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# 2017 Indiana Department of Transportation INDOT Title VI Implementation Plan

Version 2017.2



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# INDIANA DEPARTMENT OF TRANSPORTATION

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## 2017 TITLE VI IMPLEMENTATION PLAN

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## INTRODUCTION

This Title VI Implementation Plan is a part of the Indiana Department of Transportation's (INDOT's) continual and ongoing effort to proactively meet and exceed the minimum compliance requirements established under Title VI of the Civil Rights Act of 1964 (Title VI), 49 CFR § 26, and the related anti-discrimination statutes and regulations. With this Implementation Plan, INDOT seeks to provide continued transparency, clarity and technical guidance for internal and external constituents regarding its Title VI program.<sup>1</sup>

Title VI Implementation Plans outline and document policies and procedures that together comprise the State Transportation Agency's Title VI Program. For information related to our annual program goals and accomplishments, please refer to INDOT's Annual Title VI Goals and Accomplishments Report.

## INDOT'S TITLE VI MISSION STATEMENT

INDOT will implement compliance with Title VI 49 CFR § 21, 23 CFR Part 200; and related statutes and regulations 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 or national origin.

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<sup>1</sup> INDOT's Title VI Program is the system of requirements INDOT developed to implement Title VI of the Civil Rights Act of 1964. References to Title VI requirements and regulations shall not be limited to Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes, regulations and directives and Indiana state law to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency in programs receiving Federal financial assistance of the type subject to Title VI itself.

## INDOT'S TITLE VI NON-DISCRIMINATION NOTICE & POLICY

INDOT values each individual's civil rights and intends to provide equal opportunity and equitable service for the citizens of this state. As a recipient of federal funds, INDOT conforms to Title VI and all related statutes, regulations, and directives, which provide that no person shall be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance from INDOT on the grounds of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency. INDOT further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, regardless of whether those programs and activities are federally funded.

It is the policy of INDOT to comply with Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601-4655; 1973 Federal Aid Highway Act, 23 U.S.C. § 324; Title IX of the Education Amendments of 1972, Pub. L. No. 92-318, 86 Stat. 235; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 701 *et seq.*; Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28; Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*; Title VIII of the Civil Rights Act 1968, 42 U.S.C. §§ 3601-3631; Exec. Order No. 12898, Exec. Order 13672, 59 Fed. Reg. 7629 (1994) (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations); and Exec. Order No. 13166, 65 Fed. Reg. 50121 (2000) (Improving Access to Services for Persons with Limited English Proficiency).

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.

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, INDOT hereby gives assurance that no qualified disabled person shall, solely by reason of disability, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.

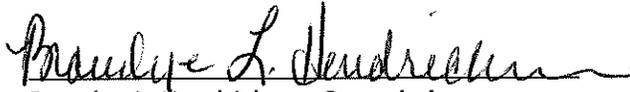
INDOT also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies and activities on minority and low-income populations in compliance with the requirements of Environmental Justice (EJ) regulations. In addition, INDOT will take reasonable steps to provide meaningful access to services for persons with limited English proficiency (LEP). INDOT will, where necessary and appropriate, revise, update and incorporate nondiscrimination requirements into appropriate manuals, directives and regulations.

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

The following individual has been identified as INDOT's Title VI and ADA Coordinator and is delegated the authority necessary to maintain responsibility for initiating and monitoring Title VI 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 compliance efforts to the Federal Highway Administration (FHWA) as well as to coordinate compliance efforts with other Federal Agencies as required.

Erin L. Hall, J.D.  
INDOT Title VI / ADA Program Manager  
IGCN Room 750  
100 N. Senate Ave,  
Indianapolis, IN 46204  
(317) 234-6142  
Ehall2@Indot.IN.gog

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).

  
Brandy L. Hendrickson, Commissioner  
Indiana Department of Transportation

12/21/2016  
Date

## TITLE VI ASSURANCES

### INDIANA DEPARTMENT OF TRANSPORTATION TITLE VI ASSURANCES

The Indiana Department of Transportation (INDOT) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation and the Federal Highway Administration, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race, color, national origin, sex (23 USC 324), sexual orientation, gender identity (Exec. Order 13672), age (42 USC 6101), disability (29 USC 790), religion, income status (Exec. Order 12898) or limited English proficiency be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a) (1) of the Regulations, copies of which are attached.

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

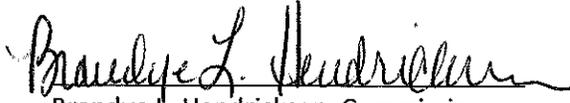
1. That the Recipient agrees that each "program" and each "facility as defined in 49 CFR subsections 21.23(e) and (b) and 23 CFR 200.5(k) and (g) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Act, Regulations and other pertinent nondiscrimination authorities and directives.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal-Aid Highway Programs and, in adapted form in all proposals for negotiated agreements:

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

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Acts and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal-Aid Highway Program.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.

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

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

  
Brandy L. Hendrickson, Commissioner  
Indiana Department of Transportation

12/21/2016  
Date

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APPENDIX A

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

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation (INDOT) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to INDOT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, INDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b.) cancellation, termination or suspension of the contract, in whole or in part.

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

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

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APPENDIX B

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

**(GRANTING CLAUSE)**

NOW, THEREFORE, the 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 Title 23, United States Code of Federal Regulations, the Regulations for the Administration of Federal-Aid Highway Programs and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *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 the 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 shall 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 shall on the grounds of race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination 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 shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of -the Secretary, Part 21, Nondis-

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

crimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.\*

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APPENDIX C

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

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

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

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

[Include in deed.]\*

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

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

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

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

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

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

[Include in deeds]\*

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

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

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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 (Title of Recipient) 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, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency, 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, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency, will be excluded from participation in, denied the benefits or, 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 of the above Non-discrimination covenants, INDOT will have the right to terminate the (license, permits, 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, INDOT will there upon revert to and vest in and become the absolute property of INDOT and its assigns.\*

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

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## 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:

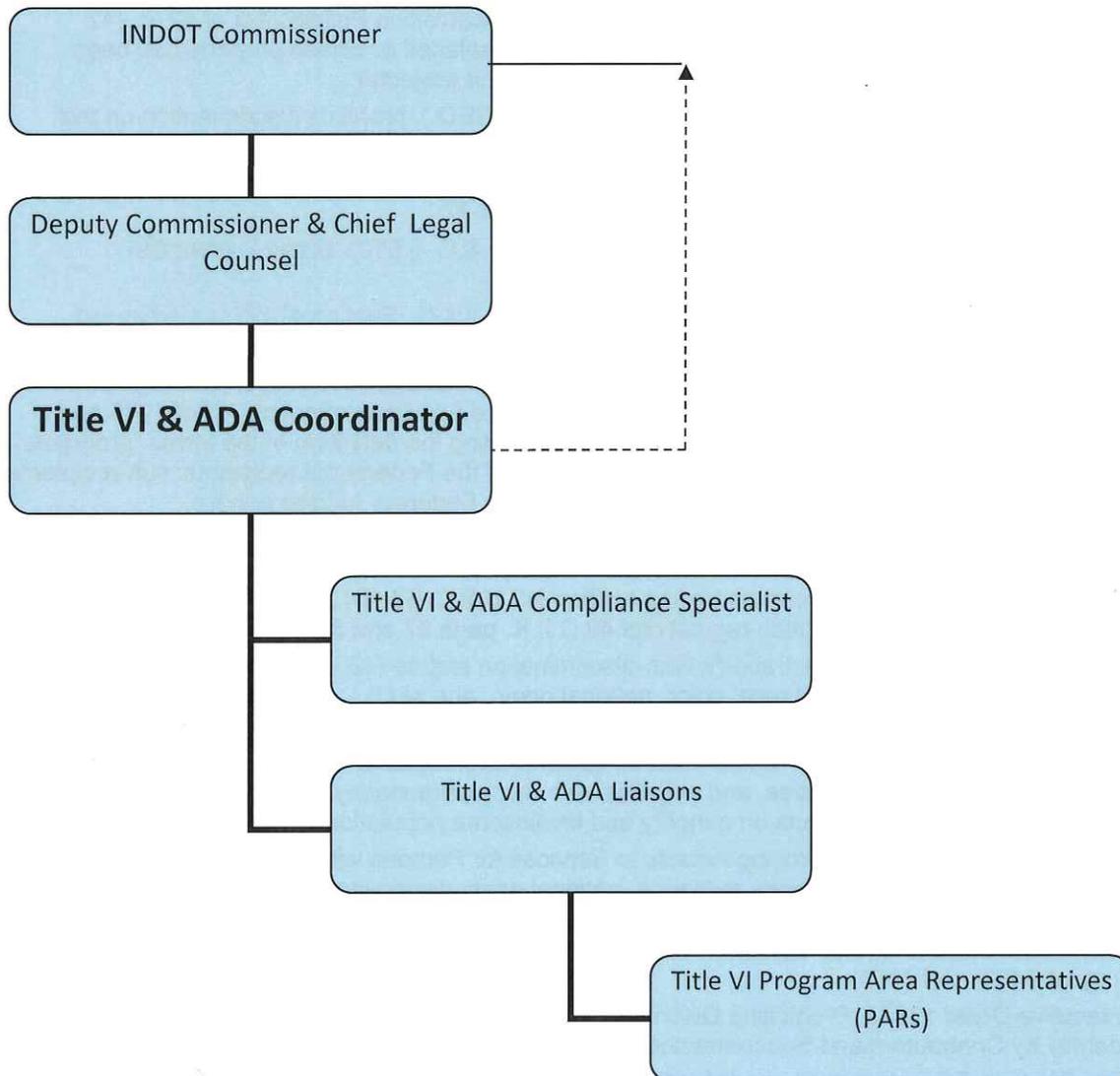
### PERTINENT NON-DISCRIMINATION AUTHORITIES:

- 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); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 ET SEQ.), prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, prohibits discrimination on the basis of disability; and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123, as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- 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 Transportation regulations 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 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);
- Executive Order 13672, Prohibiting Discrimination based on Sexual Orientation and Gender Identity by Contractors and Subcontractors
- 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).

