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



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[www.in.gov/indot](http://www.in.gov/indot)

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## INTRODUCTION

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

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

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

In addition to reviewing this technical assistance guide, INDOT requires attendance at a Nondiscrimination and Accessibility Training session by your Title VI & ADA Coordinators at least every 3 years. Session dates and online registration are available on our website at:  
<http://www.in.gov/indot/3591.htm>.

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

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## OVERVIEW OF THE REGULATORY REQUIREMENTS

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

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

## TITLE VI OF THE CIVIL RIGHT ACT OF 1964 AND NONDISCRIMINATION

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

*“No person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (42 U.S.C. 2000d)  
Title VI of the Civil Rights Act of 1964*

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

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

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

## THE AMERICANS WITH DISABILITIES ACT OF 1992 AND ACCESSIBILITY REGULATIONS

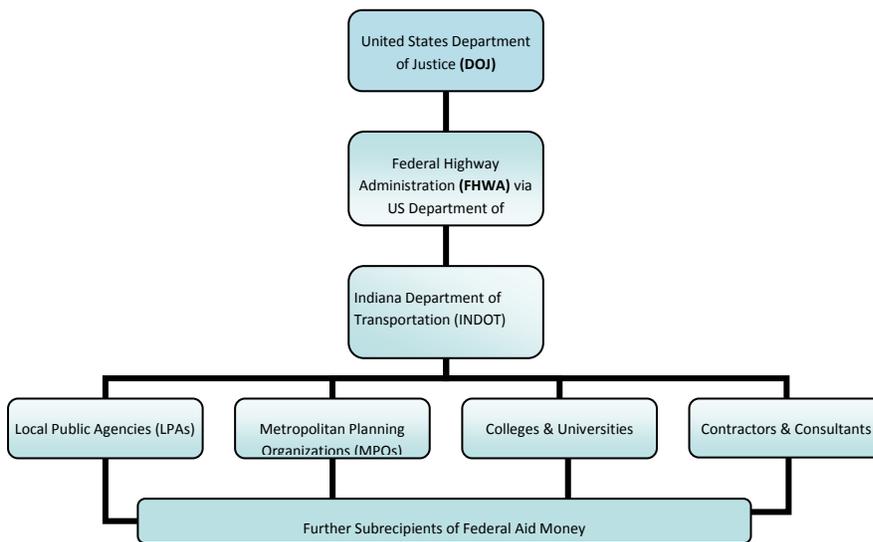
Because Disability is a category of individuals we must not discriminate against, the Americans with Disabilities Act of 1990 (The “ADA”), which applies to cities and towns as public entities, and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), (which applies because cities and towns receive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

Cities and Towns are Title II entities and should familiarize themselves with the full scope of requirements under Title II of the American’s with Disabilities Act as it is much broader than INDOT’s compliance requirements set forth within this resources guide. A Very good place to obtain this information is the Southeast ADA Center’s Building Blocks Course which can be found at [www.adabasics.org](http://www.adabasics.org). **Indiana ADA Coordinators who take this course should register listing the organization name as “INADA”. There is also a Title II ADA tutorial that ADA Corodinators may take from this provider.** These courses will establish a strong foundation of understanding for INDOT’s specific ADA Training, which dives right into our agency’s requirements and presumes a basic understanding of Title II.

## OVERSIGHT & COMPLIANCE MONITORING

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

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



## ADDITIONAL REQUIREMENTS

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

LEP strategies begin with a four factor analysis and the development of an LEP plan as part of the Title VI Implementation Plan. It is important to track the frequency of interactions and number of LEP that are encountered to be able to determine when services are warranted and what types of services are required.

The four factors used to determine whether or not language services are required are:

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

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

## AUTHORITIES

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

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

## INDOT'S TITLE VI & ADA PROGRAM OVERVIEW

INDOT has outlined its Title VI Program in its Title VI Implementation Plan. The most recent plan(s) are posted online at <http://www.in.gov/indot/3584.htm> . Our nondiscrimination policies, complaint procedures, and other information are also available by following this link. In addition to our Title VI Implementation Plan, INDOT now posts separately its Annual Goals & Accomplishments Report. This document addresses specifically what INDOT has accomplished the previous program year and what INDOT plans to accomplish during the upcoming year.

INDOT's ADA Transition Plan(s) are also available online at <http://www.in.gov/indot/3583.htm> .

