FFY 2019 Indiana Department of Transportation

TITLE VI PROGRAM COMPLIANCE PLAN

INDIANA DEPARTMENT OF TRANSPORTATION

FFY 2019 TITLE VI PROGRAM COMPLIANCE PLAN

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INDOT'S TITLE VI PROGRAM POLICY STATEMENT

INDOT will ensure compliance with Title VI 49 CFR § 21, 23 CFR Part 200, 49 CFR Part 303; and related Nondiscrimination authorities as identifies in the signed Title VI Program Assurance to ensure that no person is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation (DOT) on the grounds of race, color, national origin, sex, age, disability, income-status, or limited English proficiency (LEP).

Common Name of Legislation		Citation to law
Civil Rights Restoration Act of 1987		**Pub. L. No. 100-259**

The Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28, broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities (including those programs or activities for which no federal funds are used) of those receiving federal funds, including subrecipients who receive federal funds directly and indirectly through INDOT.

Whenever INDOT distributes federal-aid funds to a second-tier subrecipient, INDOT will include Title VI Program language in all written agreements.

The following individual has been identified as INDOT's Title VI Program Manager (Program Manager) and is delegated the authority necessary to maintain responsibility for initiating and monitoring Title VI Program activities, preparing reports and performing other responsibilities, as required by 23 C.F.R. § 200 and 49 C.F.R. § 21 and is specifically designated as INDOT's responsible individual to coordinate, maintain, and report INDOT's Title VI Program compliance efforts to the Federal Highway Administration (FHWA) as well as to coordinate compliance efforts to the Federal Motor Carrier Safety Administration (FMCSA) as well as to coordinate compliance efforts with other federal agencies as required:

Kimberly Radcliff, MBA
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100 N. Senate Ave,
Indianapolis, IN 46204
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All INDOT personnel will assist the Title VI Program Manager as needed to ensure the effective implementation of the INDOT Title VI Program.

INDOT affirms its commitment to nondiscrimination annually by publishing its Annual Title VI Implementation Plan and reaffirming its Assurances of Nondiscrimination, incorporated herein (see next page).

Joe McGuinness, Commissioner
Indiana Department of Transportation

5/15/2019
Date

TITLE VI PROGRAM ASSURANCES

The **Indiana Department of Transportation (INDOT)**, **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 49 C.F.R. part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. part 303 (FMCSA's Title VI/Nondiscrimination Regulation);
- 28 C.F.R. part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898 (1995),

entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm

Additionally, Executive Order 13166 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the "*application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*" When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT's "*Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons,*" dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

> *"No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP 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 DOT, including the FMCSA."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

Specific Assurances

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA Program**:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in 49 C.F.R. §§ 21.23 (b) and 21.23 (e) will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FMCSA Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

   "*The **Indiana Department of Transportation**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.*";

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will 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 will extend to rights to space on, over, or under such property;

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or 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 will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, 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 Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, [Name of the recipient] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FMCSA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Name of Recipient] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on [insert State], other recipients, sub-recipients, sub-

grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

_____

(Name of Recipient)

by_____

Joe McGuinness, Commissioner

DATED 5/15/2019

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.

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

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:

a. withholding payments to the contractor under the contract until the contractor complies; and/or
b. cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the **Indiana Department of Transportation** will accept title to the lands and maintain the project constructed thereon in accordance with (***Name of Appropriate Legislative Authority***), the Regulations for the Administration of **Federal Motor Carrier Safety Administration (FMCSA) Program,** and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation 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 **Indiana Department of Transportation** 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 **Indiana Department of Transportation** 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 will be binding on the **Indiana Department of Transportation**, its successors and assigns.

The **Indiana Department of Transportation**, 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 will on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP 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 **Indiana Department of Transportation** will 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, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the

event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Department of Transportation 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 purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **Indiana Department of Transportation** pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her 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:

   1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, **Indiana Department of Transportation** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the **Indiana Department of Transportation** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the **Indiana Department of Transportation** and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by **Indiana Department of Transportation** pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her 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 (1) no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be 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, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, **Indiana Department of Transportation** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, **Indiana Department of Transportation** will there upon revert to and vest in and become the absolute property of **Indiana Department of Transportation** and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

APPENDIX E

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

- Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d *et seq.*), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. part 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 *et seq.*) (prohibits discrimination on the basis of disability); and 49 C.F.R. part 27;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (Pub. L. 97-248 (1982)), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (102 Stat. 28) ("*....which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*");
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189), as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps

to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq*).

DESCIPTION OF FEDERAL-AID PROGRAM

ITD Program Synopsis

ITD is a program designed to improve Commercial Motor Vehicle, CMV, screening and improve the efficiency of enforcement programs by standardizing and improving the flow of data to roadside officers and to improve Indiana's ability to screen CMV traffic. Indiana's ITD top level design incorporates several layers.

Core ITD Capabilities

The Core ITD program focused on three program areas. These areas are:

- **Safety Information Exchange** – designed to assure the safety of motor carriers, commercial vehicles, commercial drivers, and cargo through improved data collection and enhanced data sharing (inspection reports, credentials status, etc.). Projects within this area include automated roadside vehicle and driver inspections, and safety information systems that support the real-time sharing of data across agencies and jurisdictions. Certification requirements are to connect to the national Safety and Fitness Electronic Records (SAFER) system through ASPEN to exchange interstate carrier and vehicle safety data among states.
- **Electronic Screening** – designed to facilitate the verification of a commercial vehicle's size, weight, safety, and credentials information. Projects in this area include the use of transponder-based systems to identify commercial motor vehicles while in motion. Vehicles are allowed to bypass an inspection/weigh station as long as they are within size and weight restrictions, have the necessary operating credentials, and are operated by a motor carrier with a history of good safety performance. Certification requirements are to perform electronic screening checks of safety, weight, and credentials at a Weigh Station.
- **Electronic Credentials Administration** – designed to automate the application, processing, and issuance of required commercial motor carrier operating credentials and permits. Projects in this area automate the issuance of International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) credentials, as well as the processing of IFTA tax payments. They also support the reconciliation of IRP and IFTA fees/taxes that are collected by one jurisdiction on behalf of another jurisdiction using the IRP and IFTA Clearinghouses. Certification requirements are to enhance IRP credentials and IFTA tax payment applications to provide end-to-end electronic processing.

Indiana's Expanded ITD Goals

- **Improve highway safety for motor carriers and the traveling public [CA]**
  - Focus Indiana's limited financial and human resources on non-compliant carriers, vehicles, and drivers
  - Provide State roadside and desk side personnel with the best, most current safety and credentialing information possible

  Beneficiaries: State, motor carrier and general public

- **Enhance information sharing capabilities of ITD-related systems and promote interoperability [IE] 360SmartView- implemented 2016**
  - Implement intrastate carrier information exchange from MCSD through HELP, Inc. and 360SmartView to CVED officers at roadside.
  - Implement a single sign-on interface to multiple enforcement systems
  - Provides real-time credential and safety data to roadside officers using the single query from almost every credential/safety data source
  - Provides officers access to OS/OW permitting system to view, check, and revoke permits 24/7.
  - Have planned enhancements in future

  Beneficiary: State

- **Improve carrier efficiency and enforcement effectiveness through enhanced electronic screening capabilities [SR]**
  - Focus compliance resources on high-risk carriers
  - Use the best, most current data available to make screening decisions at the roadside resulting in shortened fixed and mobile enforcement
  - Reward compliant carriers by offering "bypass" capabilities at weigh stations – PrePass & DriveWyze pre-clearance systems
  - Consistent application of enforcement activities that contribute to an even playing field for Motor Carriers
  - Use Intelligent Transportation System technologies (USDOT camera, LPR, Mainline WIM) to improve enforcement capabilities at fixed scale facilities
  - Use Intelligent Transportation System technologies to improve safety and mobility at high volume interstate work zones
  - Use thermal imaging cameras to make screening decisions at weigh stations for using Performance-Based Brake Testing (PBBT) equipment to inspect truck braking systems

