

# Title VI Required Elements: Nondiscrimination Planning and Implementation for Sub-Recipients

Ken Woodruff, Civil Rights Program  
Manager, FHWA Indiana Division

# House Keeping

- Cell Phones on Silent
  - Take your calls...but do so where the rest can continue
- Restrooms...no need to ask
- Ask your questions as they occur to you

# Disclaimer

- I'm Not Giving Legal Advice
- As the Sovereign...you have all the liability to get this correct
- These are tools to use in your efforts to do so
- What works for FHWA/INDOT...may not work for other Federal Agencies! But it will get you close or at least closer!
- This is not a substitute for fulfilling any INDOT training that they may require

# Schedule

- Morning (9:30 – Noonish)
- Lunch on Your Own (Noonish – 1:00)
- Afternoon (1:00 – 3:00ish)
  - Random Breaks Along the Way

# Objectives

- Know Title VI Authorities/Law
- Understand Who is a Federal Recipient
- Understand Components of a Title VI Plan, &
- Begin Thinking of Strategies for Evaluating, Developing & Implementing your Programs w/o Discrimination
  
- Long Term Goal
  - No Discrimination in your Programs

# Advance Notice

- I believe that no government program should discriminate
  - It is a Moral Issue for ME
  - Wasting somebody...because they are not like me...is not acceptable in MY mind/heart
    - Part of the Social Contract
    - Thomas Hobbes (1588-1679) “State of Nature”
      - Solitary, Nasty, Brutish and Short
      - Might Makes Right

# Background & Concepts



# Background - Indiana

- 2007 Baseline Assessment – (state program)
- USDOT/FHWA National
- 2014 – FHWA National Review = INDOT Deficiencies = VCAP in 2015
  - Subrecipient oversight one area of need of improvement
- 2015 INDOT Portal only 14 LPAs w/Title VI Plans
  - Nondiscrimination and T6 Plans are Required of Recipients
  - Hoping to have similar success as ADA
    - 9 Transition Plans in 2009...over 300 today!



# BACKGROUND – Title VI

- Concepts

- Discrimination

- An action or inaction, whether intentional or unintentional, through which a person in the United States is subject to inequities because of their race, color, national origin, sex, age or disability.
    - Executive Order 11246 Amended to add gender identity and sexual orientation

# BACKGROUND – Title VI

- Types of Discrimination
  - Denial of Program Service, Financial Aid, or Benefits
  - Providing Different Types of Program Services, Financial Aid
  - Providing Groups Services in a Different Manner
  - Segregating or separately treating Individuals or groups in any matter relating to the receipt of any program service, financial aid or benefit
  - Imposing impacts to groups for the benefit of another group

# BACKGROUND – Title VI

- Types of Discrimination (cont.)
  - Restricting in any way the enjoyment of any advantage or privilege enjoyed by others receiving any program service, financial aid or other benefits
  - Denying person(s) the opportunity to participate as a member of a planning, advisory or similar body
  - Denying person(s) the opportunity to participate in the program through the provision of services, or affording the opportunity to do so differently from those afforded to others.

# BACKGROUND – Title VI

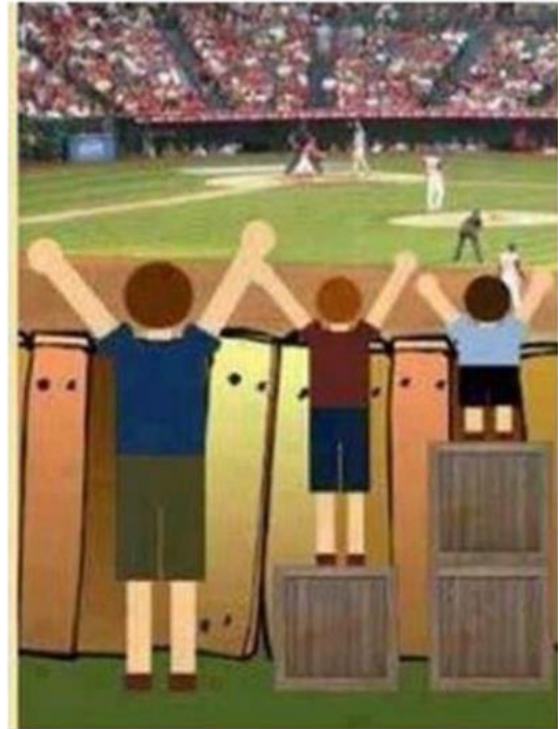
- We are talking about someone's Civil Rights!
  - Nondiscrimination is not an Unfunded Mandate
  - Nondiscrimination Laws Apply Because you are a Recipient