### **The Liaison Approach: Best Practices for Agency Implementation of Title VI**

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

In addition, Program Area Representatives (PARs) are identified within a program area as subject matter experts for each area where data is being collected or a policy is being implemented or revised. For example, INDOT has a liaison for its Real Estate Division and a PAR for the areas of Appraising, Buying, Condemnation, and Relocation within that Division. This puts branches on the tree and limbs on the branches to ensure Title VI is fully implemented at INDOT and that there are enough people to effectively monitor all of our diverse program areas for discrimination. It spreads the workload across a broader network of individuals and ensures that subject matter experts are involved in analyzing our programs. You can read more about INDOT's Title VI implementation in our Title VI Implementation Plan located here: <http://www.in.gov/indot/3584.htm>

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

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

INDOT also has an ADA Technical Advisory Committee that addresses technical infeasibility requests for ADA assets as well as provides responses to inquiries about challenges in designing and / or constructing compliance ADA assets. This committee promotes a consistent approach to ADA issue resolution throughout the state. Technical questions can be submitted by LPA project managers to this committee at [ADA@INDOT.IN.gov](mailto:ADA@INDOT.IN.gov).

## INDOT'S SUBRECIPIENT MONITORING PROCEDURES

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

### LPA ANNUAL SUBMISSIONS TO INDOT

LPA subrecipient monitoring begins when LPAs submit their annual reports to INDOT by emailing all program documents and current contact information to INDOT at [Accessforall@indot.in.gov](mailto:Accessforall@indot.in.gov). INDOT no longer uses a precertification survey, but is working to develop a portal to make document submission easier. In the mean time, INDOT evaluates whether a community has submitted documents at least once every 12 months to determine if your community is up to date. This evaluation is conducted each year and ends in August as we compile our annual report for submission to FHWA.

Receipt of your program documents for review by INDOT is the ideal starting point in the process of determine funding eligibility. An LPA or MPO must be Title VI and ADA compliant to be eligible to receive federal funds. INDOT is responsible for monitoring subrecipients to ensure compliance and must ensure communities are actively addressing deficiencies and demonstrating good faith efforts in their compliance with Title VI. If a community waits until they apply for funding to submit documents, there may not be time for adequate review of compliance status prior to project selection.

### STEP 1: INDOT CONDUCTS A DESK REVIEW OF THE DOCUMENTS IT RECEIVES FROM AN LPA EACH YEAR

INDOT conducts a preliminary review of all documents submitted during the year (September 1 – August 31 annually). INDOT staff may review the website for each community and contact coordinators to ensure information reported during the year is accurate. This process is ongoing. Due to the number of LPAs INDOT is essentially verifying that your community has all the required components of each program. Whether your program is a success depends on how well you implement those components.

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## STEP 2: INDOT SENDS PRELIMINARY DEFICIENCY NOTIFICATIONS.

LPA's that submit information will be notified if there are any deficiencies observed and whether or not they will need to provide additional documentation or demonstrate that they have plan to resolve deficiencies in order to remain eligible to apply for federal funds from INDOT once the desk review is complete. LPA's who do not submit documents to INDOT have no way to determine if they will be eligible for funding!

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## STEP 3: 30-DAY COMPLIANCE REVIEW PERIOD COMMENCES.

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

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## STEP 4: ANNUAL LPA COMPLIANCE REPORT

As part of its Title VI Implementation Plan, INDOT reports on the compliance status of LPA's it is monitoring that year. LPA's that are reported as being deficient or noncompliant are not eligible to receive federal funds via INDOT until they have:

- 1) Resolved their deficiencies or
- 2) Have submitted a commitment letter to INDOT affirming their commitment toward resolving their deficiencies with a specific plan of action identified for each deficiency. A sample template for a Commitment Letter is available, although a community is not required to use INDOT's template. A Commitment letter must include the following to be accepted:
  - a. Identification of the individual responsible for ensuring the deficiencies are resolved and contact information for that individual
  - b. Identification of every deficiency being addressed with a summary of the action plan to address those deficiencies
  - c. Estimated timeline for completion of the resolution for each deficiency
  - d. A Statement of commitment to resolving deficiencies by a representative of the agency authorized to commit the agency.

**There may not be time for INDOT to review all applicants adequately during a call for projects or an application period. This is why timely completion of the Annual survey is critical to efficient determinations of funding eligibility.**

#### ONSITE COMPLIANCE REVIEWS TARGET CURRENT SUBRECIPIENTS IN NONCOMPLIANCE:

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Onsite reviews may not be necessary; however onsite reviews may be performed during the precertification survey review process at the discretion of the Title VI Program Director or upon request of the subrecipient.