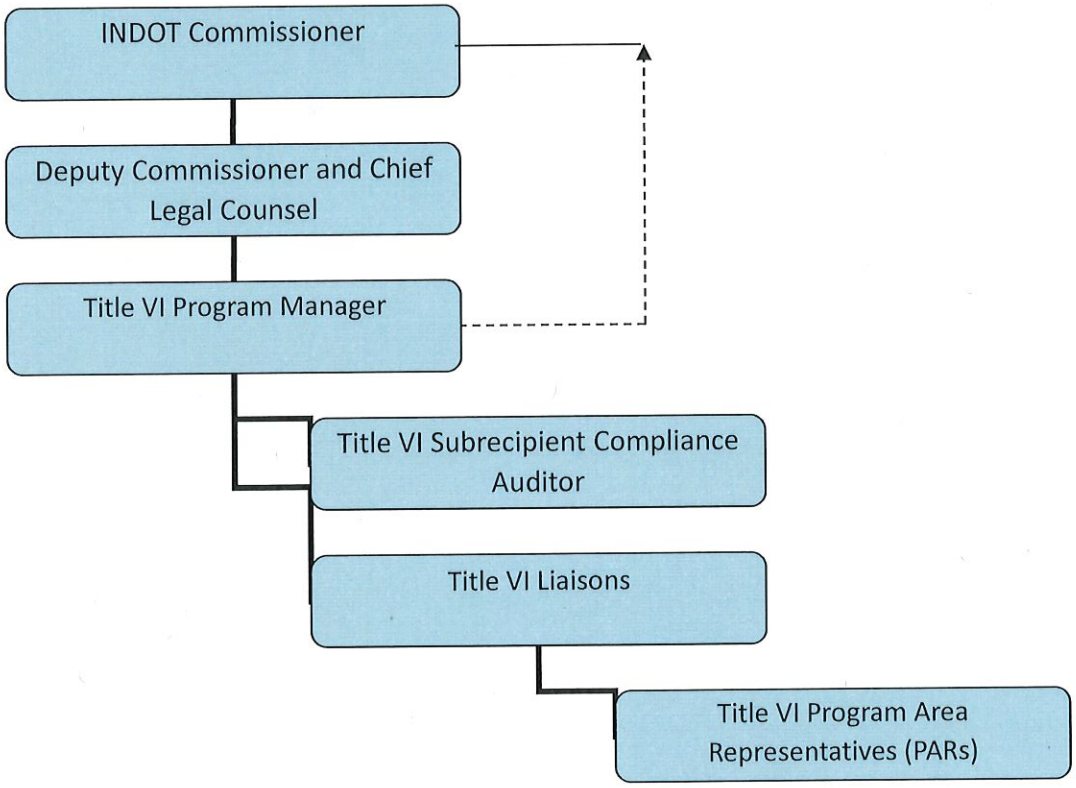
Beneficiaries: State and motor carrier

These goals and objectives continue to provide the framework for commercial vehicle operations within the state of Indiana.

INDOT TITLE VI KEY PLAYERS AND RESPOSIBILITIES

This section identifies who is responsible for Title VI oversight at INDOT. It demonstrates how Title VI is integrated into INDOT's day-to-day operations and clearly identifies the general responsibilities of key players within the agency. For specific information about employees responsible for each program area, please see **Exhibit A**.

INDOT Title VI Organizational Chart:



INDOT TITLE VI KEY PLAYERS

The following are descriptions of the Title VI-related roles of the following INDOT representatives:

COMMISSIONER

The Governor of the State of Indiana appoints INDOT's Commissioner. The Commissioner is responsible for organizing and administering INDOT. Indiana Code § 8-23-2-2.

The Commissioner is:

Joe McGuinness
100 N. Senate Avenue, IGCN 758
Indianapolis, IN 46204

INDOT DEPUTY COMMISSIONER AND CHIEF LEGAL COUNSEL

This Deputy Commissioner manages the Economic Opportunity, Contract Administration, Prequalification, Title VI/ADA, Permits and Legal Divisions of INDOT. As Chief Legal Counsel for INDOT, the Deputy Commissioner's responsibilities include, but are not limited to: providing legal advice and assistance to the divisions and districts within the agency, investigating the legality of agency actions and validity of public complaints, drafting proposed legislation and administrative rules, researching and interpreting the law, and preparing legal opinions.

The Deputy Commissioner and Chief Legal Counsel is:

Alison Grand, Esq.
100 N. Senate Avenue, IGCN 758
Indianapolis, IN 46204

INDOT DIRECTOR OF INTERAGENCY RELATIONS & COMPLIANCE

The Director of Interagency Relations manages the Title VI and ADA compliance programs for INDOT. As the Director of Interagency Relations, the director's chief responsibility is oversight of the agency's compliance efforts for both program areas. Also, the director is tasked with being the ADA coordinator for the agency. The Director reports to the Chief Legal Counsel and Deputy Commissioner.

The Director of Interagency Relations is:

Erin Hall, Esq.
100 N. Senate Ave., IGCN 755
Indianapolis, IN 46204
(317) 234-6041
Ehall2@indot.in.gov

TITLE VI PROGRAM MANAGER

The Title VI Program Manager (Program Manager) is responsible for the oversight and coordination of INDOT's compliance with Title VI and all related statutes, regulations, and directives. The Program Director reports directly to INDOT's Chief Legal Counsel and Deputy Commissioner. General responsibilities of the Program Director include, but are not limited to

- Implementing INDOT's Title VI plan;
- Developing processes and procedures for the investigation of complaints filed under Title VI;
- Developing and implementing INDOT's Limited English Proficiency (LEP) Plan;
- Coordinating Title VI Program development with program directors, district and division managers;
- Providing technical assistance, guidance and advice on the Title VI Program;
- Establishing procedures for processing Title VI reviews; Conducting Title VI reviews of INDOT's subrecipients, special interest programs and activities;
- Developing and conducting Title VI training;
- Preparing required reports;
- Participating in the design, development and dissemination of Title VI information to the public;
- Annually updating INDOT's Title VI Implementation Plan.

The Title VI Program Manager is:

Kimberly Radcliff, MBA
100 N. Senate Avenue, IGCN 755
Indianapolis, IN 46204
(317) 232-0924
Kradcliff@indot.in.gov

TITLE VI SUBRECIPIENT COMPLIANCE AUDITOR

The Title VI Subrecipient Compliance Auditor (Subrecipient Compliance Auditor) reports directly to the Program Manager and acts as the program's subrecipient compliance review officer. Specifically, the Subrecipient Compliance Manager is primarily tasked with monitoring INDOT'S over sight of its federal aid subrecipients' compliance efforts by coordinating and conducting desk and field compliance reviews, maintaining program records, and communicating with subrecipients about their compliance efforts and status.

The Title VI Subrecipient Compliance Auditor is:

Devin Gay
100 N. Senate Avenue, N755
Indianapolis, IN 46204
(317) 232-5160
Dgay@Indot.IN.gov

LEGAL COUNSEL AND INVESTIGATOR, TITLE VI AND ADA PROGRAMS

The staff attorney and member of its legal division assisting the Program Director with complaint investigations and internal program area discrimination. This adds significant operational capacity to the Title VI/ADA Program areas and permits INDOT to enhance its Title VI programs.

Kristi Shute, Esq.
100 N. Senate Ave., IGCN 755
Indianapolis, IN 46204

TITLE VI PROGRAM AREA REPRESENTATION

INDOT's Program Area Representation is composed of core members from INDOT's program areas including a program area (or District Office) liaison and as many Program Area Representatives (PARS) as necessary to effectively meet Title VI plan goals and requirements. INDOT's Program Area Representation has a four-part mission:

- To use an interdisciplinary and cross-division workflow approach to ensure compliance with Title VI and related nondiscrimination laws in the implementation of INDOT's programs and activities;
- To remove programmatic and architectural barriers from INDOT's programs and activities in accordance with the relevant nondiscrimination laws;
- To ensure meaningful access to INDOT's services and programs to all individuals regardless of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income level or limited English proficiency.
- To develop, fully integrate and effectively maintain INDOT's Title VI implementation Plans.

Each year INDOT will evaluate whether or not additional program areas should be included in the Title VI Implementation Plan and, if so, who will serve as a liaison and as PARS. INDOT may also eliminate program areas from representation and /or reduce or expand the number of representatives and areas represented to best accomplish agency goals.

DISTRICT AND PROGRAM AREA TITLE VI LIAISON RESPONSIBILITIES:

The responsibilities of the district and PARS include:

- Foster awareness of INDOT'S Title VI program and its requirements by:
  - Ensuring each employee in their program area or district has received Title VI training within the last 2 years, and
  - Ensuring nondiscrimination is periodically a topic for discussion on program area meeting agendas
- Developing and maintaining division procedures for the collection and analysis of voluntarily-reported statistical data (race, color, national origin, and sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency) of participants in, and beneficiaries of INDOT programs within the program area or district
- Work with PARS to accomplish annual Program Area or District Title VI tasks.
- Participate in an annual agency-wide Title VI Liaison conference and schedule quarterly program area or District Title VI meetings (independently or as part of another area meeting) to establish and accomplish annual Title VI goals, inviting the Program Director to attend each quarterly meeting and ensuring minutes are kept for the same.
- Coordinate with the Program Director to complete an annual Program Area or District discrimination risk assessment that identifies and prioritizes risk areas and formulates mitigation strategies to be included in the Annual Title VI Implementation plan not later than August 30th annually.
- Ensure all aspects of their program area's operation occur in a manner consistent with INDOT's nondiscrimination policies and compliant with Title VI and nondiscrimination laws and regulations.
- Title VI Liaisons should also prepare an annual summary of its Title VI tasks and accomplishments with supporting documentation and submit the same to the Program Director annually by August 30 of each year.

