INDIANA DEPARTMENT OF TRANSPORTATION
Driving Indiana's Economic Growth

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Mitchell E. Daniels, Jr., Governor
Michael B. Cline, Commissioner

August 2, 2012

All Local Public Agencies (LPA)

RE: LPA Annual Pre-Award Certification and the Americans with Disabilities Act (ADA) and Section 504 of the Vocational Rehabilitation Act (Section 504)

Due to several questions we at the Indiana Department of Transportation (INDOT) have received regarding the LPA Annual Pre-Award Certification, the Americans with Disabilities Act (ADA) and Section 504 of the Vocation Rehabilitation Act of 1973 (Section 504), I want to explain the purpose of the pre-award certification and briefly list the minimum requirements an local community must meet to comply with the nondiscrimination laws as they relate to persons with a disability. I strongly encourage all local communities to strive to exceed the minimum requirements and show that Indiana is committed to ensuring equal access to all persons.

Earlier this year INDOT notified local communities via the Local Technical Assistance Program (LTAP) that we developed an electronic self-reporting tool, the local community Annual Pre-Award Certification and Assurance, for locals. The purpose of this self-reporting tool is to assist INDOT in gathering baseline information to monitor local community compliance with the relevant civil rights laws. The LPA Annual Pre-Award Certification and Assurance is a short survey that outlines the basic requirements for compliance with the relevant nondiscrimination laws. The information reported will be shared with the Federal Highway Administration (FHWA). Additionally, the information will be used to monitor the good faith efforts of a local community to comply with the nondiscrimination laws.

Each local community was required to complete the LPA Annual Pre-Award Certification and Assurance by June 30, 2012. If your community has not completed the LPA Annual Pre-award Certification and Assurance, please do so immediately. Those entities that do not complete the LPA Annual Pre- Award Certification and Assurance will receive a notice in September.

As a part of your contractual agreement with INDOT, you must voluntarily comply with the relevant nondiscrimination laws. Failure to make a good faith effort to comply with these laws could result in a deferral of funding for a local community's projects pending the local community voluntarily coming into compliance.

Under the ADA and Section 504, a local community should at a minimum:

1. Designate an employee of the local community as an ADA/504 Coordinator, who is responsible for overseeing compliance with the nondiscrimination laws as they relate to persons with a disability.

2. Develop and distribute on an ongoing basis a notice to the public regarding their rights under the ADA and Section 504 and the local community's responsibilities under the law. A model nondiscrimination statement containing the minimum requirements for a nondiscrimination statement is available on the Department of Justice (DOJ) website at: http://www.ada.gov//pcatoolkit/chap2toolkit.htm.

3. Develop and/or adopt a grievance or complaint procedure that provides for prompt and equitable resolution of complaints. A model grievance or complaint procedure containing the minimum requirements for a nondiscrimination statement is available on the DOJ website at: http://www.ada.gov//pcatoolkit/chap2toolkit.htm.

4. Develop and/or adopt accessibility standards, specifications and design details. Design standards should reflect the most current Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings. The current ADA standards are available on the Access Board website at: http://www.access-board.gov/ada/. A local community's design standards for pedestrian facilities may reflect the draft Public Right of Way Accessibility Guidelines (PROWAG). Although, the PROWAG is currently in rulemaking, INDOT strongly encourages the use of the PROWAG since it reflects the best practices for designing accessible pedestrian facilities. The PROWAG is available on the Access Board website at: http://www.access-board.gov/prowac/.

5. Complete a self-evaluation and inventory of all of its facilities, programs, policies and activities to evaluate whether there are access barriers for persons with disabilities. To avoid a duplication of efforts, communities located within the jurisdiction of a Metropolitan planning Organization (MPO) planning area should contact their MPO before beginning their inventory. Many MPOs have begun inventories of their planning areas.

6. Develop an ADA/504 plan for removing the access barriers identified in its inventory that includes a budget and schedule for improvements. All local communities receiving federal funds are required to have a transition plan. Additionally, all local communities with 50 or more employees, regardless of whether they receive federal funds, must have a plan.

7. Implement its accessibility plan and regularly monitor progress at removing barriers. INDOT recommends a reevaluation occur at least once every three to five years.

All INDOT local communities should have an initial ADA/504 plan completed by December 31, 2012.

These are the minimum requirements for compliance with the applicable disability nondiscrimination laws.
Commencing August 6, 2012, the INDOT District Customer Service Manager will contact you to confirm you have received the letter and will request information regarding the status of your Transition Plan.

The information in this letter is intended as guidance for recipients of funds from INDOT and should not be interpreted as legal advice. Each local community has the ongoing responsibility to comply with the civil rights laws, including the ADA and Section 504. Furthermore, each local community must develop an accessibility plan for the removal of access barriers that meets their unique needs as a community based on their available resources. There is not a template or boilerplate transition plan that would serve the needs of all local communities. If you have specific questions regarding how to comply with the law, please contact independent counsel.

Additional resources, including sample plans, are available on the INDOT LPA/MPO webpage: http://www.in.gov/indot/2390.htm. INDOT wants to provide as many resources as possible; however, INDOT cannot provide legal advice regarding the adequacy of a local community's self-evaluation/inventory or ADA/504 plan. Should you have any general questions regarding the ADA or Section 504 that relate to doing business with INDOT, please contact:
Latosha N. Higgins
Title VI/ADA Program Manager
(317) 234-6142
lhiggins@indot.in.gov.

For technical questions regarding accessing the LPA Annual Pre-Award Certification and Assurance via the INDOT Technical Application Pathway (ITAP), please contact:
Ann Bishop
Grants and Special Initiatives Coordinator
abishop1@indot.in.gov.

This letter should serve as the prevailing guidance from INDOT

Thank you for your attention to this matter.

Sincerely,

Troy A. Woodruff
INDOT Chief of Staff