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

A certification of compliance is submitted with the application by the subrecipient:

- At the time of application, applicants submit a letter indicating their level of compliance with Title VI / ADA.
- Representations made in the letter are cross-checked with INDOT's most recent reviews.
- If the applicant indicates a higher level of compliance (i.e. Claims to have Title VI plan when our last review indicated they did not), the applicant must submit proof that the missing program element exists and provide supporting documentation for review by the Title VI program staff.

**The applicant may only have ten days to provide this information!**

#### POST-AWARD SUBRECIPIENT COMPLIANCE MONITORING

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

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

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#### STEP 1: NOTICE OF COMPLIANCE REVIEW

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

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

Any subrecipient who fails to respond to a notice of compliance review, including the request for information, within the prescribed deadline shall receive written notification of his or her deficiency status from the Title VI Program Staff. (see preliminary findings below)

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#### STEP 2: DESK REVIEW OF SUBRECIPIENT

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

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

- Deficiencies are directly related to improvements being constructed or maintained by the subrecipient;
- Deficiencies include missing entire program components or are otherwise considered major deficiencies;
- The subrecipient's program coordinator or representative has not been identified and / or does not appear to have the support of the executive leadership of the LPA in ensuring program compliance;
- The review is based upon the receipt of a complaint

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#### STEP 3: PRELIMINARY FINDINGS

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

- Document any deficiencies observed and direct the subrecipient to come into compliance within 90 days. Extensions to the 90 day period will only be granted for good cause shown and when the request is made in writing. Extensions are granted at the discretion of INDOT.
- Require that any deficiency which cannot possibly be resolved within 90 days shall be reflected in the compliance action 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. This document is similar to the commitment letter and action plans INDOT requires for precertification but should include more specific details related to the deficiencies identified and requires INDOT's participation and acceptance.
- 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 may place the subrecipient in deficiency status.

## FAILURE TO COMPLY:

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If the subrecipient does not voluntarily comply within 90 days of the original notification, either by resolving the deficiency or by completing and submitting a compliance action plan to INDOT, and the subrecipient has not requested and received extension of time for cause in writing, INDOT will issue a notice of noncompliance.

If the subrecipient fails to submit appropriate and complete documentation to support its commitment to comply with Title VI, INDOT will issue a noncompliance letter and forward a copy to FHWA and may then pursue other legally available action against the subrecipient for failure to comply. An administrative hearing opportunity will exist for the subrecipient at this point and notice of the same will be provided.

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### STEP 4: CERTIFICATION OF COMPLIANCE OR DEFICIENT STATUS

Following the expiration of ninety (90) days and any granted extensions of time, INDOT will either:

- Certify the current subrecipient eligible to receive funds,
- Identify the current subrecipient as deficient but on an approved corrective action plan<sup>1</sup>, or
- Issue a notice of noncompliance and initiate appropriate proceedings to determine ineligibility to receive funds.

Copies of all deficiency notices will be provided to FHWA.

### REQUIREMENTS FOR LPA'S DEFICIENCY RESOLUTION:

An LPA 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 made during a call for projects may be impacted by the tight timeframe. Therefore, it is imperative that communities make efforts to improve compliance and provide supporting documentation in advance of funding opportunities wherever possible.

Compliance documentation is generally reviewed by the Title VI program staff in the order it is received unless INDOT or FHWA priorities determine otherwise.

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<sup>1</sup> Keep in mind that corrective action plans apply to current subrecipients of federal funds for a current and ongoing projects only. Applications for new funding may be deferred if a subrecipient is deficient until the deficiency is resolved.

## RECORDKEEPING & REPORTING

INDOT maintains 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.

- 
- Title VI coordinator has not been identified
  - A Title VI Implementation Plan does not exist or meet requirements
  - There is no Annual Goals & Accomplishments Report
  - 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 evaluate all program areas for deficiencies.
    - 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 or to evaluate EJ concerns.
  - No Title VI complaint log;
  - No Title VI complaint and hearing procedure; and
- No method to monitor race, ethnicity and gender of subrecipients.

## ACCESSIBILITY REQUIREMENTS

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

1. Have a designated ADA Coordinator who has received training
2. Develop and post an ADA accessibility policy (Section 504 Nondiscrimination Policy)
3. Complete a self-evaluation of all public facilities & programs as applicable\*
4. Develop a transition plan, if applicable (recipient type/size)\*
5. Design & build accessible facilities & programs
6. Have a complaints and public input / request procedure
7. Review & monitor compliance
8. Train staff in Accessibility requirements

*\*Certain communities who are recipients of federal funds, but who are very small may not be required to have ADA Transition Plans; however they should have an accessibility plan that fits the size of their community. INDOT requires ALL finds recipients to have an ADA Transition Plan that fits the size of their community because it is the easiest way to monitor compliance.*

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

## DESIGNATING AN ADA COORDINATOR

### Requirements:

- An ADA Coordinator must be officially designated.
- This individual must be identified by name in program documents & online.
- Their contact information must be provided to the public and kept current with INDOT
- This information should be included in the ADA Transition plan and posted on the subrecipient's website.