TITLE VI PROGRAM AREA REPRESENTATIVES

The responsibilities of the Title VI PARS are outlined below:

- Promote awareness of nondiscrimination requirements throughout the day-to-day operation of the program area
- Assist the Title VI Liaison in ensuring all employees in the program area have received Title VI training within the past two years.
- Attend quarterly or other regularly-scheduled program area nondiscrimination meetings as deemed necessary by the liaison. (Nondiscrimination may be an agenda item on meetings that are broader in scope, but copies of the agenda, any meeting minutes, and attendees should be maintained by the PAR or liaison for inclusion in the annual report in evidence of the work accomplished).
- Work with liaisons to accomplish annual Title VI Tasks within the program area.
- If necessary, collect, analyze, and report statistical data (race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency) of participants in, and beneficiaries of INDOT programs within the program area or district.

Current PARS are identified in **Exhibit A.**

NOTIFICATION TO BENEFICIARIES/PARTICIPANTS

INDOT has posted the Public Notice of Title VI Program Rights I all publically accessed facilities. Additionally, INDOT has posted the Public Notice on its website, which may be found at the following webpage: https://www.in.gov/indot/3584.htm

Public Notice of Title VI Program Rights

The **Indiana Department of Transportation (INDOT)** gives public notice of its' policy to uphold and assure full compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and related Nondiscrimination authorities. Title VI and related Nondiscrimination authorities stipulate that no person in the United States of America shall on the grounds of race, color, national origin, sex, age, disability, income level or Limited English Proficiency be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

Any person who desires more information regarding **Indiana Department of Transportation's** Title VI Program can contact its Title VI Coordinator – **Kimberly Radcliff** -- at the address noted below.

Any person who believes they have, individually or as a member of any specific class of persons, been subjected to discrimination on the basis of race, color, national origin, sex, age, disability, income level or Limited English Proficiency has the right to file a formal complaint. Any such complaint must be in writing and submitted within 180 days following the date of the alleged occurrence to:

Kimberly Radcliff, Title VI Program Manager
Indiana Department of Transportation
100 N Senate Ave., IGCN 755
Indianapolis, IN 46204
(317) 232-0924
Kradcliff@indot.in.gov

ACCESS TO RECORDS

INDOT will provide to FMCSA during normal business hours upon request any Title VI Program related documentation.

STATUS OF CORRECTIVE ACTIONS

The FHWA conducted a Title VI Program compliance review of the INDOT Title VI Program in 2014. FHWA identified a number of deficiencies. INDOT had addressed these deficiencies in full and is showing a "good faith" effort to comply with Title VI.

NONDISCRIMINATION TRAINING

This section of INDOT's Title VI Program Compliance Plan describes how and when members of INDOT's own staff as well as subrecipients and others receive Title VI Program Training.

INDOT EMPLOYEE TITLE VI TRAINING

INDOT combines its nondiscrimination and accessibility training into one workshop for INDOT employees. Internal employee training is tiered with Title VI Management, Liaisons, PARS, and the Civil Rights staff receiving the greatest degree of training while other INDOT employees receive training sufficient to comply with Title VI requirements.

<u>INDOT University Online Nondiscrimination and Accessibility Training:</u>
INDOT provides live training during its full-day agency onboarding training sessions for all new hires regarding agency nondiscrimination and accessibility policies.
INDOT maintains online training modules that are available for all INDOT staff via INDOT University. District and Division management can schedule the online course to be made available for their staff during a time of year that works best for their program area. Scheduling the course is as simple as providing a list of employee email addresses for each participant. Participants then receive an invitation to take the course. The online course includes an assessment that ensures adequate participation and knowledge retention since it is a self-learning tool

Live Training Sessions: In person or Webinar available

Live training is the gold standard of employee training and training can be scheduled via webinar or in person during program area conference and meetings or obtained by attending one of at least two (2) regularly scheduled training opportunities to be conducted in each INDOT district. Subdistrict and Traffic Management Center or other non-local INDOT employees may participate in the live session via webinar if they are unable to attend in person.

All Title VI Liaisons and PARS receive in person training targeted at and tailored toward their work area and program requirements. Other employees may elect to take an online course that explains Title VI requirements and covers all related policies and procedures including:

- Nondiscrimination and Accessibility policies
- Complaint Processing
- Limited English Proficiency Requirements, and
- Environmental Justice

SUBRECIPIENT AND STAKEHOLDER TRAINING

Subrecipients and stakeholders may receive training from INDOT Title VI Program staff during the following training opportunities each year:

- INDOT- hosted workshops in each district
- Workshops as part of a larger conference (IACT, Purdue Road School, MPO Council Events)
- Webinars hosted by INDOT or a third party

INDOT provides audience-specific training to subrecipients. A minimum of six (6) workshops hosted by INDOT are held around the state in each district separately tailored for LPA and Contractor/Consultant audiences. During these workshops INDOT communicates Title VI program requirements and provides technical assistance to subrecipients regarding their compliance efforts. INDOT has also developed a subrecipient Toolkit to assist subrecipients with their own compliance efforts. This toolkit is available online at http://www.in.gov/indot/3591.htm.

In addition, INDOT is in the process of creating a platform for subrecipients to obtain Title VI training online. Our online training program will be available by the end of 2019.

COMPLAINT DEPOSITION POLICY

INDOT has a complaint policy for complaints of discrimination related to Title VI and will promptly dispose of complaints of alleged discrimination received by INDOT.

INDOT will promptly investigate all properly submitted complaints of alleged discrimination. INDOT will also attempt to resolve such complaints and take corrective action upon a finding of a substantiated complaint. Within 60 days of receiving a complete complaint, INDOT will submit complaints of alleged discrimination to FMCSA upon request.

COMPLAINT INVESTIGATION PROCEDURES

The Program Manager will make a determination to accept, reject or refer to the appropriate federal/state agency a complaint within ten (10) calendar days of its receipt. Complaints are not considered received until they are submitted to INDOT as complete complaints, both signed and in writing.

INDOT will determine whether the person or entity purportedly engaged in the alleged discriminatory act is an INDOT subrecipient (the legal entity to which INDOT made a sub-award of federal funds and which is accountable to the INDOT for the use of the funds provided). If the complaint does not specifically mention that the alleged discriminatory actor is an INDOT subrecipient, INDOT may presume so in deciding whether to accept the complaint for further processing.

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964 and related Nondiscrimination authorities. These procedures do not affect the right of the Complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies, such as for punitive or compensatory damages for the Complainant.

INDOT will make every effort to facilitate a voluntary early resolution of complaints at the lowest level possible. INDOT may exercise the option of informal resolution at any stage of the process. The Title VI Program Manager will make every effort to pursue a resolution of the complaint.

WHO MAY FILE A COMPLAINT

Any person who believes that he or she has been excluded from participation in, denied the benefits of or otherwise subjected to discrimination under any INDOT service, program or activity whether federally funded or not, based on their race, color, or national origin may file a complaint. A complainant's representative may also file a complaint on behalf of such a person.

TIMELINESS OF COMPLAINT

For a complaint against INDOT or a subrecipient to be considered timely, it must be filed within 180 calendar days after the alleged incident has occurred. The file date of a complaint is the earlier of the postmark or the date a signed, written complaint is received by INDOT.

INDOT may determine on a case-by-case basis whether to waive the 180 calendar day time limit for good cause at its discretion. Good cause for a waiver shall include, but is not limited to, the following instances:

Lack of Knowledge

INDOT may waive the time limit in situations where the person on whose behalf the complaint was filed did not know of and could not have reasonably known of the violation during the 180-day time limit. The complainant must file his or her complaint within 60 days of becoming knowledgeable of the violation.

Incapacitation

INDOT may also waive the time limit in situations where the person on whose behalf the complaint was filed was incapacitated because of illness or other incapacitating circumstances. The Complainant must provide independent documentation of the purported incapacitation. The complainant must file his or her complaint within 60 days after the period of incapacity ends.

LOCATION AND AVAILABILITY OF COMPLAINT FORMS

INDOT provides complaint forms online via the INDOT website at http://www.in.gov/indot/files/External%20Complaint%20Policy%20and%20Form.pdf.

Additionally, persons may contact the Program Manager to request a copy of the complaint form via email, facsimile or United States mail. The Program Manager provides copies of its complaint form in alternative formats upon request and provides copies of the form in Spanish and other languages as determined by INDOT's LEP plan. Complainants are encouraged, but not required, to use the complaint form when filing a complaint.

HOW TO FILE A COMPLAINT

While a Complainant may preliminarily submit his or her complaint by online form submission, mail, facsimile, or email. However, the Complainant must submit a signed, original copy of the complaint by first-class U. S. Postal Mail to the Title VI Program Manager to officially begin the complaint process. Any person with a disability may request to file his or her complaint using an alternative format. INDOT does not require a Complainant to use the INDOT complaint form when submitting his or her complaint. A copy INDOT's Complaint Form is found at **Exhibit B**.

Direct all complaints of discrimination pursuant to Title VI to:

Kimberly Radcliff, MBA
Title VI Program Manager

Indiana Department of Transportation
100 N. Senate, Room N925
Indianapolis, IN 46204
Kradcliff@indot.in.gov
(317) 232-0924 (Phone); (317) 232-1499 (Facsimile)

ELEMENTS OF A COMPLETE COMPLAINT

A complaint must be both written and signed to be complete. Verbal complaints must be reduced to writing and provided to the Complainant for confirmation, review and signature before processing. The complaint form is available for download from the INDOT website at: http://www.in.gov/indot/files/External%20Complaint%20Policy%20and%20Form.pdf.