## INDOT TITLE VI KEY PLAYERS & RESPONSIBILITIES

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 [Appendix 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:

*Brandye L. Hendrickson*

100 N. Senate Ave., IGCN 755

Indianapolis, IN 46204

### INDOT DEPUTY COMMISSIONER AND CHIEF LEGAL COUNSEL

This Deputy Commissioner manages the Economic Opportunity, Contract Administration, Prequalification, Title VI/ADA, Employee Safety 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 & Chief Legal Counsel is:

*Lori Torres*

100 N. Senate Ave., IGCN 755

Indianapolis, IN 46204

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#### TITLE VI/ADA PROGRAM MANAGER

The Title VI/ADA Program Manager is responsible for the oversight and coordination of INDOT's compliance with Title VI and all related statutes, regulations, and directives. The Title VI/ADA Program Manager reports directly to INDOT's Chief Legal Counsel and Commissioner. General responsibilities of the Title VI/ADA Program Manger include, but are not limited to Implementing INDOT's Title VI and Americans with Disabilities Act of 1990, (ADA) plans; Developing processes and procedures for the investigation of complaints filed under Title VI and the ADA; 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; and annually updating INDOT's Title VI Implementation Plan.

The Title VI & ADA Program Manager / Coordinator of the Indiana Department of Transportation (INDOT) is:

*Erin L. Hall, J.D.*

100 N. Senate Ave., IGCN 755

Indianapolis, IN 46204

(317) 234-6142

[Ehall2@Indot.IN.gov](mailto:Ehall2@Indot.IN.gov)

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#### TITLE VI/ADA CONTRACT COMPLIANCE SPECIALIST

The Title VI/ADA Contract Compliance Specialist reports directly to the Title VI/ADA Program Manager and acts as the program's Subrecipient Compliance Review Officer. Specifically, the Title VI/ADA Contract Compliance Specialist is primarily tasked with monitoring INDOT'S oversight 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 & ADA Contract Compliance Specialist is:

*Kimberly Radcliff*

100 N. Senate Ave., IGCN 755

Indianapolis, IN 46204

(317) 232-0924

[Kradcliff@Indot.IN.gov](mailto:Kradcliff@Indot.IN.gov)

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## LEGAL COUNSEL & INVESTIGATOR, TITLE VI & ADA PROGRAMS

In November, 2015, INDOT determined that a staff attorney and member of its legal division would be assisting INDOT's Title VI / ADA Program Manager 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.

The Staff Attorney assisting in Title VI and ADA matters is:

*Kristi Shute, J.D.*

100 N. Senate Ave., IGCN 755  
Indianapolis, IN 46204

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## TITLE VI/ADA 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 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 program area representatives. 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 & PROGRAM AREA TITLE VI LIAISON RESPONSIBILITIES:

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- 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 Program Area Representatives 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 INDOT Title VI Program Manager to attend each quarterly meeting and ensuring minutes are kept for the same.
- Coordinate with the Title VI Program Manager 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 30<sup>th</sup> annually.
- Ensuring 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 Title VI Program Manager annually by August 30 of each year.

Current Title VI Liaisons are identified in **Appendix A.**

## TITLE VI PROGRAM AREA REPRESENTATIVES (PARS)

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- 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 Program Area Representatives for 2015-16 are identified in **Appendix A**.

## PUBLIC INVOLVEMENT & COMMENTS ON INDOT'S TITLE VI PLAN

INDOT posts its annual title VI Implementation Plan as well as its Goals and Accomplishments Reports online. In addition, a majority of our program documents are available for download from INDOT's website. These documents can be found at [www.indot.in.gov](http://www.indot.in.gov) by following the "Nondiscrimination & Accessibility Link" on the left side of the home page.

Comments related to INDOT's Title VI Plan and policies as well as requests for a physical copy of our plan or program documents may be submitted at any time to our Title VI Program Manager at:

*Erin L. Hall, J.D.*

100 N. Senate Ave., IGCN 755

Indianapolis, IN 46204

(317) 234-6142

[Ehall2@Indot.IN.gov](mailto:Ehall2@Indot.IN.gov)

## OVERVIEW OF INDOT'S TITLE VI POLICIES, PRACTICES & PROCEDURES

The following is summary information about policies and procedures related to Title VI with further information contained in the referenced appendices and/or by following the referenced links. Many of INDOT's program area and division policies and manuals contain Title VI and/or nondiscrimination elements. These individual manuals can be found at [www.in.gov/indot](http://www.in.gov/indot).

The following are policies related agency-wide compliance with Title VI and include the following:

1. Program Area Review Procedures *(Includes Compliance and Enforcement Procedures)*
2. Special Emphasis Program Areas *(Includes Compliance and Enforcement Procedures)*
3. Agency Wide Data Collection Procedures for Title VI
4. Nondiscrimination Training
5. Complaint Policy
6. Subrecipient Review Procedures *(Includes Compliance and Enforcement Procedures)*
7. Public Involvement & Dissemination
8. Limited English Proficiency
9. Environmental Justice Programs

## 1. AGENCY-WIDE PROGRAM AREA REVIEW PROCEDURES

This section describes the pertinent INDOT program areas and the Title VI responsibilities of each program area. It defines the process for conducting annual reviews of program areas which includes:

- The objective of each program area review
- The types of reviews conducted for each program area including:
  - What activities are being reviewed;
  - What data is being collected and how;
  - The procedure for analyzing collected data; and
  - How the review will be used to determine the effectiveness of the program area.

As program areas are added and reviewed, it may be necessary for INDOT to develop or revise its objectives, types of reviews, data collection procedures, and processes used to analyze data and make determinations. Changes to program area reviews are reflected in our annual accomplishment report

This plan will be revised to reflect the same as necessary.

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### AGENCY-WIDE PROGRAM AREA REVIEW PROCEDURES

The following procedures apply to all program areas with current identified Title VI Tasks. These program areas have assigned a Title VI Liaison and Program Area Representatives as necessary to meet Title VI Program Goals. A list of current Title VI Liaisons and Program Area Representatives (PARs) can be found in **Appendix A**.

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### SELECTION AND IDENTIFICATION OF A PROGRAM AREA FOR TITLE VI INCLUSION

All of our programs areas are subject to Title VI compliance, however, specific program areas are identified and selected for Title VI program inclusion when it is determined that direct or significantly related Title VI Implications exist or are likely to exist within the program area. Moreover, INDOT periodically develops new program areas, merges program areas or discontinues their operations. This evaluation practice exists to ensure more thorough monitoring of the program area and effective communication related to its operations. Title VI Implications include:

- Potential for discrimination to result from program area activities;
- Complaints of discrimination arising from program area activities;
- The program area conducts activities intersecting accessibility, limited English proficiency, or environmental justice requirements;
- The program area involves contractual relationships with current and future subrecipients of Federal funds for which INDOT has subrecipient monitoring oversight authority and responsibility.

INDOT Program areas with one or more Title VI Implications or potential Title VI Implications may be identified by The Title VI Program Manager, Program Area Staff, FHWA or other agency for participation

in INDOT's Title VI Program. INDOT ultimately decides which program areas it selects for Title VI Participation.

Program area selection is renewed annually and programs are typically added and/or removed from direct program participation at the time INDOT revises its annual plan for FHWA (not later than October 1). Program participation allows for general monitoring of a program area or monitoring of only a specific aspect of a program area.

#### PERIODIC PROGRAM AREA EVALUATIONS

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All INDOT program areas will be periodically considered and evaluated for participation in the Title VI program. The evaluation will focus on whether or not Title VI implications exist in the program area and will include a periodic review of all State Agency Directives for Title VI implications. When a program is evaluated for participation, the Program Manager will also ensure all employees in that program area have received basic training on INDOT's nondiscrimination and accessibility policies and practices. This process ensures that as programs develop, expand, and/or reorganize, Title VI compliance can be maintained.