### Recommendations:

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

### Who should be your ADA Coordinator?

The ADA Coordinator should be someone in a position to implement policies and effectuate change. They should have some training in ADA requirements.

A Very good place to obtain this information is the Southeast ADA Center's Building Blocks Course which can be found at [www.adabasics.org](http://www.adabasics.org). **Indiana ADA Coordinators who take this course should register listing the organization name as "INADA". There is also a Title II ADA tutorial that ADA Corodinators may take from this provider.** These courses will establish a strong foundation of understanding for INDOT's specific ADA Training, which dives right into our agency's requirements and presumes a basic understanding of Title II.

## DEVELOPING AND PUBLISHING AN ADA ACCESSIBILITY POLICY

### Requirements:

- The subrecipient must develop and publish a Section 504 Nondiscrimination Policy
- INDOT's ADA Notice of Nondiscrimination can be found here: [http://www.in.gov/indot/files/DBE\\_Assurances\\_2013.pdf](http://www.in.gov/indot/files/DBE_Assurances_2013.pdf) . This is also included in the Appendix as a resource for you.
- The policy must be signed or adopted by the subrecipient to be made official.
- The policy should be published and posted
- The policy should be included in the ADA Transition Plan and provided to INDOT

### Recommendations:

There are a number of similar Cities and Towns who have posted their nondiscrimination policies online. INDOT's is also posted and may be used or referenced as a template. Nondiscrimination policies should be periodically re-adopted when leadership changes.

## COMPLETING A SELF-EVALUATION OF FACILITIES & PROGRAMS

### Requirements:

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

### Recommendations:

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

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

**Requirements:**

- Identify your ADA Coordinator by name and include contact information
- Include the Section 504 nondiscrimination policy
- Include the grievance procedure for ADA complaints
- Include the ADA self-evaluation results (for programs and facilities)
- Identify the design standards you use for all facilities (buildings & roadway assets)
- Include a prioritization schedule for remediating assets and programs that are not ADA compliance with a means of identifying the subrecipient's commitment to complete the schedule by identifying either (if not both) of the following:
  - The completion date for each item on the schedule and /or
  - A budget to be applied to the items on the prioritization schedule together with cost estimates for their remediation.
- **Demonstrate that there were ample public involvement opportunities involved in the development of this plan**
- Identify how often the plan will be updated (every two years, for example).
- Effectuate the plan by signature, ordinance or other means of adoption.

**Recommendations:**

Keep the plan simple. Put most of your data in the appendix but do include your inventory and prioritization schedule. It is not acceptable to have all of the plan components (such as a nondiscrimination policy, a grievance policy, and an inventory but not have them all pulled together in one place to form an ADA Transition Plan. The ADA Transition Plan must be complete and comprehensive. It should also be a living document, updated on an ongoing basis as work is completed, even if the plan itself isn't updated for publication every year. The minute you stop keeping track of the work that has been accomplished or identifying things that need remediation, the plan will cease to function and you (or your successor) will be left to start over. This could limit your eligibility for funding. INDOT will consider a plan that is updated at least every three (3) years as a current plan. Longer than 3 years or failing to identify a renewal cycle may be identified as a risk or deficiency.

## DESIGNING AND BUILDING ACCESSIBLE FACILITIES & PROGRAMS

### Requirements:

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

### Recommendations:

You are responsible for ensuring your facilities and programs are accessible. While ADAAG (ADA Accessibility Guidelines) apply to buildings and facilities, FHWA maintains that the PROWAG, (Proposed Guidelines for Accessible Rights-of-way) are the best practices for public rights-of-way even though they have not been made official as of the date of this publication. Accordingly, INDOT models its design standards after the PROWAG requirements. Subrecipients should identify which design standards they use. These categories should be identified as ADAAG and PROWAG designations, not “INDOT standard drawings”, for example. Adopting “INDOT” or any other entities “standard drawings” does not constitute an adoption of design standards. Technical (design) ADA questions may be submitted to INDOT at [ADA@indot.in.gov](mailto:ADA@indot.in.gov). The Access Board is also a great resource for ADA compliance questions. <https://www.access-board.gov/>