A complaint must include the following information:

- The full name and address of the Complainant;
- The full name and address of the Respondent, which may be the individual, agency, department or program that allegedly discriminated against Complainant; and
- A description of the alleged discriminatory act(s) that violated Title VI (i.e., an act of intentional discrimination or one that has the effect of discriminating on the basis of race, color, or national origin and the date of occurrence.

The following items are not acceptable as a complete complaint unless accompanied by a signed cover letter that specifically requests INDOT take action concerning the allegations:

- Anonymous complaints
- Inquiries seeking advice or information
- Newspaper articles
- Courtesy copies of court pleadings
- Courtesy copies of complaints addressed to other agencies
- Courtesy copies of internal grievances
- Oral complaints

The Program Manager shall notify the Complainant in writing if his or her complaint is incomplete and allot 15 calendar days for the Complainant to respond and provide the supplemental information needed to complete the complaint.

PROCESSING COMPLAINTS

The Program Manager processes all complaints:

- Logging complaints: The Program Manager will note the complaint in the log by sequential case number based on the year, month and order in which INDOT received the complaint. For example, if INDOT received its first complaint on March 4, 2011, the case number would be 2011-03-04.
- Acknowledging receipt: The Program Manager will acknowledge receipt of the complaint and informing the Complainant of the action taken or proposed action to be taken to process the complaint by letter. This acknowledgement letter shall include a restatement of the complaint, brief statement of INDOT's jurisdiction over the subrecipient, and contact information for the investigator assigned to conduct the investigation.
- Respondent Notice: INDOT forwards a notice via certified mail to the Respondent informing them of the allegations, requesting a position statement and providing the name and telephone number of the Title VI Program staff person assigned to investigate the complaint.
- Complainant Notice: INDOT informs the Complainant that he or she has a right: (1) to have a witness or representative present during any interviews and (2) to submit any documentation he or she perceives as relevant to proving the allegations contained in the complaint.

- Opportunity to Respond: INDOT will provide the Respondent a reasonable opportunity to respond to all aspects of the Complainant's allegations.
- Witnesses: INDOT will determine if witnesses will be contacted and interviewed as part of its investigation.
- Additional Information: INDOT may reach out to gather additional information from the parties.
- Letter of Findings: INDOT is responsible for drafting a Letter of Findings (LOF) and mailing the LOF to the FHWA, Respondent and Complainant within 180 calendar days of the date the complaint was received by INDOT. The LOF may include the following:
  - A summary of the written complaint;
  - A brief description of the standard of review/methodology used to investigate the complaint;
  - Findings of fact and an analysis of the evidence gathered. The analysis should address each allegation in the complaint and Respondent's position;
  - A determination, based on the preponderance of evidence presented, of whether the complaint is substantiated or unsubstantiated;
  - Proposed corrective action for substantiated cases.

CONFIDENTIALITY

In accordance with DOT Order 1000.12 A, INDOT shall keep all complainants' identities confidential except to the extent necessary for carrying out an investigation. If an investigator determines that it is necessary to disclose the Complainant's identity to the Respondent or a third party, the investigator must first obtain Complainant's written permission. INDOT may refer complaints to the appropriate agency or entity without obtaining permission as referral may be required. INDOT will notify Complainant of the referral at the time the referral is made.

Otherwise, INDOT shall obtain a Complainant's written consent before providing a copy of the complaint to the Respondent or a third party.

The Program Manager shall maintain all records of an investigation in a confidential area for five (5) years after the completion of the investigation.

SUBRECIPIENT COMPLIANCE MONITORING

INDOT has policies in place to monitor its subrecipients for compliance with Title VI as required and is putting those policies into practice. Policies currently exist for review of contractors and consultants as well as LPAs, MPOs, and university subrecipients. These policies are specific to each type of subrecipient and represent, in many cases, layers of oversight and/or levels of review.

Objective:

The overall objective of compliance monitoring is to ensure all entities and agencies over which INDOT has Title VI oversight responsibility remain or are brought into compliance with Title VI and other nondiscrimination requirements.

INDOT has historically used on-site compliance reviews as a tool to monitor Title VI compliance and discourage discrimination. INDOT conducts compliance reviews to comply with Title VI, to monitor recipient and subrecipient compliance, and to proactively identify and remedy potential and actual violations of the nondiscrimination laws.

TYPES OF SUBRECIPIENT COMPLIANCE MONITORING AND REVIEWS

INDOT tailors its subrecipient monitoring practices to the type of subrecipient and level of review required. Types of subrecipients over whom INDOT has oversight responsibility include:

- Contractors
- Consultants
- Local Public Agencies (LPAs)
- Metropolitan Planning Organizations (MPOs)
- Cities, Towns and Counties
- Universities & Colleges

Levels of subrecipient monitoring may include:

- Certifications of compliance
- Compliance Surveys
- Desk Reviews
- Telephone / Web Interviews
- On-site Reviews

The following sections detail our compliance review levels and procedures for each subrecipient type.

POLICIES AND PROCEDURES FOR CONTRACTOR COMPLIANCE REVIEWS

The Program Manager collects and reviews prequalification certifications from contractors and consultants. These subrecipients may be selected to participate in compliance reviews at INDOTs discretion. The Program Manager will request that the subrecipient under review provide documentation before a scheduled telephone conference or on-site visit. The subrecipient's responses will be reviewed and feedback will be provided during the conference or on-site visit. By using this method, the Program Manager is able to provide a same day verbal preliminary determination of compliance to the subrecipient.

Compliance Review process

1. The Program Manager provides written notice to the contractor of the scheduled compliance review.
2. This notice is mailed at least thirty (30) days before the submission of information is due and includes the due date, address, and required information and/or certifications; and notification to the contractor of its obligation to cooperate by providing records, allowing access to data and making staff, subcontractors and/or witnesses readily available.
3. Any person 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. INDOT will send the Compliance Review Notice of Deficiency via certified mail. The subrecipient then has five (5) calendar days from the date of receipt to respond in writing.
4. Information received from the contractor/consultant is reviewed by INDOT at its offices and a telephone call is scheduled to discuss preliminary deficiencies observed and to request additional information as necessary. An on-site visit may be scheduled at INDOT's discretion.
5. When conducted, the on-site reviews consist of three phases and are conducted by the Director, the Subrecipient Compliance Manager, or other trained and informed INDOT staff.
   - The *first phase* may consist of a meeting with leadership and pertinent personnel. The reviewer may interview pertinent personnel and gather sufficient information to determine the subrecipient's compliance.
     - The reviewer uses the on-site review form to solicit and record information gathered during the on-site interviews. The Contractor's contract with INDOT requires the contractor to monitor its subrecipients and to include the assurances in its subcontracts.
   - During the *second phase* of the on-site compliance review, the reviewer may tour the project site and interview personnel and subrecipients if this is necessary due to the nature of the project or the deficiency.
   - In the *third and final phase* of the on-site review, the reviewer may conduct an exit interview with the pertinent personnel to report preliminary findings, conclusions and recommendations.

6. Preliminary Findings – Following the conclusion of the desk review and/or on-site review, the reviewer will provide the contractor with a written report of preliminary findings which may include:
   - Documentation of any deficiencies observed; and
   - Directives requiring the contractor to come into compliance within 30 days.

Compliance Plan - Any deficiency which cannot possibly be resolved within 30 days shall be reflected in a compliance plan submitted to INDOT for approval within 30 days and shall include dates by which compliance will be achieved.

Notice of Achievement - In addition, it is the contractor's responsibility to notify INDOT that is has achieved its approved compliance plan goals. Failure to provide such notice may place the contractor or consultant in deficiency status.

Examples of Title VI Deficiencies:

- The contractor's Title VI Coordinator needs Title VI training;
- Contracts do not contain nondiscrimination assurance language;
- No method to solicit Disadvantaged Business Enterprises (DBE) and/or businesses with meaningful minority representation; and beyond that, to solicit participation from the broader scope of Title VI protected individuals regardless of race, color, or national origin;
- No method 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 contractors.

7. Failure to Comply: If the contractor does not voluntarily comply within 30 days of the original notification or by the agreed upon extension of time, INDOT will issue a notice of noncompliance. If the contractor 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. Following the expiration of 30 days, INDOT will either:
   - Certify the contractor's compliance, or
   - Issue a notice of noncompliance which may result in withholding payment or suspending or terminating a contract.

Copies of all notices will be provided to FHWA.

LPA SUBRECIPIENT MONITORING PROCEDURES

INDOT's subrecipient monitoring processes for cities, towns, and counties utilizes a tiered approach to ensure compliance. The lowest "tier" on the monitoring program is also the broadest and includes certifications and surveys. The top tier includes on-site compliance reviews and is reserved for a narrow subset of subrecipients selected using risk-based criteria explained below.