#### INITIAL PROGRAM AREA REVIEWS

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When a new program area is added to the Title VI Program monitoring, it is first tasked with assisting the Program Manager in the following:

- Identification of a Title VI Liaison;
- Identification of the Title VI Implications existing or with potential to exist in the program area;
- Objective for review of the program area;
- Tasks necessary toward the achievement of the objective;
- Data collection, analysis and reporting necessary to accomplish the identified tasks; and
- Program Area Representatives (PARs) who will assist the liaison in collecting, analyzing and reporting data sufficient to review the program area as it relates to its Title VI Implications in order to:
  - Identify and address any existing discrimination having occurred or likely to occur within the program area; or
  - To ensure and demonstrate that, despite the existence of Title VI implications within the program area, discrimination does not occur as a result of the program's operations.

Unless there is a need for immediate action, at least one program year is dedicated for each new program area to the above-identified tasks to ensure effective and appropriate participation in the Title VI Program.

#### ONGOING PROGRAM AREA PARTICIPATION

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Following an initial review, a program area will either:

- Be tasked with ongoing annual data collection and reporting related to Title VI implications; or
- Be identified as a special emphasis program area based upon:
  - the level of risk within that program area;
  - an ongoing concern (such as a complaint investigation) or concern of a supervisory agency such as FHWA regarding the program area (23 CFR 200.9(b)(6).)

### Program Area Reviews:

Program areas tasked with ongoing annual reporting requirements will continue to be required to:

- Collect, analyze and report data regularly collected and reviewed to ensure Title VI compliance of the program area
- Provide quarterly updates to the Title VI Program Manager that include:
  - Progress related to ongoing tasks and concerns;
  - Individuals in the program area who need Title VI Training;
  - Trends or patterns in the data being collected that may warrant a more in-depth review or analysis; (This includes instances where data collection efforts don't appear to be capturing the information intended or are otherwise insufficient to demonstrate compliance.)
  - Copies of meeting agendas, minutes, and notes that evidence regular Title VI discussions as a part of the program area's operations;
  - Any other issues related to Title VI.

### Special Emphasis Program Areas:

Special Emphasis Program Areas will, in addition to the above requirements for all program areas:

- Work with the program manager to develop a targeted annual action plan that addresses the objectives identified for the program area in light of the Title VI Implications that make this program area an area of special emphasis. These would include:
  - Conducting discrimination analysis;
  - Reviewing and potentially revising policies and procedures that may result in discriminatory outcomes; and
  - Addressing trends or patterns of discrimination identified during a review of the program area.
- Identify and train sufficient PARs to accomplish the tasks identified in the action plan;
- Work with attorneys and/or investigators, who, in addition to the Program Manager, may review policies, practices, data, or other documents to determine whether or not discrimination has occurred, or is likely to occur as a result of the program area and adopt and implement mitigation procedures designed to remedy and address all identified issues.

The goal of identifying special emphasis program areas is to ensure sufficient monitoring of high-risk programs and progress tracking for areas where there exists a material deficiency or discriminatory practice that requires resolution and reporting.

Certain program areas are likely to remain Special Emphasis Program areas on an ongoing basis due to the relationship of the work they do with Title VI requirements. Currently INDOT is monitoring its LPA Divisions activities as they relate to Local Public Agencies (LPAs), counties, and other Indiana communities who receive federal funding as an INDOT subrecipient.

## LPA DIVISION

INDOT's LPA Division works with Local Public Agencies (LPAs), Metropolitan Planning Organizations (MPOs), counties, cities and towns across Indiana to provide funding, including Federal funding for local projects. One of INDOT's primary responsibilities under Title VI is monitoring subrecipient compliance to ensure equitable distribution of federal funds and to eliminate discriminatory practices where they are found to exist. As a result, the LPA division is considered by INDOT an ongoing Special Emphasis Program area. INDOT currently has its Compliance Specialist embedded within this program area to focus primarily on subrecipient monitoring and technical assistance.

## AGENCY-WIDE DATA COLLECTION, ANALYSIS & REPORTING

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The type of data collected is dependent on the program area's objective. INDOT collects various types of data to ensure compliance with Title VI. Some information is collected for a period of time with the objective of determining what data needs to be collected. For example, INDOT's Title VI Program Manager may collect reports or studies from a program area one year to determine what implications exist and what types of information are reported, as well as what trends exist within that report or study. This may lead to specific categories of data gathered from those reports and evaluated over time.

The following types of data are currently being collected by INDOT on an agency-wide basis: (examples are available in [Appendix B](#) where possible)

- Public Involvement Surveys;  
These are collected by all INDOT programs that engage the public in public meetings and forums and are circulated during training opportunities where members of the public are invited to participate in our training programs.
- Records of employee and subrecipient Title VI required training;  
INDOT employees are provided Title VI training on an ongoing basis and records are maintained that reflect INDOT's agency wide training attendance.
- Subrecipient compliance information; (i.e. existence of required plans & policies, related records)  
All subrecipients of federal funds via INDOT are required to certify their compliance with Title VI requirements. INDOT regularly reviews their compliance.
- Records related to real estate transactions;  
INDOT's LRS (record system for land records) is used to gather and store demographic data related to INDOT's real estate transactions. This data is periodically evaluated for discriminatory impacts.
- Records related to the installation of accessible pedestrian signals and other improvements related to improving the accessibility of INDOT's assets; (INDOT's ADA Inventory)  
INDOT maintains an inventory of pedestrian facilities and barriers to accessibility in its program and on its properties. INDOT's ADA transition plan is followed to ensure effective barrier removal.
- Environmental Justice analysis, studies and reports;  
INDOT maintains records of its EJ analysis and its Title VI Program Manager reviews these studies and outcomes to ensure discrimination does not occur.

- Complaints received, logged, processed and investigated by INDOT;
- Limited English Proficiency requests, reports and needs analysis;  
Our LEP report form and I Speak cards reflected in our LEP plan is implemented on an agency wide basis in order to conduct our analysis, provide adequate services to LEP population and avoid discriminatory outcomes.
- Records of meeting minutes and discussions related to Title VI.  
These are collected by our liaisons in each program area and district to ensure there is a forum for Title VI discussions on an agency wide basis.

INDOT is working with its liaisons and PARs (agency-wide) considering how best to collect the following information:

- Data related to opportunities to do business with INDOT including lists of those approved to perform professional services for INDOT;
- Data collected by our Real Estate Division outside of the relocations sub-program area (data related to condemnations, buying, appraising);
- Data related to outside training opportunities provided by INDOT.

Additional data being collected related to specific tasks and objectives is identified in INDOT's Annual Goals and Accomplishments Report. It is within this annual report that the above information is summarized and published. This report is posted on INDOT's website each year after it has been submitted to FHWA for approval.

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## INTERNAL COMPLIANCE ENFORCEMENT

When data, complaints, or other information reveals a program or practices may result in a discriminatory outcome, INDOT's Title VI Program Manager works with our Title VI liaison team, Chief Counsel and necessary subject matter experts to respond immediately and evaluate the program or practice to determine whether discrimination has occurred or is likely to occur and to determine what modifications need to be made to the program or practice to ensure discrimination does not occur or remedy discrimination where it exists.

## COMPLAINTS OF DISCRIMINATION

INDOT has a complaint policy for complaints of discrimination related to Title VI and will promptly investigate all properly submitted complaints of alleged discrimination. Note that ALL COMPLAINTS AGAINST INDOT will be referred to the Federal Highway Division (FHWA) or the appropriate Federal agency for investigation while INDOT will investigate complaints filed against subrecipients over whom INDOT has oversight authority.

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 its final confidential investigative report to FHWA. INDOT's complaint process provides a procedure for appeal of all unsubstantiated claims of discrimination.

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## **A. COMPLAINT INVESTIGATION PROCEDURES**

The Title VI/ADA 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 sub-recipient (the legal entity to which INDOT made a sub-award and which is accountable to the recipient for the use of the funds provided). If the complaint does not specifically mention that the alleged discriminatory actor is an INDOT sub-recipient, 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 its related statutes, regulations and directives; the Americans with Disabilities Act of 1990, as amended; and Section 504 of the Vocational Rehabilitation Act of 1973. 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 that include punitive damages or compensatory remuneration 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/ADA Program Manager will make every effort to pursue a resolution of the complaint.

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## **B. 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, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency may file a complaint. A complainant's representative may also file a complaint on behalf of such a person.

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### C. TIMELINESS OF COMPLAINTS

For a complaint against INDOT or a sub-recipient 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 date a signed, written complaint is received by INDOT.

INDOT will 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.

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## LOCATION/AVAILABILITY OF COMPLAINT FORMS

INDOT will make its complaint forms available online via the INDOT website. Additionally, persons may contact the Title VI/ADA Program Manager to request a copy of the complaint form via email, facsimile or United States mail. INDOT's Title VI/ADA Program Manager shall provide copies of its complaint form in alternative formats upon request. Complainants are encouraged, but not required, to use the complaint form when filing a complaint.