## DEVELOPING AND IMPLEMENTING A GRIEVANCE PROCEDURE

### Requirements:

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

### Recommendations:

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

## OBTAINING PUBLIC INPUT

### **Requirements:**

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

### **Recommendations:**

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

## MONITORING AND MAINTAINING COMPLIANCE

### **Requirements:**

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

### **Recommendations:**

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

## NONDISCRIMINATION REQUIREMENTS

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

1. Have a Title VI Coordinator / Program Manager
2. Develop and post a nondiscrimination policy
3. Sign the Assurances of Nondiscrimination and include the appropriate appendices in your agreements.
4. Obtain Title VI Training for your coordinator and Train Staff regularly
5. Have a Grievance Procedure, complaint form and a Complaint Log
6. Draft your Annual Title VI Implementation Plan and submit it to INDOT by August 31
7. Develop and Annuals Goals & Accomplishments Report and submit it to INDOT by August 31
8. Monitor Subrecipients for Compliance
9. Have a Public Involvement Plan (including EJ & LEP segments of your community)
10. Review and Monitor your own Compliance including how well you provide LEP services and whether you are effectively addressing EJ concerns.

## HAVE A TITLE VI COORDINATOR OR PROGRAM MANAGER

### Requirements:

- Designate a Title VI Coordinator who has a responsible position in the organization and has easy access to the head of the agency. The Title VI Coordinator should be responsible for monitoring Title VI activities.
- Identify the Title VI Coordinator by name and include his or her contact information in the Title VI Plan, on your website and with your grievance procedure.
- Provide current contact information to INDOT at [accessforall@indot.in.gov](mailto:accessforall@indot.in.gov)

### Recommendations:

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

The Title VI Coordinator's responsibilities should include:

- Assisting program personnel to correct Title VI problems or discriminatory practices or policies found through self-monitoring and review activities.
- Being the focal point for Title VI implementation and monitoring of programs and/or activities receiving federal financial assistance including development of an Implementation Plan.
- Ensuring that Title VI requirements are included in policy directives and that the procedures used have built in safeguards to prevent discrimination.
- Implementation of procedures for the prompt processing of Title VI external discrimination complaints.
- Attendance at training on Title VI and other nondiscrimination authorities.
- Efforts to coordinate the development and implementation of a Title VI and related statutes training program.
- Developing Title VI information for public dissemination, and where appropriate, in languages other than English.
- Maintain meeting agendas/minutes demonstrating that civil rights requirements are being addressed by the Title VI Coordinator.

## DEVELOP AND POST A NONDISCRIMINATION POLICY

### **Requirements:**

- Develop a Title VI Nondiscrimination Policy Statement assuring nondiscrimination in the agency's programs and activities.
- Ensure the policy identifies the Title VI Coordinator and includes a clear delegation of authority to that individual sufficient to ensure the agency's Title VI compliance.
- The policy should be signed by the head of the agency.
- The policy must be posted, circulated, and included in the Title VI Implementation Plan.
- INDOT should have a current copy of your policy on file. [accessforall@indot.in.gov](mailto:accessforall@indot.in.gov)

### **Recommendations:**

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

That no person shall on the grounds or race, color, national origin, sex, sexual orientation, gender identity, age, disability, religion, income status, or Limited English Proficiency be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally- funded or not.

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

## SIGN THE ASSURANCES OF NONDISCRIMINATION

### Requirements:

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

### Recommendations:

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

## TITLE VI TRAINING

### Requirement:

- Ensure your Title VI Coordinator has received Title VI Training at least once every 3 years. Training more often may be beneficial and the coordinator should check INDOT Title VI website frequently for news and updates at <http://www.in.gov/indot/3591.htm>.
- Train your staff on Title VI requirements as this is necessary to demonstrate that Title VI has been integrated into your agency.
- Retain records of agendas, training materials, attendees, and training dates to “show your work”.

### Recommendations:

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

## GRIEVANCE PROCEDURE & COMPLAINT LOG

### **Requirements:**

- Develop a grievance procedure. (sample included in the Appendix)
- Notify INDOT of any complaints received with an INDOT nexus within ten (10) days.
- Develop a complaint form that clearly identifies the Title VI Coordinator.
- Maintain a log of all complaints received that identifies:
  1. Each complainant by race, color, sex, national origin or other pertinent basis
  2. The recipient
  3. The nature of the complaint
  4. The dates the complaint was filed and the investigation completed
  5. The disposition
  6. The date of the disposition
  7. Other pertinent information
  8. The status of the complaint investigation or lawsuit
  9. Corrective actions taken, if any