# Equality –v- Equity

Equality



Equity



  
**THIS**



# Equality –v- Equity

- Public Involvement
  - Only Accept On-line input...maybe not everyone has access to internet
    - So offer a variety of means to participate
  - Meetings during typical off-work hours (meet at various times)
  - Meetings at locations inaccessible by public transit
- Transit...Paratransit
  - Not the same type of bus...but the same service outcome
- Decent Safe and Sanitary Relocation (DSS)
  - Not anyone gets the exact relocation placement/payment
  - But EVERYONE is relocated to DSS Housing
    - even if last resort housing is required

# Laws & Authorities



# Title VI of the Civil Rights Act of 1964

- Why we are here today – THE UMBRELLA
- “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 the subject to discrimination under any program or activity receiving Federal financial assistance.” (42 U.S.C. 2000d)

# The 1964 Civil Rights Act

- Title I – Voting Rights
- Title II – Public Accommodation
- Title III – Desegregation of Public Facilities
- Title IV – Desegregation of Public Education
- Title V – Commission on Civil Rights
- Title VI – \*Nondiscrimination in Federally Assisted Programs or Activities (the backdrop for today)
- Title VII – Equal Employment Opportunity
- Title VIII – Registration and Voting Statistics
- Title IX – Intervention & Procedure after Removal in Civil rights Cases
- Title X – Establishment of Community Relations Service
- Title XI – Miscellaneous

# Nondiscrimination Authorities (FHWA)

- Title VI of the Civil Rights Act of 1964\*
- Civil Rights Restoration Act\* (1987)
- Rehabilitation Act (1973)
- American with Disabilities Act (1991)
- Age Discrimination Act (1975)
- Uniform Act (1970)
- Federal Aid Highway Act (1973)

# Nondiscrimination Authorities

- Executive Orders
  - #13166: Limited English Proficiency (LEP)
    - Requires recipients to evaluate impacts to populations with limited English proficiency.
  - #12898: Environmental Justice (EJ)
    - Adds income levels to protected classes of race
    - Community cohesiveness...etc.
    - No Disproportionate Impacts to Minority or Low Income
  - #11246 & #11478 Equal Employment Opportunity – (Amendments\*)
    - Adds gender identity (LBGT)
    - Government Employment/Government Contractors

# USDOT/FHWA Regulation

- Transportation
  - 49 CFR Part 21: “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964”
- Highways
  - 23 CFR Part 200: “Title VI Program and Related Statutes – Implementation and Review Process”

# Title VI of the Civil Rights Act of 1964

- Applies Broadly
- Civil Rights Restoration Act of 1987
  - Restored/clarified the legislative intent
  - Nondiscrimination in all programs and activities of Federal-aid Recipients whether those programs and activities are Federally funded or not.



# Title VI versus Title VII

- Commonly confused
  - Title VI = discrimination from application of programs (benefits, impacts, inequity in service...)
  - Title VII = Fair employment practices
- BUT Employment can become a Title VI if...
  - Primary purpose of federal assistance is to provide employment -or- employment results in discrimination in service provision
- Title VI = Service & Title VII = Employment



# Nondiscrimination versus Affirmative Action

- Nondiscrimination assures that our programs/projects/services do not benefit one group over another
- Affirmative Action seeks to correct the impacts of discrimination (past and present) through programs designed to assist groups who have been discriminated against.

# BACKGROUND

- KENNEDY SIMPLE JUSTICE: “Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination” (JFK, 1963)

# Background

- WHO IS COVERED BY TITLE VI?
  - Raise your hands if you are covered

# Background

- WHO IS COVERED BY TITLE VI?