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## HOW TO FILE A COMPLAINT?

While a Complainant may preliminarily submit his or her complaint by online form submission, mail, facsimile, or email to the Title VI / ADA Program Manager, a signed, original copy of the complaint must be mailed to the Title VI / ADA 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 and related Notices are included in **Appendix C**.

Direct all complaints of discrimination pursuant to Title VI to:

Erin L. Hall  
Title VI/ADA Program Manager  
Economic Opportunity Division  
Indiana Department of Transportation  
100 N. Senate, Room N750  
Indianapolis, IN 46204  
[ehall2@indot.in.gov](mailto:ehall2@indot.in.gov)  
(317) 234-6142 (Phone)  
(317) 233-0891 (Facsimile)

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## 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/2750.htm>.

Additionally, a complaint must include the following information:

- The full name and address of the Complainant;
- The full name and address of the Respondent, 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, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency 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 Title VI/ADA 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.

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## PROCESSING COMPLAINTS

The Title VI/ADA Program Manager will process all complaints. The Title VI/ADA Program Manager is responsible for:

- Maintaining a log of all complaints. The Title VI/ADA 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 of the complaint and informing the Complainant of the action taken or proposed action to be taken to process the complaint in the form of an acknowledgement letter. The acknowledgement letter shall include a restatement of the complaint, brief statement of INDOT's jurisdiction over the sub-recipient, and contact information for the investigator assigned to conduct the investigation.
- Providing written notice of the complaint to the FHWA within 10 working days of receipt of the complaint.
- Forwarding 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.
- Informing 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.

- Providing the Respondent an opportunity to respond to all aspects of the Complainant's allegations.
- Determining which witnesses will be contacted and interviewed.
- Contacting the Complainant to provide the Complainant an opportunity to provide additional information before INDOT prepares its final report to be forwarded to FHWA.
- Writing a confidential investigative report (IR) and forwarding a copy of the same to the FHWA within 180 calendar days following the receipt of the complaint by INDOT. The report shall not be disclosed to the Complainant or Respondent. The report shall include the following:
  - A summary of the written complaint;
  - A brief description of the standard of review/methodology used to investigate the complaint;
  - Summarized statements taken from witnesses;
  - 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; and
  - Proposed corrective action for substantiated cases.
- 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 will 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; and
  - A notice of the right to appeal to the FHWA with an outline of the procedures for appeal.

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#### CORRECTIVE ACTION

If INDOT recommends corrective action, INDOT will give the Respondent 30 calendar days to inform INDOT of the actions taken for compliance. The Title VI/ADA Program Manager shall monitor Respondent's corrective action compliance.

Corrective action may include actions that the Respondent will complete at a future date after the initial 30 days and must include projected time in which the Respondent will complete the action.

If the Respondent has not taken the recommended corrective action within the 30-day period allowed, INDOT will find the Respondent to be in noncompliance with Title VI and its implementing regulations. Noncompliance not corrected by informal means as described above may be subject to sanctions as per 49 CFR § 21.13.

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## PRE-INVESTIGATIVE/ADMINISTRATIVE CLOSURES

It is the general practice of INDOT to investigate all complete complaints not referred to other agencies for investigation; however, INDOT may administratively close a complaint at its discretion. The types of complaints that may be administratively closed and will not be investigated include, but are not limited to, the following:

- Incomplete Complaints
- Complaints that fail to state a claim or provide any substantial or coherent claim;
- Complaints that are outside the scope of INDOT's Title VI jurisdiction;
- Untimely complaints filed more than 180 days after the alleged discriminatory acts;
- Complaints voluntarily withdrawn by the Complainant;
- Complaints in which the investigation has been impaired by INDOT's inability to locate the Complainant;
- Complaints that are a continuation of a pattern of previously filed complaints involving the same or similar allegations against the same recipient or other recipients that repeatedly have been found factually or legally unsubstantiated by INDOT;
- Complaints containing the same allegations and issues that have been addressed in a recently closed complaint or compliance review conducted by INDOT;
- Complaints containing allegations that are foreclosed by previous decisions by the Federal courts, Department of Justice or INDOT policy determinations;
- Complaints filed for complainants or parties who refuse to cooperate with the investigation and whose lack of cooperation substantially impairs the completion of the investigation. In such circumstances, the Complainant should be contacted and advised that their lack of cooperation has hindered the investigation. Furthermore, the Complainant must be advised that continued failure to cooperate may result in an administrative closure of the complaint without further investigation;
- Complaints transferred to another agency for investigation; and
- Complaints where the death of a Complainant makes it impossible to investigate the allegations fully or the death of the Complainant forecloses the possibility of relief because the complaint involved potential relief solely for the Complainant or injured party.

INDOT shall notify Complainants in writing via United States Postal Service (regular mail) when a determination is made to administratively close a case without further investigation. The notification shall include an explanation of the basis for the administrative closure.

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## APPEALS PROCEDURES

The Complainant has the right to appeal to the FHWA any determination that results in an unsubstantiated claim. INDOT will convey to the Complainant the procedures for filing the appeal to the FHWA along with the Letter of Findings. The procedure for filing an appeal with FHWA is:

- Complainant must submit the appeal in writing to the Title VI/ADA Program Manager within 14 calendar days of receipt of INDOT's Letter of Findings.
- Complainant must cite in the appeal the specific portion(s) of the finding with which the Complainant disagrees and the reason(s) for the disagreement.
- INDOT will forward the appeal and the record within seven calendar days to FHWA for review.
- FHWA has 30 calendar days after the receipt of the appeal to complete its review.
- Written findings of FHWA are then sent to the Complainant and the INDOT Commissioner.

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## CONFIDENTIALITY

In accordance with DOT Order 1000.12, 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 (typically FHWA) 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.

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## RECORDS

INDOT's Title VI Program Manager shall maintain all records of an investigation in a confidential area for three 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 onsite compliance reviews as a tool to monitor Title VI compliance and deter discrimination. INDOT conducts compliance reviews to comply with Title VI, to monitor recipient and sub-recipient compliance, and to proactively identify and remedy potential and actual violations of the nondiscrimination laws.

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## TYPES OF SUBRECIPIENT COMPLIANCE MONITORING & 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
- Counties
- Universities & Colleges

Levels of subrecipient monitoring may include:

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

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

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## POLICIES AND PROCEDURES FOR CONTRACTOR COMPLIANCE REVIEWS

The Title VI/ADA Program Manager has historically conducted Title VI compliance reviews of contractors contemporaneously with the EEO contract compliance reviews. Title VI reviews are now done separately with a Title VI review notice sent out and a separate set of questions, data analysis and a separate compliance determination. The Title VI/ADA Program Manager requests that the subrecipient under review provide documentation before a scheduled telephone conference or onsite visit. Then, the Title VI/ADA Program Manager reviews the sub-recipient's responses and during the conference or onsite and provides feedback to the sub-recipient. By using this method, the Title VI/ADA Program Manager has been able to provide a same day verbal preliminary determination of compliance to the sub-recipient.

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## CONTRACTOR/CONSULTANT COMPLIANCE REVIEW PROCESS

1. The Economic Opportunity Division provides written notice to the contractor of the scheduled compliance review which usually occurs in conjunction with the contract compliance review of the subrecipient. 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 and witnesses available.
2. 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.
3. Information received from the contractor/consultant is desk reviewed by INDOT 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.
4. When conducted, the onsite reviews consist of three phases and are conducted by the Title VI/ADA Program Manager, Compliance Specialist, or other trained INDOT staff.
  - The first phase consists of a meeting with leadership and pertinent personnel. The reviewer will interview pertinent personnel and gather sufficient information to determine the sub-recipient's compliance. The reviewer uses the onsite review form to solicit and record information gathered during the onsite 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 onsite 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 onsite review, the reviewer will conduct an exit interview with the pertinent personnel to report preliminary findings, conclusions and recommendations.
5. Preliminary Findings – Following the conclusion of the desk review and/or onsite review, the reviewer shall provide the contractor with a written report of preliminary findings which shall:
- Document any deficiencies observed and direct 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 it 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:

- Title VI Coordinator needs to participate in Title VI training;
  - Contracts do not contain nondiscrimination assurance language; No method to solicit Disadvantaged Business Enterprises 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, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency;
  - 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.
- 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.
6. 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 tiered subrecipient monitoring approach for Indiana communities who are subrecipients of federal funds via INDOT is as follows:

- Annual precertification survey
- 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

The Pre-Award Certification and Assurance is a self-reporting tool accessible online via the following link: <https://itap.indot.in.gov/>. The purpose of the Annual Pre-Award Certification and Assurances is to monitor LPA compliance with the civil rights laws on an ongoing basis. The Annual Pre-Award Certification and Assurance is an online survey that the LPA completes each year. In 2016-17 INDOT is working to develop a submission portal for program documents, but until this portal is developed, LPAs should plan to complete the annual survey. Once the portal is developed, annual certification will be made to ensure documents and information in INDOT's portal is updated and accurate.