The current subrecipient tiered monitoring approach for Indiana communities who are subrecipients of federal funds by INDOT is as follows:

- Information provided to INDOT as part of a survey, update request or other form of outreach;
- Desk reviews of survey responses or applications submitted;
- Certifications of compliance submitted at the time of application;
- Letters of Commitment to resolve deficiencies existing at the time of application;
- Action Plan review and monitoring for deficiency resolution;
- Risk-based on-site compliance reviews

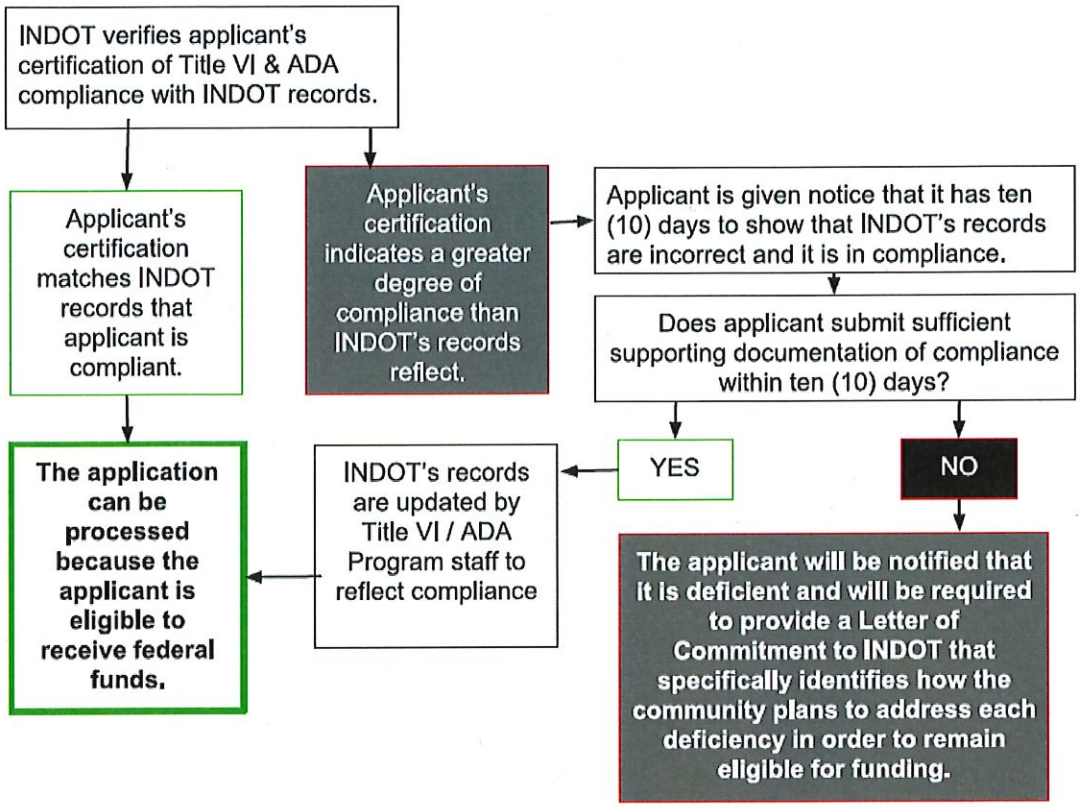
LPA Initial Review Process

For all categories of subrecipients, INDOT will make an effort to communicate clear expectations to potential and current subrecipients at the time of contracting with INDOT about its expectations in terms of compliance. At the time of submitting an application for federal funds, subrecipients are required to certify their compliance with both Title VI requirements and to provide current contact information for both their Title VI Coordinators.

INDOT reviews applicants for compliance and periodically reviews information related to all former applicants and subrecipients in its records to ensure subrecipients are maintaining compliance with the federal and state law requirements.

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

APPLICATIONS FOR FUNDING



PRELIMINARY COMPLIANCE NOTIFICATIONS:

- LPAs who submit program documents annually, as required by INDOT, will be notified of their preliminary compliance determination and whether or not they are eligible to apply for federal funds from INDOT without taking further action to address deficiencies.
- LPAs who do not submit documentation to INDOT may not be evaluated for compliance nor provided an opportunity to address deficiencies prior to submitting an application for funding.
- On-site reviews target current subrecipients who are not in compliance:
- On-site reviews may not be necessary; however on-site reviews may be performed during the precertification survey reviews process at the discretion of the Program Manager or upon request of the subrecipient.
- Subrecipients who are already receiving funds from INDOT on one or more projects would likely require ongoing review for all but minor deficiencies.

INDOT is developing a submission and certification portal to make submission easier, however LPAs should continue to provide copies of annual program documents and notify INDOT of changes and updates by submitting their documents to our Subrecipient Compliance Auditor, Devin Gay by e-mail at DGay@indot.in.gov .

LPA PROJECTS AND GRANT APPLICANT COMPLIANCE MONITORING PROCEDURES:

The following process describes how subrecipient monitoring is integrated into the project and grant application process at INDOT:

1) Statement of compliance submitted with application:
   i) At the time of application, applicants certify their compliance with Title VI and identify their coordinators;
   ii) Certification is cross-checked with INDOT'S most recent reviews;
   iii) If the applicant indicates a higher level of compliance (i.e. claims to have Title VI plan when our last review or records indicates they do not), the applicant must submit proof that the missing document exists and provide supporting documentation for review by the Title VI program staff.
2) Compliance Review period:
   i) If received, supporting documents are forwarded to the Title VI compliance staff for consideration; and,
   ii) If acceptable, changes are made to the compliance level indicated in the database.
3) A letter from INDOT's Title VI program staff will be sent to the applicant indicating whether or not the evidence has resulted in changes in eligibility for funding. The LPA Division will be copied on this correspondence and noncompliant LPAs will be required to provide letters of commitment addressing their deficiencies or risk being considered ineligible for funding. A sample letter of commitment is included in **Exhibit A**.

POST-AWARD SUBRECIPIENT COMPLIANCE MONITORING

Post–award subrecipient compliance monitoring is focused on ensuring compliance with the assurances of nondiscrimination and is risk-based. A post-award risk-based compliance review may be conducted based upon the following:

- A high-dollar or high-impact project is being undertaken by the LPA. Impacts must be related to race, color, or national origin;
- 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 LPA's website, responses of the LPA to the annual precertification survey or lack thereof, comments made by the LPA in its official capacity, actions taken that generate concern regarding the level of the LPA's compliance, or other reasonable basis identified by INDOT.

For example, in 2016, INDOT initiated its in-depth "level two" compliance reviews with those subrecipients who are likely to receive funding for sidewalks or pedestrian projects as well as stellar grant recipients.

These projects have a high correlation to Title VI program goals.

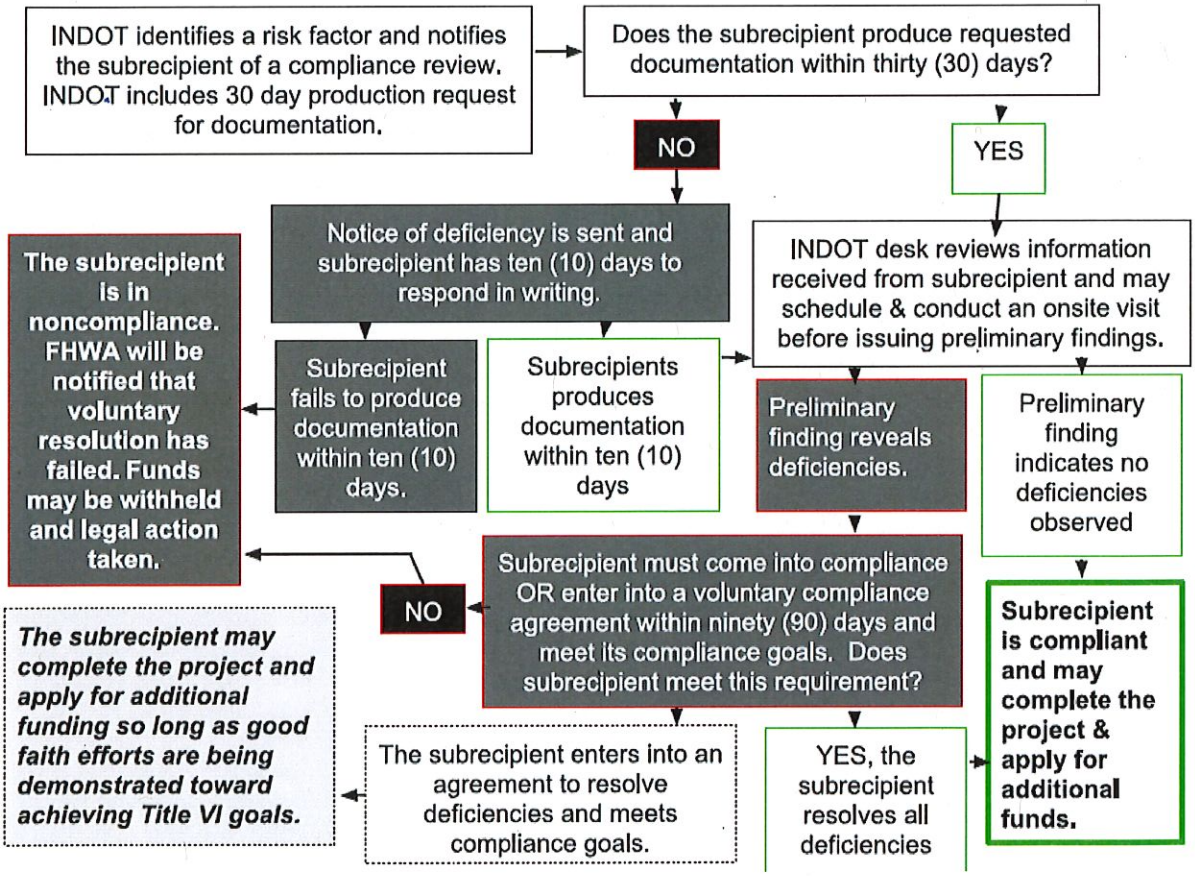
1. Notice of compliance review:
    - When a post-award compliance review commences, the Title VI program staff will send a notice of compliance review providing the reason for the review and a request for documents to the subrecipient.
    - The subrecipient will have thirty (30) days to produce the requested documentation. FHWA's district office will also be notified of the post-award compliance review.
    - 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)
2. Desk review:
   Information received from the subrecipient is reviewed in office 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 on-site review is necessary:
    - Deficiencies are directly related to improvements being constructed or maintained by the subrecipient;
    - Deficiencies include missing entire program components or are otherwise considered major deficiencies;
    - The subrecipient's program coordinator or representative has not been identified and/or does not appear to have the support of the executive leadership of the agency in ensuring program compliance;
    - The review is based upon the receipt of a complaint
3. Preliminary Findings:
   Following the conclusion of the desk review and/or on-site 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 a 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 take or participate in other legally available action against the subrecipient for failure to comply such as withholding payment on a contract, and/or suspending or terminating the contract.