**WE ARE ALL COVERED**

**“Any Person”**

# Federal Recipient

- Any state, territory, possession, political subdivision, instrumentality, public or private agency, organization, entity, or individual to whom federal assistance is extended either directly or through another recipient.
  - FHWA recipients include any successor, assignee, or transferee, but not the ultimate beneficiary of a program.

# Federal Recipient

- 23 USC 302 = The “primary recipient of FHWA funds is the state transportation agency” (INDOT)
  - Each recipient (state’s subrecipients and contractors), irrespective of tier, is required to prevent discrimination and ensure nondiscrimination in all of their programs and activities whether they are FHWA funded or not.
  - Local Public Agencies = Subrecipients & Likely Recipients for Other Agencies

# Programs Covered

- ALL OF THEM
  - If you are a recipient...you are required to comply
- While FHWA is concerned with highway programs...
  - as a recipient none of your programs may discriminate!



# FHWA Assisted Programs

- Planning
  - TIP/STIP etc.
- Project Development
  - NEPA, Alternative Selection, Mitigation, Design
- Right-of-Way
  - Appraisal, Buying, Relocation, Property Mgt.
- Construction
  - Advertising, Bidding, Selection, Construction
- Research

# Other Federal Agency Title VI Resources

- Housing and Urban Development (HUD)
  - [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/ih/homeownership/titlevi/library](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/homeownership/titlevi/library)
- Environmental Protection Agency (EPA)
  - <https://www.epa.gov/ocr>
- Health and Human Services
  - <http://www.hhs.gov/civil-rights/for-individuals/special-topics/needy-families/civil-rights-requirements/index.html>

# Other Federal Agency Title VI Resources

- Department of Justice Title VI Manual
  - <https://www.justice.gov/sites/default/files/crt/legacy/2011/06/23/vimanual.pdf>
  - Very Broad in Nature...but
- Many Highway Resources
  - <http://www.fhwa.dot.gov/civilrights/>

# Technical Assistance Tool

(handout)



Title VI

## TECHNICAL ASSISTANCE TOOL

### State Transportation Agency (STA) Responsibilities

A. General:	Yes	No	?
1. Has the STA submitted Title VI nondiscrimination assurances to the Division? (Considerations: within last 5 yrs, 2yrs, or longer) (23 CFR 200.9(a)(1))			
2. Does the assurance certify that discrimination based on sex is prohibited? (23 CFR 200.9(a)(2))			
3. Does your assurance include Civil Rights provisions of other Federal statutes that prohibit discrimination? (23 CFR 200.5(p))			
4. Does the STA have a Civil Rights unit, e.g., an office or department? (Considerations: Are the functions of your Civil Rights implementation delegated?) (23 CFR 200.9(b)(1))			
5. Is the CR unit adequately staffed to effectively implement the State's CR requirements? (23 CFR 200.9(b)(2)) (Considerations: (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			

# Technical Assistance Tool

- A Tool to Help Inform Work
- Ask the Question
- Answer Red/Yellow/Green
  - Truthfully
- Strategize
  - Get “RED” & “YELLOW” to “**GREEN**”
  - Set priorities for coming year (or two)
  - Use Annually to Document Progress



Break (10 minutes...or so)

# Compliance and Plan Development



# INDOT Title VI Workbook for Cities and Towns\*

- INDOT
  - >Doing Business with INDOT
    - [http://www.in.gov/indot/files/Title VI Summit Subrecipient Workbook.pdf](http://www.in.gov/indot/files/Title_VI_Summit_Subrecipient_Workbook.pdf)
    - [http://www.in.gov/indot/files/Subrecipient Technical Assistance 2016 Version 2.pdf](http://www.in.gov/indot/files/Subrecipient_Technical_Assistance_2016_Version_2.pdf)
- Great resources; USE THEM!