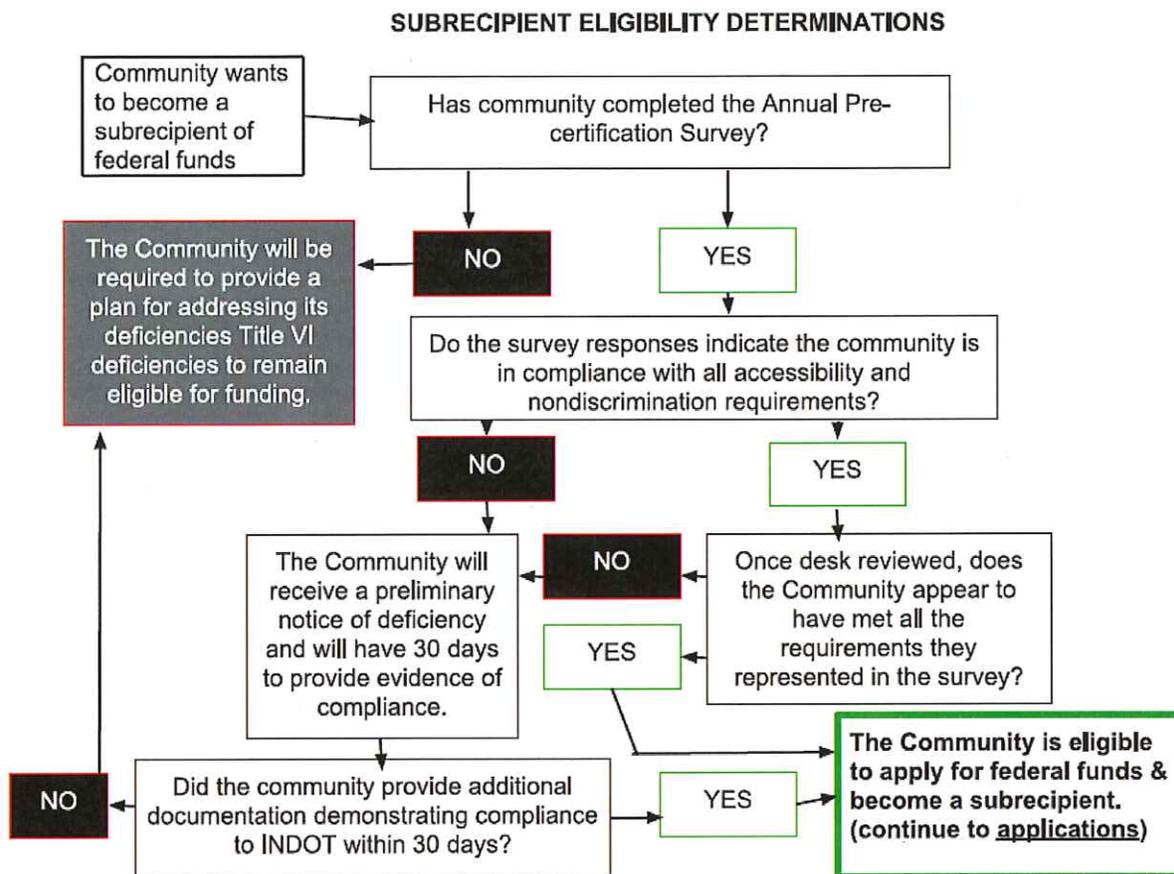
The LPA Annual Pre-Award Certification and Assurance outlines the basic requirements to ensure nondiscrimination in LPA transportation projects and is now used by INDOT to determine funding eligibility. An LPA or MPO must be Title VI and ADA compliant to remain eligible to receive federal funds. In 2016-17 INDOT will continue to consider eligible communities who have submitted a voluntary action plan to resolve their deficiencies and are demonstrating good faith efforts to come into compliance with these requirements. INDOT is responsible for monitoring subrecipients to ensure compliance.

## LPA PRE-AWARD SURVEY REVIEW PROCESS

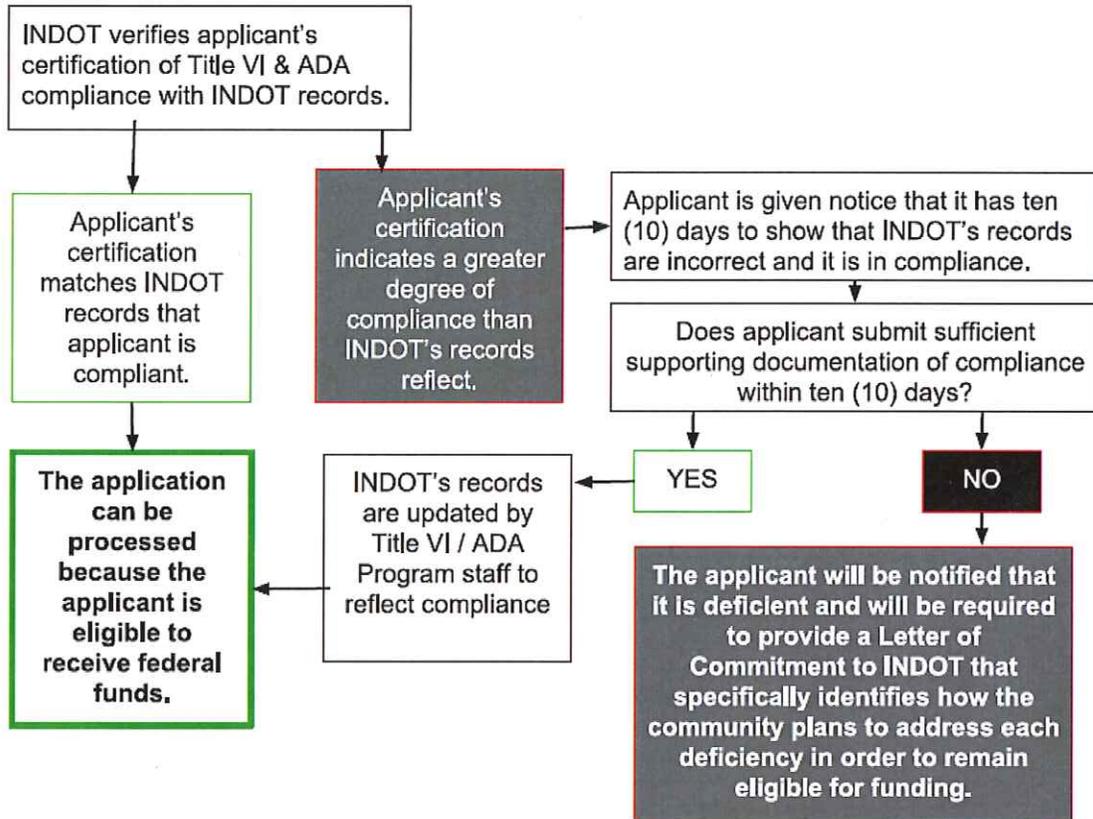
For all categories of subrecipients, INDOT will make an effort to communicate clear expectations to potential and current subrecipients at the time of contracting with INDOT about what it expects in terms of compliance and what specifically it will require to demonstrate compliance.

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

LPA / MPO SUBRECIPIENT REQUIREMENTS FLOWCHARTS:



### APPLICATIONS FOR FUNDING



**The Annual Precertification Survey will form the basis of the pre-award subrecipient compliance monitoring program at INDOT as follows: ( A copy of the survey is attached in [Appendix G.](#))**

- a. Desk review of annual precertification survey responses:
  - INDOT conducts a preliminary review of **all** responses submitted during the annual precertification survey period (currently June 30 to September 1 each year). This results in around 300 desk reviews of subrecipient surveys annually and forms the foundation of INDOT's subrecipient monitoring program.
  - The compliance specialist looks at the website for each community to ensure information reported during the survey is accurate and contacts the LPAs directly to verify the same if necessary.
  - The objective of the precertification survey and desk review is to conduct a comprehensive baseline annual assessment of the statewide level of Title VI subrecipient compliance and to follow up each assessment with ongoing monitoring and technical assistance to deficient communities providing support until the deficiencies have been resolved.
- b. Preliminary Compliance Notifications:
  - LPAs who completed the survey will be notified of their preliminary compliance determination and whether or not they are eligible to apply for federal funds from INDOT without taking further action to address deficiencies.
  - LPAs who do not complete the survey but who have completed the survey in previous years will be notified of their noncompliant status and requested to update their information.
  - LPAs who have never completed the survey will not be notified.
- c. 30-day Compliance Review period:
  - Upon receipt of their notification of a preliminary determination of deficiency or noncompliance, the LPA will have thirty (30) days to provide additional documentation or evidence of compliance that will be considered as part of the annual precertification determination.
  - Once this thirty (30) day period has expired, INDOT will issue its final Annual LPA Compliance Report. LPAs who are deficient or noncompliant must provide a Letter of Commitment to INDOT specifically addressing each deficiency and how it will be resolved in order to remain eligible to receive federal funds via INDOT until they have resolved their deficiencies and been found in compliance. Applicants who do not provide letters of commitment may have their funding determinations deferred or other administrative action taken to address the noncompliance. A sample letter of commitment is included in **Appendix D.**
- d. Onsite Reviews target current subrecipients who are in noncompliance:
  - Onsite reviews may not be necessary; however onsite reviews may be performed during the precertification survey reviews process at the

discretion of the Title VI Program Manager or upon request of the subrecipient.