### **Recommendations:**

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

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

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

## ANNUAL TITLE VI IMPLEMENTATION PLAN

### Requirements:

- Develop a Title VI/Nondiscrimination Plan that communicates how the agency implements the Title VI/Nondiscrimination requirements (including Environmental Justice and Limited English Proficiency).
- The Title VI/Nondiscrimination Plan should contain procedures, strategies, and activities to facilitate and assure nondiscrimination in federally assisted programs and activities of the agency.
- The plan should identify the Title VI Coordinator, the grievance procedure, and include all policies and nondiscrimination statements.
- Include mechanisms to guarantee effective and efficient implementation, compliance, and enforcement of Title VI.
- Include maps of Environmental Justice (EJ) and Limited English Proficient (LEP) populations (based upon the most recent Census data).
- Include organizational charts.
- Provide a copy to INDOT each year by August 31 at [accessforall@indot.in.gov](mailto:accessforall@indot.in.gov)

### Recommendations:

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

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

Ensure that your plan is adopted. “Unofficial” or “pending approval” plans do not “exist” until they are adopted by your agency / entity. Your first plan may in essence be a “plan to make a plan” but should contain clear action steps, ownership, and objectives for the development of the same.

The following provides more specific guidance on each component of the Title VI Plan. FHWA does not recommend combining the Goals & Accomplishments Report with the Title VI Plan. Templates are available at <http://www.in.gov/indot/3591.htm>.

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## KEY ELEMENTS OF A TITLE VI IMPLEMENTATION PLAN

- Policy Statement
- Standard USDOT Assurances
- Organization & Staffing Chart
- Program Area Review Procedures
- Special Emphasis Program Areas
- Subrecipient Review Procedures
- Data Collection
- Training
- Complaint Procedures
- Dissemination of Title VI information
- Limited English Proficiency
- Environmental Justice
- Review of directives for Title VI Compliance
- Compliance and enforcement procedures

## ANNUAL GOALS AND ACCOMPLISHMENTS REPORT

This is the place where specific goals are identified and data collected and analyzed the prior year is reported. It should include the following:

- The number of program areas reviewed during the previous year and those which will be reviewed during the upcoming year.
- The number and type of subrecipient reviews conducted during the previous year and a discussion of the outcomes, as well as the number planned for the upcoming year.
- Title VI training conducted, including the type of training, number and type of individuals trained and materials. Identify training goals and opportunities for the upcoming year also.
- Include a summary disposition of all complaints received and identify any changes made to programs as a result or further action required.
- Discuss the data collected and analyzed for all program areas generally and for special emphasis program areas with particularity. Identify what data will be collected and how it will be analyzed during the upcoming program year.
- Provide a copy of your annual report to INDOT each year by August 31 at [Accessforall@indot.in.gov](mailto:Accessforall@indot.in.gov)

A simple Goals and Accomplishments report might be a table identifying each goal, the objectives, target dates, and who is involved. Accomplishments may be listed as bulletpoints with a summary discussion highlighting your achievements on a separate page.

## MONITORING YOUR SUBRECIPIENTS OF FEDERAL FUNDS (IF APPLICABLE)

### Requirements:

- If you don't have subrecipients, include a statement in your Title VI Implementation Plan that indicates you do not have subrecipients and therefore do not have subrecipient monitoring procedures.
- Develop and implement pre and post-award subrecipient monitoring policies to ensure those further subrecipients who receive federal funds from you are compliant and remain compliant with Title VI.
- Ensure post-award compliance reviews are risk-based
- Ensure pre-award compliance monitoring strategies exist to ensure subrecipients are compliant with Title VI before receiving federal funds as this is the best opportunity to ensure discrimination does not occur.
- Identify the following:
  - The number of reviews to be conducted each year,
  - The types of reviews and their objectives,
  - Where and how the outcome of the reviews will be reported,
  - What activities of subrecipients will be reviewed for compliance
  - How the reviews will determine compliance and meet the objective of the review.