# 9 Steps Toward Compliance

- Appoint a Title VI Program Coordinator
- Nondiscrimination Policy Statement
- Title VI Assurances
  - Signed by CEO
- Nondiscrimination Training
  - Get and Give!
- Grievance Procedures
- Annual Work Plan
- Annual Accomplishment Report
- Public Involvement Plan
  - EJ/LEP
- Monitoring
  - Subrecipients & Contractors
  - Monitoring Internal Practices

# Step 1: Title VI Program Manager

- Designate a Title VI Coordinator
- Who:
  - Has a responsible position within the organization (policy implementation) and
  - Has easy access to the Chief Executive/Agency Head(s)
  - Not required to be a full time position...but responsible for coordinating efforts

# Step 1: Title VI Program Manager/Coordinator

- Responsibilities:
  - T6 policy implementation within the organization
  - Work with Head of Agencies/Departments
  - On-going monitoring of Title VI Activities
  - Must be identified by NAME
    - Include Contact Information in T6 Plan
    - On your Website & In Your Annual Plan
    - Within your Grievance Procedure

# Step 1: Title VI Program Manager/Coordinator

- Responsibilities:
  - Adhere to the signed Assurances (see Step #3) of Nondiscrimination
  - Manage/Track/Handle Title VI Complaints
  - Disseminate Title VI information to beneficiaries & stakeholders: Include Title VI in your Public Involvement Plan and other documents (such as: employee handbook)
  - Monitor Subrecipient Compliance
    - Contracts must have nondiscrimination clauses...
  - Develop and Implement Annual Title VI Program
    - Title VI Implementation Plan
    - Annual Goals and Accomplishments Report

# Step 2: Nondiscrimination Policy

- Expresses COMMITMENT to ASSURE NONDISCRIMINATION (at a minimum)
  - Denial of Service
  - Distinction in Quality
  - Segregation/Separate Treatment
  - Restriction from Enjoyment
  - Different Standards for Participation
  - Different Administration
  - Discrimination in any Employment Resulting from a Program



# Step 2: Nondiscrimination Policy

- Signed by the Top Official of the Agency
  - For an LPA – Mayor, Village President, County Commissioner/President
  - Should Define Who are Affected Recipients
  
- INDOT Example (Handout)

# Step 3: VI Assurances

- Specific Language (handout example)
- Must be Signed by CEO
- Model Assurances of Nondiscrimination
  - INDOT' Title VI & ADA Technical Assistance Guide for Cities and Towns
    - Assurances of Nondiscrimination
    - Appendix A (Contractor Compliance)
    - Appendix B (Deeds/Real Property Transferal)
    - Appendix C (Lease, License, Permittee, etc.)

# Step 3: VI Assurances

## 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-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 religion, race, color, national origin, sex (23 USC 324), sexual orientation, gender identity,(Executive Order 13672, 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.

# Step 4: Nondiscrimination Training

- Document to Keep to Demonstrate Training
  - agendas, attendance/sign-in sheets, training materials
- Use the concepts we are discussing today
  - Websites: USDOJ, FHWA, INDOT, HUD, EPA...
- Apply Concepts to your Operations
  - Opportunity to Discuss Other Matters
    - Clarify areas of confusion
      - Affirmative Action v Nondiscrimination...Title VI v Title VII...Equality v Equity...
    - Sexual Harassment, Equal Employment Opportunity, Affirmative Action, Americans with Disabilities Act...

# Step 4: Nondiscrimination Training

- HOW OFTEN?
  - “Regularly”
  - Become Trained/Train Others
- Materials
  - Basics of Nondiscrimination
  - Nondiscrimination Policy
  - Authorities
  - Complaint Procedures
  - Collecting/Evaluating Data and Programs

Lunch?



# Step 5: Grievance/Complaint

- <http://www.fhwa.dot.gov/civilrights/programs/finalcomplaintmanual110410.cfm>
- Example in INDOT's Title VI and ADA Technical Assistance Guide for Cities and Towns
- Modify your existing procedures to include Title VI, ADA, others?