- Subrecipients who are already receiving funds from INDOT on one or more projects would likely require ongoing review for all but minor deficiencies.

IN 2016-17 INDOT will begin developing a submission and certification portal to replace the precertification survey, however LPAs should continue to complete the annual survey until otherwise directed.

#### **PROJECTS & GRANT APPLICANT COMPLIANCE MONITORING PROCEDURES:**

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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:
  - At the time of application, applicants submit a letter indicating their level of compliance with Title VI/ADA. In 2016 this letter was made part of the required documentation as part of the application for funding;
  - Representations made in the letter are cross-checked with our most recent reviews;
  - If the applicant indicates a higher level of compliance (i.e. claims to have Title VI plan when our last review indicated they did not), the applicant must submit proof that the missing program element existed at the time of the last precertification survey (before September 1 of the most recent calendar year) and provide supporting documentation for review by the Title VI program staff.
2. 10-day Compliance Review period:
  - If received, supporting documents are forwarded to the Title VI Compliance Staff for consideration; and,
  - If acceptable, changes are made to the compliance level indicated in the database.
3. 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 **Appendix D**.

## POST-AWARD SUBRECIPIENT COMPLIANCE MONITORING

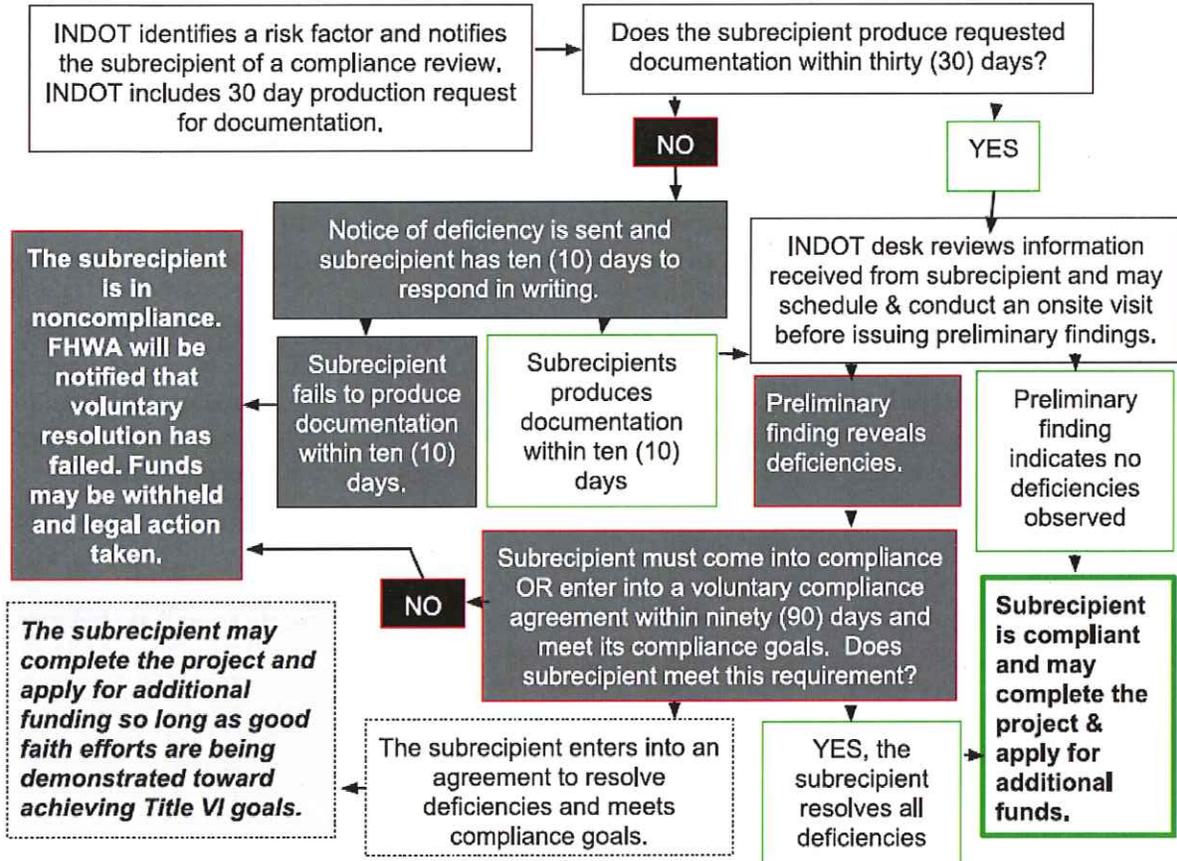
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Post-award Subrecipient Compliance Monitoring is focused on ensuring compliance with the assurances of nondiscrimination and is risk-based. A post-award risk-based compliance review may be conducted based upon the following:

- A high-dollar or high-impact project is being undertaken by the LPA. Impacts may or may not be related to minority, low income, disabled, or other specifically-protected individuals;
- The LPA has received a complaint of discrimination or INDOT has received a complaint about the LPA; or
- INDOT has other reason to suspect the LPA may not be in compliance with nondiscrimination requirements. This may be based upon the manner of construction of improvements, content present or absent from the LPA's website, responses of the LPA to the annual precertification survey or lack thereof, comments made in the official capacity of the LPA, actions taken that generate concern regarding the level of the 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 / pedestrian projects as well as stellar grant recipients. These projects have a high correlation to Title VI program goals.

### LPA / MPO Compliance Reviews



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.

- i. 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.
- ii. 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 desk reviewed by the Title VI compliance staff and a telephone call is scheduled to discuss preliminary deficiencies observed and to request additional information as necessary.

The following factors will play a role in determining whether or not an onsite review is necessary:

- Deficiencies are directly related to improvements being constructed or maintained by the subrecipient;
- Deficiencies include missing entire program components or are otherwise considered major deficiencies;
- The subrecipient's program coordinator or representative has not been identified and/or does not appear to have the support of the executive leadership of the 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 onsite review, the reviewer shall provide the subrecipient with a written report of preliminary findings which shall:

- Document any deficiencies observed and direct the subrecipient to come into compliance within 90 days.
- Require that any deficiency which cannot possibly be resolved within 90 days shall be reflected in 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 it 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.

4. Following the expiration of 90 days, INDOT with either:
  - 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.
  
5. Copies of all notices will be provided to FHWA.

#### REQUIREMENTS FOR LPA'S DEFICIENCY RESOLUTION:

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A subrecipient may become compliant at any time by submitting sufficient documentation to the Title VI Compliance Specialist for review that demonstrates resolution of their deficiencies; however, INDOT requires time to review the documentation submitted and compliance determinations will not be able to made in a manner that would improve eligibility at the time of application 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 **Appendix D.**)

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## RECORDKEEPING & REPORTING

INDOT shall maintain a log of all compliance reviews for three (3) years following the completion date of each review determined by the date the final compliance determination letter was sent to the subrecipient or the last action on the file, whichever is later. The Title VI/ADA Program Manager and Compliance Specialist shall update the log periodically when INDOT schedules reviews, sends notifications to a subrecipient and sends a final report to the FHWA.

Each complete compliance review file should contain the following documentation and evidence before INDOT notifies the sub-recipient of Title VI compliance<sup>2</sup>:

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

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<sup>2</sup> This list may be revised periodically as the review process is further developed and implemented.

#### EXAMPLES OF TITLE VI DEFICIENCIES:

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

## NONDISCRIMINATION & ACCESSIBILITY TRAINING

This section of INDOT's Title VI Implementation Plan describes how and when members of INDOT's own staff as well as subrecipients and others receive Title VI 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 liaisons, program area representatives, and Civil Rights staff receiving the greatest degree of training while other INDOT employees receive training sufficient to ensure agency compliance with Title VI requirements.

#### INDOT University Online Nondiscrimination and Accessibility Training:

INDOT developed an online training module in 2015 that is 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 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.

#### INDOT Liaison or Manager-presented Training:

In 2016 INDOT's Title VI Program Manager added voice / audio files to each of its INDOT training slides making it easier for managers to provide training to their employees in a small group setting and for INDOT employees to receive training from their work area independently. This training module can also be incorporated into Peoplesoft and distributed to INDOT employees.

#### 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 three (3) regularly scheduled training opportunities to be conducted in each INDOT district in 2016-17. 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 program area representatives 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.