- Following the expiration of 90 days, INDOT will do any of the following:
  - Certify the current subrecipient compliant and eligible to receive funds;
  - Identify the current subrecipient as deficient but on an approved corrective action plan; or
  - Issue a notice of noncompliance.

Copies of all notices will be provided to FHWA.

LPA / MPO Compliance Reviews



REQUIREMENTS FOR LPA'S DEFICIENCY RESOLUTION:

A subrecipient may become compliant at any time by submitting sufficient documentation to the Subrecipient Compliance Manager 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 given the number of applications received and the tight timeframe. As a result, letters of commitment are required to ensure the community is committed to addressing and resolving its deficiencies within a reasonable amount of time and can demonstrate a plan for doing so. (See **Exhibit A**.)

COMMUNITY PARTICIPATION PROCESS

The Indiana Bureau of Motor Vehicles is responsible for conducting motorist licensure and motor vehicle registration activities/services. Therefore, this section is not applicable to INDOT.

LIMITED ENGLISH PROFICIENCY (LEP)

One of INDOT's program goals in implementing and adhering to its Title VI obligations is to improve the accessibility of its programs and activities to eligible Limited English Proficiency (LEP) persons, e.g. those persons who have a limited ability to read, write, speak or understand English. This section of INDOT's Title VI Implementation Plan discusses how INDOT reaches populations with Limited English Proficiency. Strategies INDOT uses to meet LEP requirements include:

- An ongoing self-assessment of LEP needs through the use of an LEP Report Form coupled with employee training sufficient to create an effective monitoring program;
- An LEP Analysis; and
- An LEP Plan.

INDOT continues to strive to improve its data collection efforts to better track the actual number of LEP individuals encountered in the delivery of services so that INDOT may continue to evaluate the effectiveness of its LEP plan. Training provided to INDOT employees in person or via the online module contains information about LEP requirements and tools and resources INDOT uses to gather information on an ongoing basis about LEP needs.

INDOT has also aligned itself with the safe harbor provisions pursuant to Federal Transit Administration (FTA) Circular 4702.1B and maintains a separate Title VI Plan addendum specific to the FTA's Title VI Program requirements. The safe harbor provisions implemented by INDOT comply with the following FTA requirement:

- Translations (of vital documents) must be in each LEP language group that is 5% or 1,000 people (whichever is less) of the total population eligible to be served. Providing these translations shows compliance and provides a "safe harbor" for transit providers that receive federal funding. INDOT vital documents are defined in our LEP plan.
- INDOT's LEP information gathering tools include the use of the following:
    - Internal LEP Report Form
    - "I Speak" Cards **(see Exhibit C)**
    - Ability of the public to request language services and translation services as appropriate, including use of a translation request form that will be translated into common secondary languages.
    - Use of demographic information, not limited to but including, census information to determine whether LEP resources and/or alternative advertising measures should be considered as part of public involvement activities.
    - Employee language questionnaires

LEP information is included in INDOT's internal training and customer service staff will track, record, and monitor the number of LEP requests and individuals encountered. For more information on LEP, see INDOT LEP Analysis and LEP Plan.

INTERPRETER, AUXILIARY AIDES AND SERVICES

In 2013, OPI developed a standard operating procedure for processing requests for language services and requests for reasonable accommodations. A copy of the standard operating procedure is available on the INDOT website at http://www.in.gov/indot/2366.htm.

OPI also has a policy for responding to requests from the public for documents in Braille, large print, audio recording or accessible electronic format (such as email, CD or any other format that can be accessed with screen reader software.) OPI works with the State of Indiana's Family and Social Services Administration's (FSSA) Division of Aging and Disability to arrange the provision of auxiliary aids and services through their list of providers.

EXHIBITS

Exhibit A: Letter of Commitment

Exhibit B: External Complaint Form

Exhibit C: LEP Cards

Exhibit D: Public Involvement Survey

Exhibit E: Corrective Action Documentation

EXHIBIT A: LETTER OF COMMITMENT

[Letterhead]

[date]

Erin L. Hall, JD
Title VI & ADA Program Manager
Indiana Department of Transportation
Indiana Government Center North, Room 750
100 N. Senate Ave.
Indianapolis, IN 46204

RE: [name of community]'s Nondiscrimination & Accessibility Letter of Commitment to INDOT

Ms. Hall;

[Community] is submitting this correspondence to INDOT as a good faith representation that it intends to improve its compliance with those nondiscrimination & accessibility requirements which are conditions of receiving federal funds. INDOT has reviewed [community]'s compliance efforts and identified the following potential deficiencies:

[List deficiencies identified or attach list and reference attachment here]

[Community] has enclosed documents in evidence that [community] is in compliance with the following:

[list potential deficiency identified by INDOT]	[list item enclosed that demonstrates compliance]
e.g. Community does not have an ADA Transition Plan.	e.g. Copy of Communities transition plan is enclosed.

[Community] commits to address the remaining deficiencies (if any) as follows:

I. [identify first deficiency] (e.g. Community does not have a Title VI Implementation Plan.)
   a. [Community] plans to address this deficiency by [date].
   b. In 2016 [Community] plans to take the following steps toward resolving this deficiency:
      i. By [Month / Date] [Community] will (e.g. identify program areas with Title VI Implications)
      ii. By [Month / Date] [Community] will (e.g. review existing policies for incorporation or reference into the Title VI Implementation Plan)
      iii. [identify next action step]

II. [identify next deficiency}

[Community] represents that the above representations are made in good faith and represent its commitment toward achieving compliance with all nondiscrimination and accessibility requirements. [Community] represents that the undersigned individual is authorized to make these commitments on behalf of [Community] and understands that INDOT may monitor [Community]'s progress toward achieving its goals as represented herein.

This letter of Commitment is being submitted by:
[name] [Title / role]
[address]
[email]
[phone]
[fax]

Sincerely,

[Name]

EXHIBIT B: EXTERNAL COMPLAINT FORM

EXTERNAL COMPLAINT OF DISCRIMINATION

State Form 54516 (R3 / 7-16)
INDIANA DEPARTMENT OF TRANSPORTATION
ECONOMIC OPPORTUNITY DIVISION

Kimberly Radcliff, Title VI Program Manager
INDIANA DEPARTMENT OF TRANSPORTATION
100 N Senate Ave., Room 925
Indianapolis, IN 46204
Telephone number: (317) 232-0924
Fax number: (317) 233-0891
E-mail address:
Kradcliff@indot.in.gov
www.in.gov/indot/

INSTRUCTIONS:

The purpose of this form is to help any person interested in filing a discrimination complaint with the Indiana Department of Transportation (INDOT). If the complaint is against INDOT, INDOT's Title VI/ADA Program Manager will forward it to the appropriate federal agency for investigation.

You are not required to use this form. You may write a letter with the same information, sign it and return it to the address printed above.

All items in bold must be completed for your complaint to be investigated. Failure to provide complete information may impair the investigation of your complaint.

Title VI of the Civil Rights Act of 1964, as amended and its related statutes and regulations (Title VI) prohibit discrimination on the basis of race, color and national origin in connection with programs or activities receiving federal financial assistance from the United States Department of Transportation, Federal Highway Administration and/or Federal Transit Administration. These prohibitions extend to INDOT as a direct recipient of federal financial assistance and to its sub-recipients, consultants, and contractors, whether federally funded or not. INDOT's non-discrimination policy also prohibits discrimination based on age, gender and income status.