# Step 5: Grievance/Complaint

- Process should include all the steps
  - Who receives, timelines, how files are kept, etc.
- Include record retention period
- Confidentiality and confidentiality release
- Keep a Complaint Log
  - Include # of complaints and their status in the Annual Report
- Take Complaints in any format
  - But...reduce all complaints to a written document
- All complaints need resolution

# Step 5: Grievance/Complaint

- Handle Complaints Neutrally
  - It should be understood by all parties that you are an “arbiter not an advocate”
  - Your job is to evaluate the merits of the complaint and make corrective actions if warranted
- Ask:
  - Is it a Title VI matter?
  - What is the evidence?
  - What can change to overcome a discriminatory outcome?
  - Look deeper...is this a pattern elsewhere
    - Is it a Special Emphasis Area?

# Step 5: Grievance/Complaint

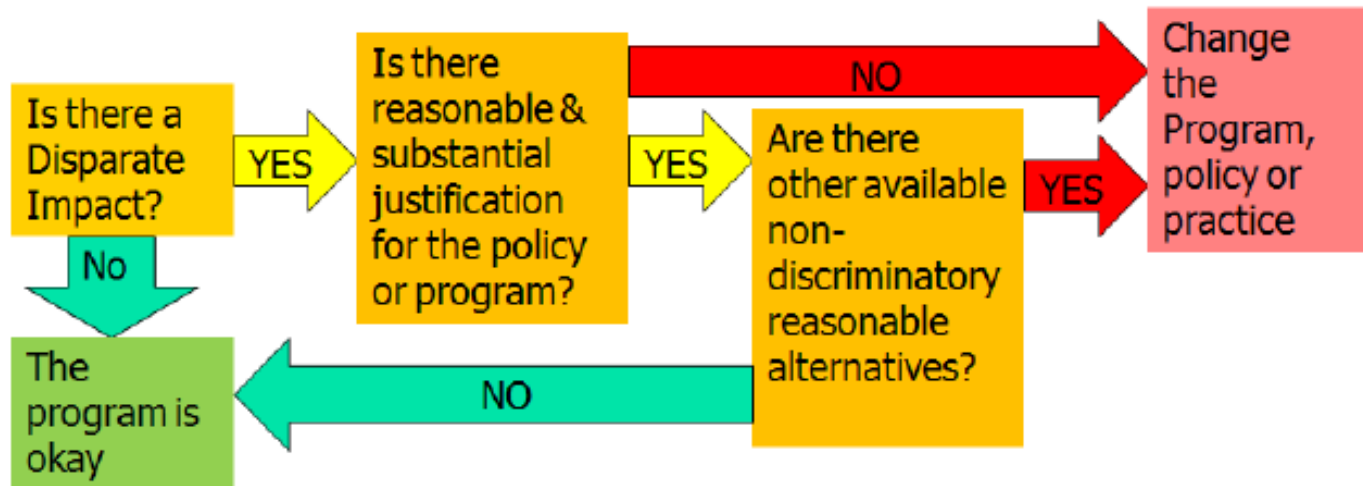
- Use INDOT's Process/Example
- INDOT Title VI and ADA Technical Assistance Guide for Cities and Towns
- DOCUMENT EVERYTHING YOU DO!
- And Document it WELL!!!



# Evaluation Steps

## 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.
- This is a legal analysis and should be done with the participation of counsel.





# Was There a Different Way?



# Step 6: Annual Work Plan

- Communicates how the LPA implements its Title VI requirements (Including EJ & LEP)
- Contains procedures, strategies, and activities to facilitate nondiscrimination
- Identifies Title VI Coordinator, Complaint Process, and Related Policies and Nondiscrimination Statements/Assurances

# Step 6: Annual Work Plan

- Requirements:
  - Mechanism to guarantee effective and efficient implementation, compliance and enforcement of Title VI
  - Include maps of EJ and LEP populations
    - (US Census...other sources?)
  - Organizational Chart – Highlighting any/all with Title VI responsibilities
  - Training programs – audiences/frequency
  - Subrecipient/contractor monitoring

# Step 6: Annual Work Plan

- Optional Components
  - Training Materials
  - Nondiscrimination Authorities
  - Glossary/Definitions
  - Web-links to Resources



# Step 6: Annual Work Plan

- Reviews to Consider – (one bite at a time...but..)
- Special Emphasis Area (elaborate as to why)
  - Based on:
    - Known or probable discrimination
    - Past Complaints
    - Results from a Previous Review
- Reviews Planned
  - General (risk based) &
  - General (random)\*