INDOT also plans to offer monthly virtual "office hours" in 2016-17 where Staff can connect via a webex conference code to ask Title VI & ADA questions of Program Management during a dedicated scheduled time slot. IN 2016-17 these virtual office hours will occur as follows:

- **Virtual Office Hours will be held for Subrecipient Questions:**
  - **The FOURTH WEDNESDAY of every month in 2016-17**
  - **From 1:30 pm until 3:30 pm, Eastern Time.**

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## 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
- INDOT “Title VI/ADA Bootcamp” all-day training workshops offered at least once annually
- 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/files/DBE\\_SubrecipientTechnicalAssistanceTool.pdf](http://www.in.gov/indot/files/DBE_SubrecipientTechnicalAssistanceTool.pdf).

Many times additional training sessions are held by and through INDOT’s participation in conference including those hosted by the MPO council, IACT, and Purdue Road School. INDOT also schedules and provides more intensive training seminars or “summits” as the need arises and often participates jointly with FHWA in these endeavors.

INDOT also plans to offer monthly virtual “office hours” in 2016-17 where subrecipients can connect via a webex conference code to ask Title VI & ADA questions of INDOT representatives during a dedicated scheduled time slot. IN 2016-17 these virtual office hours will occur as follows:

- **Virtual Office Hours will be held for Subrecipient Questions:**
  - **The THIRD WEDNESDAY of every month in 2016-17**
  - **From 10:00 am until Noon, Eastern Time.**

This information, as well as dial-in information will be provided as part of the Gov Delivery newsletter. Eligible subrecipients may also contact Erin Hall directly for conference information. ([Ehall2@Indot.in.gov](mailto:Ehall2@Indot.in.gov))

## ENVIRONMENTAL JUSTICE

INDOT’s Environmental Justice (EJ) compliance efforts are a part of its Title VI compliance program. This section of INDOT’s Title VI Plan describes how EJ considerations are integrated into INDOT’s program areas. Minority and low income information is included on Public Involvement Surveys (**Appendix B**) and as a part of the demographic data collected where demographic data collection is an appropriate and necessary part of a program area’s Title VI compliance efforts (e.g. Relocation). For specific current

and ongoing data collection efforts, please see INDOT's Annual Goals and Accomplishments Report. All demographic data collection endeavors referenced include low income and minority information for the purposes of determining EJ impacts.

Data collected will be analyzed by the PARs and Program Area Liaison together with the Title VI Program Manager and/or Assigned Staff Attorney to conduct an appropriate benefits and burdens analysis. EJ populations are also included on INDOT's Nondiscrimination and Accessibility Complaint forms and are reflected throughout pertinent agency policies, such as INDOT's Public Involvement Policies. (See [http://www.in.gov/indot/files/PI\\_PublicInvolvementManual\\_2012.pdf](http://www.in.gov/indot/files/PI_PublicInvolvementManual_2012.pdf) as an example.) When an issue arises, via complaint or otherwise, INDOT staff work together to evaluate whether or not changes in policy or practice are appropriate as part of the resolution of the issue.

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#### ENVIRONMENTAL SERVICES DIVISION:

Much of INDOT's EJ compliance is handled by and through INDOT's Environmental Services Division.

The goal of the Environmental Services Division is to ensure that INDOT identifies and addresses environmental needs during the development process of its projects. Within Environmental Services there are three sections: Cultural Resources, Ecology and Waterway Permitting and Environmental Policy. The NEPA (National Environmental Policy Act) process considers environmental justice a component of Title VI and the division communicates these analyses to the Title VI Program Manager.

The Environmental Services division has three publications available to consultants and service providers to ensure they are aware of Title VI and ADA requirements. These include the INDOT CE (Civil Engineering) Manual, the INDOT Procedural Manual, and the INDOT Environmental Justice Policy. This division monitors compliance through the NEPA process. Requirements are discussed as early as planning stages while purpose and need are being assessed and during kick-off meetings.

Demographic data is collected from the census website for all projects requiring environmental review. An environmental justice analysis is required for all EA and EIS projects as part of the NEPA document. This division works hard to ensure that there are not disproportionate and adverse impacts by INDOT projects.

This division conducts EJ analyses as part of the NEPA requirements. These analyses consider whether or not an EJ population exists, and, if so, what level of EJ analysis and reporting is required. Copies of these analyses are forwarded to the Title VI Program Manager, and are also maintained by the Environmental Services Division.

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#### TRAINING & AWARENESS OF EJ REQUIREMENTS:

Like many other areas of Title VI Compliance, awareness is vital to the success of the program. As such, EJ requirements are included in all of INDOT's internal and external training programs. These training sessions discuss how EJ issues can arise at any time from inception of a program through its completion and into maintenance of operations. Training encourages employees to identify and report potential EJ issues to Program Management to ensure proper consideration of any and all EJ issues that may arise as part of INDOT's operations or those of any subrecipient or stakeholder.

## 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 ([Appendix B](#)) coupled with employee training sufficient to create an effective monitoring program;
- An LEP Analysis (see [Appendix E](#)); and
- An LEP Plan (also in [Appendix E](#).)

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 Implementation Plan. Training provided to INDOT employees in person or via the online module contains information about LEP requirements and tools INDOT uses to gather information on an ongoing basis about LEP needs. INDOT has also aligned itself with the safe harbor provisions pursuant to FTA Circular 4702.1B and maintains a separate Title VI Plan addendum specific to 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, set forth in [Appendix E](#).

INDOT's LEP information gathering tools include the use of the following: (Included in [Appendix E](#) as appropriate)

- Internal LEP Report Form
- "I Speak" Cards
- 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 [Appendix E](#), INDOT LEP Analysis and LEP Plan.

## ACCESSIBILITY (ADA)

Accessibility is necessarily a part of INDOT's Implementation Plan as discrimination on the basis of disability is also prohibited by law. INDOT describes its accessibility programs in its ADA Transition Plan available online at <http://www.in.gov/indot/3036.htm>. INDOT aims to comply with the American's with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act by:

- Identifying an ADA Coordinator
- Maintaining a complaint policy and forms
- Ensuring public meetings and information made available online is accessible
- Adopted and utilizing its ADA Transition Plan
- Continued participation in an ADA Working Group for public involvement and participation. In 2016 this group amended its charter to provide regional representation and create a forum for state-local accessibility discussions.
- Use of an internal Technical Advisory Committee for the consideration of Technical Infeasibility Requests to ensure that compliance to the maximum extent possible with accessibility requirements is achieved when constructing pedestrian facilities and accessible features of roadways. This committee consists of various technical staff at INDOT who provide recommendations together with INDOT's Title VI and ADA Program Manager.

Accessibility is also part of INDOT's internal and external Title VI Training.

## PUBLIC INVOLVEMENT

INDOT has an Office of Public Involvement within its Communications Division. The Office of Public Involvement (OPI) is within the Communications Division. It promotes proactive public involvement activities for INDOT projects and ensures compliance with the National Environmental Policy Act (NEPA) federal regulation pertaining to public involvement in project development.

The role of INDOT's OPI is to ensure compliance with state and federal laws and regulations pertaining to public involvement in transportation decision-making including Title VI and related non-discrimination laws, rules and regulations. Compliance with federal laws connected to the NEPA is required to receive federal funds for transportation improvement projects in INDOT's production schedule.

Any project receiving or planning to receive federal funds as part of the funding mechanism is subject to at least a minimum level of public involvement, which must be documented and certified by the OPI for the project to proceed to the next stage of development. The goal of course is to exceed the minimum standards to maintain meaningful and effective levels of public involvement. Public involvement activities may include public hearings public meetings and project newsletters/correspondence mailed directly to property owners and project stakeholders, internet/electronic notification and paid legal advertising.

INDOT uses a voluntary public involvement survey ([Appendix B](#)) to collect information regarding persons affected by proposed transportation projects. The survey permits respondents to remain anonymous, while voluntarily answering questions regarding their, race, color, national origin, sex, sexual

orientation, gender identity, age, disability status, religion, household income or limited English proficiency.

INDOT makes voluntary public involvement survey available at all public hearings and meetings. Additionally, the INDOT facilitator of the meeting or hearing is responsible for making an announcement at the beginning and end of the meeting or hearing informing the attendees of the purpose of the survey. The facilitator shall then make a request for the attendees to complete the survey.

INDOT retains completed surveys for three years from the date of the meeting and/or completion of the related project if applicable. These surveys are retained by the Title VI Program Manager.

INDOT Public Involvement Policy Manual can be found online at :

[http://www.in.gov/indot/files/PI\\_PublicInvolvementManual\\_2012.pdf](http://www.in.gov/indot/files/PI_PublicInvolvementManual_2012.pdf) .

The current Public Hearings Manager in charge of this office is:

Rickie Clark  
Public Hearings Manager  
Indiana Department of Transportation, IGCN Room 755  
100 North Senate Avenue  
Indianapolis, IN 46204  
(317)232-6601  
[Rclark@indot.IN.gov](mailto:Rclark@indot.IN.gov)

#### COMMUNICATIONS – PUBLIC NOTICES

INDOT publishes legal notices in newspapers throughout the state to: (1) announce a planned improvement project or a public hearing, (2) inform the community where project related documents and preliminary design plans are available for public review, (3) solicit public comment on the proposed project, and (4) inform individuals with disabilities of the right to request an accommodation if needed so that the individual can participate in the public involvement process.