INDOT is also required to implement measures to ensure that persons with limited English proficiency and persons with disabilities have meaningful access to the services, benefits, and information of all its programs and activities under Executive Order 13166 and the Americans with Disabilities Act of 1990, as amended.

Upon request, assistance will be provided if you are an individual with a disability or have limited English proficiency. Complaints may also be filed using alternative formats, such as computer disk, audiotape or Braille. For TTY customers, dial 711 to reach the Indiana Relay Service.

You also have the right to file a complaint with other state or federal agencies that provide federal financial assistance to INDOT. Additionally, you have a right to seek private counsel.

INDOT and its sub-recipients, consultants, and contractors are prohibited from retaliating against any individual because he or she opposed an unlawful policy or practice, filed charges, testified, or participated in any complaint action under Title VI or other nondiscrimination authorities.

Please make a copy of your complaint form for your personal records. Do not send your original documents as they will not be returned. Mail the original complaint form along with any copies of documents or records relevant to your complaint to the address above.

Complaints of discrimination must be filed within 180 days of the date of the alleged discriminatory act. If the alleged act of discrimination occurred more than 180 days ago, please explain your delay in filing this complaint.

Your complaint cannot be processed without your signature.

COMPLAINANT INFORMATION		
Name *(first, middle, and last)*		
Address *(number and street, city, state and ZIP code)*		
Home telephone number ( ) -	Work telephone number ( ) -	Cellular telephone number ( ) -

Name of complainant	Date *(month, day, year)*

PERSON / AGENCY YOU BELIEVE DISCRIMINATED AGAINST YOU		
Name *(first, middle, and last)*	Title	
Name of company		
Address *(number and street, city, state and ZIP code)*		
Home telephone number ( ) -	Work telephone number ( ) -	Cellular telephone number ( ) -
When was the last alleged discriminatory act? ***(month, day, year)*** _____		
Complaints of discrimination must be filed within 180 days of the date of the alleged discriminatory act. If the alleged act of discrimination occurred more than 180 days ago, please explain your delay in filing this complaint.		
The alleged discrimination was based on: ☐ Race ☐ Color ☐ Gender ☐ National Origin ☐ Disability ☐ Age ☐ Retaliation		
Describe the alleged act(s) of discrimination. *(Use additional pages, if necessary.)*		

Name of complainant	Date *(month, day, year)*

Provide the names of any individuals with additional information regarding your complaint:

Name of witness 1 *(first, middle, and last)*		Title
Name of company		
Address *(number and street, city, state and ZIP code)*		
Home telephone number ( ) -	Work telephone number ( ) -	Cellular telephone number ( ) -
Include a brief description of the relevant information the witness may provide to support your complaint of discrimination.		

Name of witness 2 *(first, middle, and last)*		Title
Name of company		
Address *(number and street, city, state and ZIP code)*		
Home telephone number ( ) -	Work telephone number ( ) -	Cellular telephone number ( ) -
Include a brief description of the relevant information the witness may provide to support your complaint of discrimination.		

Name of witness 3 *(first, middle, and last)*		Title
Name of company		
Address *(number and street, city, state and ZIP code)*		
Home telephone number ( ) -	Work telephone number ( ) -	Cellular telephone number ( ) -
Include a brief description of the relevant information the witness may provide to support your complaint of discrimination.		

How would you like your complaint to be resolved?

Name of complainant	Date *(month, day, year)*

Have you filed a complaint alleging the same discrimination with another state or federal agency? ☐ Yes ☐ No	
If yes, please provide the following information for each agency:	
Name of the agency	Date complaint filed *(month, day, year)*
Case number assigned to your complaint	Current status of your complaint
How did you learn about your right to file a discrimination complaint with INDOT?	
Signature	Date signed *(month, day, year)*

EXHIBIT C: LEP CARDS

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 կատարել այս քառակուսում, եթե խոսում կամ կարդում եք հայերեն:	2. Armenian
যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।	3. Bengali
សូមបញ្ជាក់ក្នុងប្រអប់នេះ 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

DB-3309

U.S. DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. CENSUS BUREAU

☐ 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
☐ ให้ทำเครื่องหมายในช่องนี้ ถ้าท่านอ่านหรือพูดภาษาลาว.	24. Laotian
☐ Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim.	25. Polish

☐ 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 квадратиħ 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
☐ ใส่กาเครื่องหมายลงในช่องนี้หากท่านอ่านหรือพูดภาษาไทย.	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

EXHIBIT D: PUBLIC INVOLVEMENT SURVEY

INDIANA DEPARTMENT OF TRANSPORTATION

As we receive and use public (federal) funds, the Indiana Department of Transportation (INDOT) has developed this survey to ensure our programs do not result in discrimination. This survey gathers data about the beneficiaries of federal-aid highway programs and activities (23 CFR 200.9 (b)(4)). INDOT is distributing this voluntary survey to make sure our projects benefit everyone equally. Your response is important as it helps us better serve you.

You are not required to complete this survey. Submittal of this information is voluntary. This form is a public document that INDOT will use to monitor its programs and activities for compliance with the Title VI of the Civil Rights Act of 1964, as amended and its related statutes and regulations.

If you have questions regarding INDOT's responsibilities under Title VI of the Civil Rights Act of 1964 or the Americans with Disabilities Act (ADA), please contact INDOT's Title VI/ADA Program Management office at 100 North Senate Avenue, Room N750, Indianapolis, Indiana 46204, (317) 234-6142, FAX (317) 233-0891. In addition, please visit the INDOT Title VI Resource page at: http://www.in.gov/indot/2751.htm.

You may return the survey to the registration table (if you received this survey while attending a public meeting or hearing), and if you are receiving this survey as part of a project mailing and choose to participate, please reply using the information contained within the survey.

INDOT TITLE VI PUBLIC INVOLVEMENT SURVEY

Date (month, day, year): _____ Project Name: _____

Gender: Female ☐ Male ☐ **Ethnicity:** Hispanic or Latino ☐ Not Hispanic or Latino ☐

Race: (Check one or more): American Indian or Alaska Native ☐ Asian ☐ Black or African-American ☐

Native Hawaiian or Other Pacific Islander ☐ White ☐ Multiracial ☐

Age: ☐ 1-21 ☐ 22-40 ☐ 41-65 ☐ 65+ **Disability:** ☐ Yes ☐ No

Household Income:
$0 - $12,000 ☐ $12,001 - $24,000 ☐ $24,001 - $36,000 ☐
$36,001 - $48,000 ☐ $48,001 - $60,000 ☐ $60,001 + ☐

How will this information be used?

- INDOT will monitor, track and document data received as a result of this survey in an effort to comply with Title VI of the Civil Rights Act of 1964.
- Documentation is submitted to the Federal Highway Administration (FHWA) for evaluation and review.
- INDOT makes changes and modifications to its program and project development activities based upon this information.

How should I submit this information to INDOT?

- **Mail** to the INDOT Office of Public Involvement, Indiana Government Center North, Room N642, Indianapolis, Indiana 46204; ATTN: Rickie Clark (317) 232-6601; E-mail rclark@indot.in.gov; Visit http://www.in.gov/indot/2366.htm

Indiana
A State that Works

EXHIBIT E: CORRECTIVE ACTIVE DOCUMENTATION

FEDERAL HIGHWAY ADMINISTRATION

OFFICE OF CIVIL RIGHTS

TITLE VI PROGRAM

COMPLIANCE REVIEW

INDIANA DEPARTMENT OF TRANSPORTATION

REPORT AUTHOR: Lester G. Finkle
FHWA National Title VI Program Manager

DATE OF ON-SITE: September 29-October 2, 2014

January 22, 2015

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INTRODUCTION

During the week of September 29, 2014, the FHWA Office of Civil Rights National Title VI Program Manager conducted a Title VI Program compliance review of the Indiana Department of Transportation (INDOT). This review is part of an on-going Compliance Review Program, which is intended to satisfy the direction provided by the U.S. Department of Justice in a memorandum dated July 10, 2009 to take efforts to "strengthen civil rights compliance programs." FHWA's Office of Civil Rights has developed a Compliance Review Program in response and is annually implementing the Program. This review further complements the FHWA 2008 Civil Rights Baseline Assessment that graded INDOT's program management as RED (requiring significant improvement). Many of the observations and recommended actions identified in this Report echo those of the 2007 Civil Rights Baseline Assessment.

METHOD

There were two phases of the INDOT's Compliance Review: a desk audit & an on-site visit. As the effective implementation of a Title VI Program by the INDOT may only be accomplished through the processes of other federal program areas (i.e., planning, environment, design, right-of-way, research, etc.), the desk audit phase identified what processes were established in writing and allowed for a qualitative analysis of these processes. Further clarification of certain practices that were not established in writing was obtained during the on-site visit. The on-site visit focused on any unwritten practices or program areas that lacked processes. The on-site visit consisted of interviews conducted with personnel from the INDOT and subrecipients. The purposes of the personnel interviews was to identify each person's understanding of Title VI and Nondiscrimination from the top of the INDOT's organization on down to the Title VI Program Liaisons and to determine each person's understanding regarding his/her role in the effective implementation of Title VI Program requirements.