### Recommendations:

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

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

## PUBLIC INVOLVEMENT

### **Requirements:**

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

### **Recommendations:**

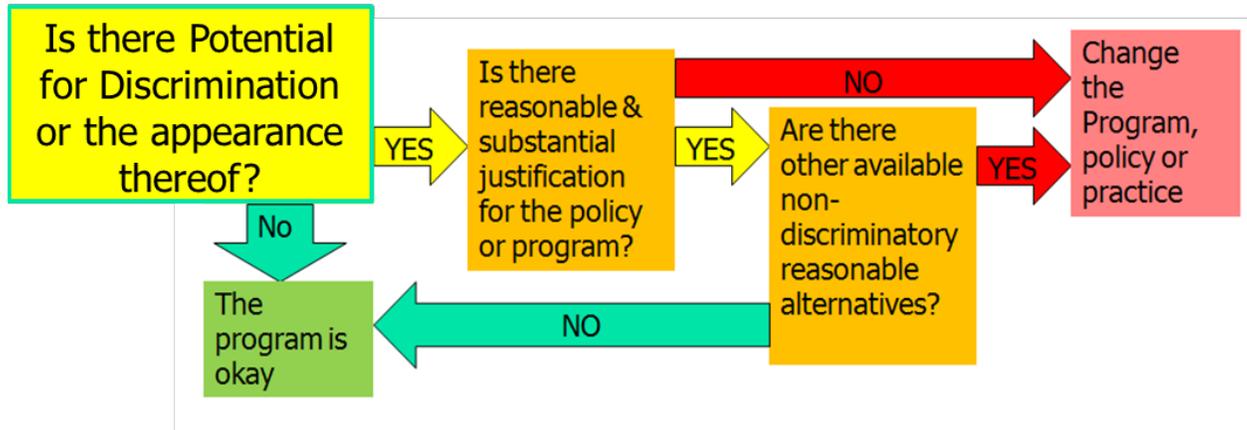
Engage the public at the earliest stages of any project and maintain participation throughout the process. Document your solicitation efforts, participation (numbers of participants as well as their self-identification of race, national origin, income status, disability, Limited English Proficiency,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

**Requirements:**

- Develop and implement procedures for the collection of statistical data (race, color, national origin, sex, disability, and age) of participants in and beneficiaries of an agency's programs (e.g., relocatees, impacted citizens and affected communities).
  - Data needs to be collected on an ongoing basis.
  - Data collected must be related to a specific program area and the oversight objective for that program area's compliance. This should be clearly identified.
  - Identify the types of reviews that will be conducted and for which program area.
  - Specify which activities will be monitored and what data will be collected.
  - Identify how the review will meet its objective and how it will be reported. (i.e. how patterns of discrimination will be identified and addressed.)
  - Reports should be included in the Annual Goals & Accomplishments Report.
  - Special emphasis program areas should be identified and progress made should be included in the annual Goals & Accomplishments Report. A special emphasis program area is one that:
    - May have existing discrimination,
    - Has been the the subject of a complaint,
    - Has strong Title VI implications, or
    - Is otherwise identified as such in the implementation plan.
- Work with your liaisons, Program Area Representatives, or other Title VI team members to analyze data and information collected and make adjustments to programs as necessary to reduce discriminatory impacts, documenting your efforts.

**Recommendations:**

Conduct a disparate impact analysis whenever data collected reveals the potential for discrimination. The following chart indicates how a disparate impact analysis may be conducted.



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

## LIMITED ENGLISH PROFICIENCY

### Requirements:

- Describe how your community reaches populations with Limited English Proficiency (LEP).
- Adopt a limited English Proficiency Plan if more than 5% of your population or 1,000 individuals “does not speak English very well” per the most recent US census and that same 5% or 1,000 speaks the same language.
- Also adopt an LEP Plan if your own LEP data demonstrates a reasonable need.

### Recommendations:

Develop a Language Access Plan to meet your needs. Language access plans begin with a self-assessment to determine which personnel interact with members of the public. Census data and other publically available information is then utilized to determine where LEP populations exist in your community. You can then conduct a four factor analysis to determine:

1. The number of LEP individuals encountered
2. Frequency of contact with LEP individuals
3. Nature and importance of the program
4. Available resources

The language access plan is then used to develop an LEP plan that specifies how resources will be provided to LEP persons, including what programs they will provide access to and how these determinations were made, i.e., what data was used to determine what populations to serve and why the services are being provided for each program.

## ENVIRONMENTAL JUSTICE

Environmental Justice (EJ) considerations can arise from the very inception of a program all the way through its implementation and into its every day practice. EJ issues are generally disproportionate impacts of a program or activity on a low income or minority population. (See Executive Order #12898 and FHWA Order 6640.23(2)(h) for more information about EJ.

To address EJ concerns a community should:

- Describe when and how it collects data about the existence of low income and minority populations.
- Describe how and when this data is used to determine EJ impacts as a result of its programs and practices.
- Describe what public participation opportunities are afforded these populations in the decision making process for programs that impact these populations.
- Using the annual Goals and Accomplishments Report, identify what specific issues have been identified and addressed, including public participation and mitigation considerations, where EJ issues have been identified.