INDOT publishes legal notices in the most widely circulated papers within a project area and in non-traditional and/or minority papers within a project area where applicable. Each year the OPI purchases an Indiana Media Directory to identify, determine and coordinate legal notice publishing in Indiana newspapers and periodicals. INDOT determines where to publish legal notices and in what publications on a case-by-case basis to achieve broad and effective public involvement on a non-discriminatory basis depending on the availability of such publications within a project area when applicable.

In addition to the above and through coordination and consultation with the project team (project manager, design and environmental, others) and upon assessing the project scope and level of impact, the OPI publishes legal notices in non-traditional and/or minority papers statewide on a project specific basis.

OPI performs the public involvement tasks for most INDOT projects. Frequently, for large-scale projects, a consultant is used and the public involvement tasks are included in the scope of the work performed

by the consultant. OPI notifies consultants and professional service providers doing business with INDOT of INDOT's policies by using its public involvement listserv to communicate information.

Often, OPI will ask the consultant to perform public involvement activities to assist INDOT in areas of resources and support. When INDOT uses a consultant to perform the public involvement tasks for a project, the INDOT project manager for the project monitors and evaluates the consultant's performance. Additionally, to ensure that the consultants charged with performing the public involvement tasks complete the work satisfactorily, an OPI staff member's signature is required for all LPA and state projects to certify the completion of all public involvement tasks.

Additionally, the OPI uses listservs maintained by other INDOT divisions such as Environmental Services, Design and Local Public Agencies to communicate information to the consultant and professional service providers doing business with INDOT.

### **Collection of Demographic Information**

OPI collects demographic information regarding the race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status or limited English proficiency of the public during its delivery of services using the Voluntary Title VI Public Involvement Survey, which it makes available at public meetings and hearings. Additionally, OPI includes the survey in all of its mailings to property owners and project stakeholders that it routinely sends out in conjunction with the public involvement process for a project. The form is also available on the OPI web page for interested persons to print and submit to INDOT at their convenience.

### **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 Division of Aging and Disability to arrange the provision of auxiliary aids and services through their list of providers.

**TITLE VI TECHNICAL ASSISTANCE TOOL UPDATE**

INDOT developed the Title VI Technical Assistance Tool based on the results of its internal reviews of its core programs. The results of INDOT's internal assessment of its Title VI compliance efforts appear in the table below.

<b>State Transportation Agency (STA) Responsibilities</b>			
<b>A. General:</b>	<b>Yes</b>	<b>No</b>	<b>?</b>
1. Has the STA submitted Title VI nondiscrimination assurances to the Division? ( <i>Considerations:</i> within last 5 yrs, 2yrs, or longer) (23 CFR 200.9(a)(1))	X		
2. Does the assurance certify that discrimination based on sex is prohibited? (23 CFR 200.9(a)(2))	X		
3. Does your assurance include Civil Rights provisions of other Federal statutes that prohibit discrimination? (23 CFR 200.5(p))	X		
4. Does the STA have a Civil Rights unit, e.g., an office or department? ( <i>Considerations:</i> Are the functions of your Civil Rights implementation delegated?) (23 CFR 200.9(b)(1))	X		
5. Is the CR unit adequately staffed to effectively implement the State's CR requirements? (23 CFR 200.9(b)(2)) ( <i>Considerations:</i> (a) The meaning of "adequate" is relative to each office with regard to overall staff responsibilities. There is no "magic figure" concerning the number of staff assigned implementation responsibilities. (b) Can your staff, in fact, implement the State's Civil Rights requirements vs. simply knowing what is expected of them as staff?)	X		
6. Has your STA included in its directives, specific discriminatory practices that are prohibited? (49 CFR 21.5(b)) ( <i>Considerations:</i> Do your STA's directives prohibit practices such as, but not limited to: segregation or separate treatment in any part of the program; different standards or requirements for participation; discrimination in any employment resulting from a program?)	X		
<b>B. Implementation:</b>			
1. Has the STA designated a Title VI Coordinator or Title VI Specialist? (23 CFR 200.9(b)(1))	X		
2. Does the Coordinator/Specialist have easy access to the Head of the STA? (23 CFR 200.9 (b)(1)) ( <i>Consideration:</i> With regard to "access": Must the coordinator or specialist obtain permission from his/her supervisor or someone else before talking with the Head of the STA?)	X		
3. Does the Title VI Coordinator/Specialist have the responsibility to monitor Title VI activities and prepare required reports? (23 CFR 200.9(b)(1))	X		
4. Has the STA provided or coordinated Title VI training? ( <i>Consideration:</i> within 1-3 yrs, attendees (# and disciplines) (23 CFR 200.9(b)(9))	X		
5. Has the Title VI Coordinator/Specialist submitted a Title VI Implementation Plan to the Division Office for approval? (23 CFR 200.9(b)(11)) ( <i>Consideration:</i> Federal regulations require an updated State Title VI Implementation Plan every year.)	X		
6. Has the STA developed Title VI information for dissemination to the general public and, where appropriate, in languages other than English? (23 CFR 200.9a(b)(12)) ( <i>Considerations:</i> a -The STA should have a demographic profile of the affected areas to determine this. b - Examples of dissemination vehicles: TV, radio, newspapers, town meetings, flyers, brochures, placement in public areas, etc.)	X		

State Transportation Agency (STA) Responsibilities			
7. Has the Title VI Coordinator/Specialist prepared an annual accomplishment report for the past year, and goals for the next year? (23 CFR 200.9(b)(10)) (Note: There is no need for a separate update if the accomplishment report contains one.)	X		
8. If your STA has received Federal Assistance through continuing State programs, has it established a Title VI compliance program for itself and its sub-recipients? (23 CFR 200.9(b) (5) (6), & (7)).	X		

C. Procedures:	Yes	No	?
1. Has the STA developed procedures for processing and resolving Title VI complaints received directly by the STA? (23 CFR 200.9(b)(3))	X		
2. Are the complaints and a copy of the report of investigation forwarded to the Division Office within 60 days of the date the complaint was received by the STA? (23 CFR 200.9(b)(3))	X		
3. Does the STA have civil rights personnel trained in compliance investigations? (23 CFR 200.9(b)(3)) (Examples: Programs offered by the Graduate School in the U.S. Department of Agriculture; consultants in the areas of complaints and investigations; FHWA training sessions; or other certified trainers.)	X		
4. Does the STA have a Title VI log that identifies each Complainant by race, color, sex, or national origin, (23 CFR 200.9(b) (3)), age or disability (23 CFR 200.5) (p) (6)); by recipient; nature of complaint; dates the complaint was filed and the investigation completed; disposition; and other pertinent information? (23 CFR 200.9(b)(3))	X		
5. Does the STA have procedures to collect and analyze statistical data (e.g., race, color, sex, national origin) of participants and beneficiaries of the STA programs (i.e., relocatees, impacted citizens, and affected communities)? (23 CFR 200.9(b)(4))	X		
6. Has the STA established procedures to identify and eliminate discrimination when found? (23 CFR 200.9(b)(14))	X		
7. Has your STA used onsite compliance reviews to discover discriminatory practices? (See DOT Order 1000.12; and in general, 23 CFR 200.9)	X		
8. Has the STA established procedures for promptly resolving deficiencies and reducing to writing, the remedial action agreed to be necessary, within 90 days? (23 CFR 200.9(b)(15))	X		
9. In accordance with the State's signed assurances and regulation guidelines, does the STA take affirmative action to correct deficiencies when found by the FHWA? (23 CFR	X		
10. Has the STA established procedures for pre-grant and post-grant approval reviews of State programs and applicants for compliance with Title VI requirements (i.e., highway location, design and relocation, persons seeking contracts with the State)? (23 CFR 200.9(b)(13))	X		
11. Does your STA take [prompt] action to achieve voluntary compliance as its first objective? (23 CFR 200.11(d))	X		
12. Does your STA place an emphasis on community outreach and public education to inform funding recipients of the obligations imposed on them by Title VI? (23 CFR 200.9(b)(12))	X		
13. Are Title VI and related requirements included in the applicable State program directives? (23 CFR 200.9(b)(8))	X		

D. Program Reviews:	Yes	No	?
1. Has the STA developed a program to conduct Title VI reviews of program areas? (23 CFR 200.9(b)(5))	X		
2. Has the STA conducted annual Title VI Reviews of its [major] program areas to determine the effectiveness of program area activities at all levels? (23 CFR 200.9(a)(4)(b)(6))	X		
3. Has the STA conducted Title VI reviews of sub-recipients (i.e., cities, counties, consultants, contractors, colleges, universities, MPOs, and other recipients of Federal-aid highway funds)? (23 CFR 200.9(b)(7))	X		