VI Compliance

1. Title VI of the Civil Rights Act of 1964, states that no person in the United States shall be excluded from participation in any programs, be denied the benefits of, or be subjected to discrimination based on what?

- Religion
- Disability
- Age
- **Race, Color or National Origin**

2. What ways can a sub-recipient disseminate Title VI information to the public?

- Website and Poster
- Utility Bill
- Minority Community Newspaper, Radio and Television
- **All of the Above**

3. Who is a Limited English Proficient (LEP) Person?

- A person who does not speak English as their primary language and has the limited ability to speak, write or understand English
- A person from the United States that cannot read
- A person who does not speak English at all
- **All of the Above**





# Quiz

## Wrap-up to Title VI Compliance

### 4. How can you involve the public with the opportunity to provide input in a proposed project?

- Public Meetings/Hearings in centralized locations
- Advertisement with Local Media Resources and Minority Newspapers
- Direct Mailings
- Public Service Announcements
- **All of the Above**

### 6. Subrecipients are not required to have a Title VI Coordinator.

- True
- **False**

### 7. Subrecipients are not required to submit Title VI Assurances.

- True
- **False**

### 8. Title VI complaint procedures and logs are not required for subrecipients.

- True
- **False**



# **Title VI Contact Information**

**Taffanee L. Keys**  
**Civil Rights Counsel**  
**ADA/Title VI Coordinator**  
**Prequalification Division**  
**[tkeys@indot.in.gov](mailto:tkeys@indot.in.gov)**  
**317-941-4512**