# Step 6: Annual Work Plan

- Include what we are talking about today...
  - Identification of the Title VI Coordinator/Manager
  - Agency (LPA) Nondiscrimination Policy Statement
  - Nondiscrimination Assurances w/ Appendix A, B, C
  - Organization Chart/Descriptions
  - Complaint Process
  - Implementation/Practices
  - Monitoring and Review Processes
  - Annual Work Plan (coming year)
  - Accomplishments (past year)



# Step 6: Title VI Plan Checklist (handout)

- Signed Policy Statement
- Standard DOT Assurances (w/appendix A, B, C, D & E)
- Organization/Staffing, Including Title VI Coordinator
- Program Review Procedures
- Special Emphasis Areas
- Sub-recipient Review Procedures
- Data Collection, Reporting, and Analysis Procedures
- Title VI Training
- Complaint Procedure
- Dissemination of Title VI Information
- LEP Included
- Environmental Justice Included
- Compliance Enforcement Procedures

# Step 6: Title VI Plan Checklist (handout)

- FHWA 14 Elements to look for
  - <http://www.fhwa.dot.gov/civilrights/programs/tvi/checklist.cfm>

# Step 6: Title VI Plan Checklist

- Note that in INDIANA
  - MAKING A PLAN is Likely your PLAN (at first)
    - Identifying Programs
    - Identifying Key Staff
    - Developing Procedures
      - Data collection
      - Review Processes
      - Complaint Protocols...
    - BUT...must be making progress
      - Making a plan three years from now...probably not acceptable
    - INDOT Annual Self Reporting Portal

# Step 7: Annual Accomplishments

- Reviews Conducted & Outcomes
  - Internal Programs/Projects
  - Subrecipients/Contractors
  - Special Emphasis Areas
- Complaints Received/Investigate/Resolved
  - Use broad descriptions (no names or PII)
- Training Conducted
- Etcetera...(status of initial plan)

# Step 8: Public Involvement

- Notification of Nondiscrimination
- Provide opportunities for meaningful public involvement at every stage of transportation decision making
  - Efforts to Conduct Outreach (EJ/LEP)
    - Use various means of disseminating information
      - Mail, post information at stores, churches, schools, community centers, involve community leaders
      - Interpreters
  - Consider People with Disabilities
    - Hold meetings at accessible locations
    - Provide sign language interpreters/Braille Documents?

# Step 8: Public Involvement

- DO NOTHING FOR US WITHOUT US!



# Limited English Proficiency

- Who?
  - A person who does not speak English as their primary language and has “limited ability” to read, speak, write and understand English
- Four Factor Analysis
  - NUMBER of LEP individuals encountered
  - FREQUENCY of contact with LEP individuals
  - NATURE and IMPORTANCE of the program
  - Available RESOURCES
    - note that in highway construction it is a high-bar

# Limited English Proficiency

- Resources

- I-SPEAK Cards

- (INDOT Title VI & ADA Technical Assistance Guide for Cities Towns)

- Census Data/Local Knowledge/MPOs

- Google Translator (not sure how accurate)

- Consulate's Offices (translators)

- Local Schools/Churches etc. (translators)

- <https://www.lep.gov/resources/resources.html>



# Environmental Justice

- Disproportionately High and Adverse Impacts on Minority and Low Income on Individuals, Populations and Communities.
- The U.S. DOT is committed to following the principles of EJ, which include:
  - To avoid, minimize, or mitigate disproportionately high and adverse human health or environmental effects
    - includes social and economic effects, on minority populations and low-income populations.
  - To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
  - To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority populations and low-income populations.