## NONDISCRIMINATION & ACCESSIBILITY CHECKLIST FOR COMMUNITIES

The following checklists can be used to help determine whether or not your community is in compliance with nondiscrimination & accessibility laws.

### ACCESSIBILITY CHECKLIST:

- Have a designated & trained ADA Coordinator identified by name with contact information
- Develop and post a section 504 policy with public notice
- Obtain ongoing public involvement
- Complete a self-evaluation of all public facilities & programs as applicable and prioritize & budget for barrier removal.
- Develop a transition plan and provide a copy to INDOT
- Design & build accessible facilities & programs, including provision of auxiliary aides.
- Have a complaint process, form and grievance procedure
- Review & monitor compliance
- Train staff in accessibility requirements

### NONDISCRIMINATION CHECKLIST:

- Have a Title VI Coordinator / Program Manager who has received training
- Develop and post a Nondiscrimination Policy
- Sign the Assurances of Nondiscrimination & include required appendices in contracts
- Train Staff regularly
- Have a Grievance Procedure, form and a Complaint Log
- Have both an Annual Title VI Implementation Plan and an Annual Goals & Accomplishments Report and provide the same to INDOT by August 31 at [accessforall@indot.in.gov](mailto:accessforall@indot.in.gov)
- Monitor Subrecipients for Compliance if applicable, or state that this is not applicable
- Have a Public Involvement Plan (including EJ & LEP segments of your community)
- Review and Monitor your own Compliance including LEP & EJ considerations

## APPENDICES

### CONTENTS OF APPENDICES

Assurances of Nondiscrimination

INDOT's Nondiscrimination Statement

Sample Grievance Procedure & Complaint Log

Limited English Proficiency Resource: "I Speak" Cards

Sample Commitment Letter and Action Plan

Title VI Implementation Plan Template

## ASSURANCES

### BID SOLICITATION LANGUAGE:

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

### ASSURANCES OF NONDISCRIMINATION

#### **[Community NAME]** Title VI Assurances

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

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

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

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

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

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

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

\_\_\_\_\_  
(Executive Officer name)

\_\_\_\_\_  
Date

## APPENDIX A

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

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation (INDOT) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to INDOT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, INDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

## APPENDIX B

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

### (HABENDUM CLAUSE)

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

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

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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.

## APPENDIX C

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

The (grantee, licensee, lessee, 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).

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, or national origin, sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or he otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin, sex, age, disability/handicap and low income, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, 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.]\*

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

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

[Include in deeds]\*

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

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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.

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

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (“ADA”), the **NAME OF LPA** will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

***Employment:*** The **NAME OF LPA** does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I ADA.

***Effective Communication:*** The **NAME OF LPA** will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the **NAME OF LPA** programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

***Modifications to Policies and Procedures:*** The **NAME OF LPA** will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in the **NAME OF LPA** offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in a program, service, or activity of the **NAME OF LPA**, should contact the office of **Name of Coordinator, Title, address, city, state, zip** or by calling **phone number**, as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the **NAME OF LPA** to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the **NAME OF LPA** is not accessible to persons with disabilities should be directed to Greg White, ADA Coordinator.

The **NAME OF LPA** will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

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

### Sample Complaint Procedure

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

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

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

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

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

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

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

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

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

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

Complaints may also be filed with the following government agencies:

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

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

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



LEP "I SPEAK CARDS"

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

2004 Census Test		United States Census 2010
LANGUAGE IDENTIFICATION FLASHCARD		
<input type="checkbox"/>	ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.	1. Arabic
<input type="checkbox"/>	Խնդրում ենք նշում կատարել այս քանակում, եթե խոսում կամ կարդում եք հայերեն:	2. Armenian
<input type="checkbox"/>	যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্স দাগ দিন।	3. Bengali
<input type="checkbox"/>	ល្អបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ផ្សេង ។	4. Cambodian
<input type="checkbox"/>	Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.	5. Chamorro
<input type="checkbox"/>	如果你能读中文或讲中文，请选择此框。	6. Simplified Chinese
<input type="checkbox"/>	如果你能讀中文或講中文，請選擇此框。	7. Traditional Chinese
<input type="checkbox"/>	Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	8. Croatian
<input type="checkbox"/>	Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	9. Czech
<input type="checkbox"/>	Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	10. Dutch
<input type="checkbox"/>	Mark this box if you read or speak English.	11. English
<input type="checkbox"/>	اگر خواندن و نوشتن فارسی بلد هستید، این مربع را علامت بزنید.	12. Farsi

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

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

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

TITLE VI IMPLEMENTATION PLAN TEMPLATE

This template is available for download here: <http://www.in.gov/indot/3591.htm>