A component to the compliance review entailed interviews with two local public agencies (LPAs) and two metropolitan planning organizations (MPOs). The purpose for conducting these interviews was to ascertain the extent of the INDOT's subrecipient monitoring program. The LPAs interviewed included the City of Columbus and the City of Indianapolis. The MPOs interviewed were the Columbus Area MPO (CAMPO) and the Indianapolis MPO (IMPO).

DESK AUDIT

The desk audit phase of the review primarily consisted of a review of INDOT's Title VI Program Plan. Additionally, a review of a number of INDOT federal program areas operations manuals was conducted. The purpose of this review was to identify if the various manuals contain or reference processes related to the implementation of Title VI Program requirements, as applicable to the specific federal program area.

INDOT has developed a Title VI Program Plan Update (including Goals and Accomplishments) updated for 2013. Please note that while INDOT did submit the 2014 Plan Update during the on-site visit, the reviewer did not evaluate this document as the Division Office had not reviewed and approved it. The reviewer also evaluated the INDOT Public Involvement Procedures document dated April 1, 2009, *Planning Roles, Responsibilities, & Cooperative Operation*

Manual, portions of the Project Development Process Manual, Right-of-Way Manual, and portions of the Construction Manual.

ON-SITE

The on-site visit took place during the week of September 29, 2014. The on-site visit included INDOT personnel interviews from civil rights, planning, environment, right-of-way, contracts, research, public information and construction divisions. Additionally, as INDOT is a de-centralized organization, interviews were conducted with the Vincennes District and Fort Wayne District Offices. Further, interviews with the City of Columbus and City of Indianapolis, as well as CAMPO and IMPO took place. The purpose for conducting these Interviews was to ascertain the extent of the INDOT's subrecipient Monitoring Program. Additionally, as INDOT is a de-centralized organization, interviews were conducted with the.

OBSERVATIONS

Based upon documents reviewed and the interviews performed, the following Observations are provided:

- Sections VII F & VIII B of the 2013 INDOT Title VI Program Plan Update detail an Internal Title VI Compliance Reviews approach. INDOT has established a Title VI/ Americans with Disabilities Act of 1990 (ADA) Interdisciplinary Team and Title VI/ ADA Liaison Working Groups (sub-committees to the Title VI/ADA Interdisciplinary Team) to implement INDOT's Title VI Program goals, resolve issues, and complete the INDOT Federal Programs Areas surveys. Many of the Title VI/ADA Interdisciplinary Team members are Office Directors/Managers. While it is important that INDOT Office Managers are advised periodically regarding the INDOT Title VI Program implementation, these INDOT representatives are not expected to conduct the day-to-day activities related to Title VI Program requirements (i.e., data collection, data analysis, process reviews, drafting reports, etc.). There is significant opportunity for INDOT to identify Title VI Liaisons in each Program Area and District Office and strengthen their roles in evaluating their programs for trends or patterns of discrimination. These Program Areas Title VI Liaisons will be responsible for the day-to-day activities. The position descriptions for these Title VI Liaisons should be updated to explicitly identify specific Title VI Program responsibilities. Additionally, INDOT uses static surveys annually to solicit responses from program areas and District Offices. 23 CFR 200.9 (a) (4), (b) (5), (b) (6), and (b) (13) require an <u>annual</u> active Program Areas Review Approach with the involvement of subject matter experts and in coordination with the INDOT Title VI Coordinator. INDOT has an opportunity to transition its internal Title VI Compliance Reviews approach from an annual static survey-based approach to an annual analytical Program Areas Review approach. This observation mirrors elements identified during the FHWA 2007 Title VI Baseline Assessment. Significant improvement is needed;
- Section VII J & VIII C minimally describes a monitoring program for FHWA subrecipients. It appears that while INDOT has developed and is implementing a Title VI component to its Contractor Compliance reviews, it has not developed and implemented a Risk-Based Approach to monitor Title VI Program compliance of LPA, MPOs, and Purdue University (i.e., desk audits and when to conduct on-sites, how to determine which sub-recipients to review each year, what documentation will be required

of sub-recipients, what metrics to use to determine compliance, etc.). FHWA recommends that INDOT develop a risk-based subrecipient (i.e., LPAs, MPOs, and Purdue University) monitoring program that coordinates with all existing resources and INDOT offices that coordinate with subrecipients. Additionally, required documents that subrecipients are to submit pre-award need to be identified (i.e., Title VI Program Plan/Report that includes identification of a Title VI Program Coordinator, Title VI Program Assurances, etc.). This section should be added to the Title VI Program Plan and included in other applicable operations manuals. These observations also echo those identified during the FHWA 2007 Title VI Baseline Assessment;

- Title VI Program Training -- INDOT presently has an annual Title VI Program training approach. This approach should be revised to reflect the changes that will be made to address the first two observations of this section of the Report. The revisions will be made after the changes have been defined and are being implemented;
- Research – INDOT Office of Research partners exclusively with Purdue University. Purdue University then affords subconsulting opportunities to consultants. It appears that Purdue University does not analyze Title VI Program-related data to identify if a trend or pattern of discrimination is occurring with respect to how the subconsultant opportunities are awarded (i.e., are subconsulting opportunities going to or being excluded from subconsultants due to the consultant's race, color, national origin, etc.). There is an opportunity for INDOT to require Purdue University to collect the necessary data and to analyze the data to identify any trend/pattern of discrimination;
- Consistency in data collection: INDOT Program Areas personnel varied in their understanding as to the universe of Title VI Program-related population data that needs to be collected annually. The INDOT Economic Opportunity Division (Civil Rights Unit) has the opportunity to ensure that all program areas are collecting the universe of Title VI Program-related population data (race, color, national origin, sex, age, disability, income-level, and limited English proficieny [LEP]);
- Public Involvement – The Office of Public Involvement is responsible for coordinating all INDOT (i.e., notices to the public via stakeholders list, use of media, facilities for hearings/meetings, ADA and/or LEP reasonable accommodation, etc.). There is an opportunity for INDOT's Offices of Public Involvement and Planning to coordinate their efforts regarding use of GIS mapping (demographic population data) and stakeholders lists to more effectively ensure that the Public is being effectively noticed and that the Public Involvement/Participation efforts are effective;
- INDOT should ensure that Appendix A (and eventually Appendix E) language is being inserted as boilerplate in consultant agreements and construction contracts. This is also applicable to sub-recipients. Also, INDOT should ensure that the pre-award paragraph from the United States Department of Transportation Order 1050.2A (Standard Title VI Program Assurance) is being inserted into all Requests for Proposals and Solicitations for Bids.

DEFICIENCIES AND RECOMMENDED ACTION

- INDOT needs to transition the Internal Compliance Reviews approach from a static questionnaire-based approach to an analytical Program Areas Review Approach as required by 23 CFR 200.9 (a) (4), (b) (5), (b) (6), (b) (9), & (b) (13);
- INDOT needs to develop and implement a Title VI Program risk-based subrecipient monitoring process and include the procedures in the INDOT Title VI Program Implementation Plan. The process should define how INDOT will prioritize annual subrecipient reviews to be conducted, what form the reviews will take (desk-audit and/or on-site), when to conduct on-site visits, what documentation to require from subrecipients, what metrics and parameters will determine compliance, and how the reports will be distributed to subrecipients. Also, INDOT Economic Opportunity Division will coordinate with the LPA Office and other INDOT Offices as appropriate to implement the Title VI Program. (23 CFR 200.9 (b) (7));
- INDOT needs to revise the current Title VI Program Implementation Plan to meet the requirements of 23 CFR Part 200 and USDOT Order 1050.2A.

FINDING OF DEFICIENCY STATUS

As per 23 CFR 200.11 (c), INDOT is being placed in deficiency status. Within 90 days from receiving the deficiency letter (including this Report), INDOT must develop a voluntary corrective action plan (VCAP) to address the deficiencies herein. If INDOT fails or refuses to implement the VCAP, the Division Administrator shall submit to the Office of Civil Rights a recommendation that INDOT be found in noncompliance.

MONITORING OF PROGRESS BY DIVISION OFFICE

The Division Office is responsible for monitoring the corrective actions taken by INDOT to address the deficiencies and implement the recommended action. INDOT will take necessary corrective action to address the deficiencies documented in this Report and, in addition, will provide a specific timetable for the implementation of all tasks necessary to fully implement the Title VI Program Implementation Plan. While the INDOT is in deficiency status, it will submit monthly progress reports to the Division Office and the Division Office will independently verify if progress is being made. The Division Office will forward the monthly reports to the FHWA Office of Civil Rights with a summary indicating how INDOT is progressing towards achieving the goals outlined in the VCAP. At the end of the 90 day period, a determination will be made based upon INDOT's actions in response to this Report as to whether INDOT will remain in deficiency status.