# Environmental Justice

- [https://www.fhwa.dot.gov/environment/environmental\\_justice/resources/](https://www.fhwa.dot.gov/environment/environmental_justice/resources/)
- [http://www.fhwa.dot.gov/environment/environmental\\_justice/publications/reference\\_guide\\_2015/fhwahep15035..pdf](http://www.fhwa.dot.gov/environment/environmental_justice/publications/reference_guide_2015/fhwahep15035..pdf)
- <https://aspe.hhs.gov/poverty-guidelines>
- <https://www.epa.gov/ejscreen>

# Environmental Justice

- Useful Definitions

- Low Income

- Person = At or below HHS poverty threshold
    - Population = A readily identifiable group of low-income persons in geographic proximity

- Minority

- Person = Black, Hispanic/Latino, Asian American, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander
    - Population = A readily identifiable group of minority persons in geographic proximity



# Environmental Justice

- Useful Definitions
  - Adverse Effects
    - The totality of significant individual and cumulative health , environmental, social, economic impacts
  - Disproportionately High Impacts (Low Income/Minority)
    - Adverse effect of projects predominately borne by minority and or low income populations
    - Adverse effects will be suffered by minority and/or low income population and is appreciably more severe or greater than the adverse effect suffered by non-minority and/or non-low-income population

# Environmental Justice

- Actions to Address Disproportionate Impacts
  - Avoid
    - Using a solution that does not impact EJ
  - Mitigate
    - Replace impacted feature
  - Enhance
    - Embellish community with additional features
  - PLEASE
    - Involve EJ populations in the Decision Making
    - Involve EJ populations in Solution Development

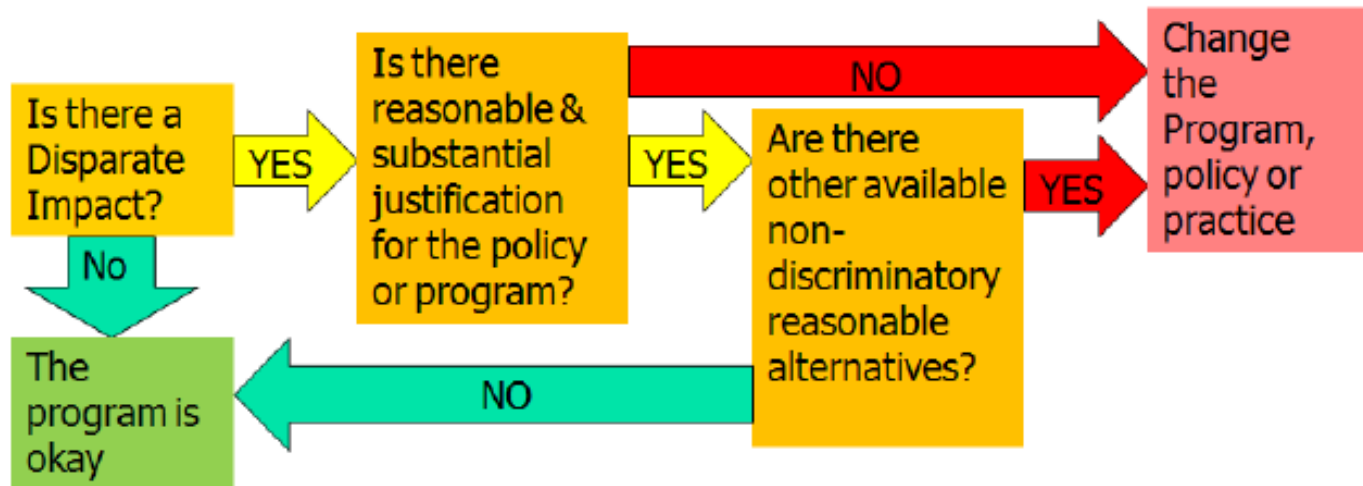
# Step 9: Title VI Reviews and Monitoring

- Data Collection and Evaluation Pre and Post Award
- Develop and Implement Procedures for collecting statistical data (race, color, national origin, income, gender, disability, and age) of the participants who are impacted by and beneficiaries of your programs
- Work with program area representatives to analyze the data collected
- Make adjustments to programs as necessary to eliminate discriminatory impacts
- DOCUMENT YOUR EFFORTS

# Evaluation Steps

## 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.
- This is a legal analysis and should be done with the participation of counsel.



# Step 9: Title VI Reviews and Monitoring

- As you gather data, determine if there is other important data to collect...if there is, take steps to collect the information
- In your Title VI Plan – Consider discussing various methods of data collection you can/should use and step by step discussion regarding how data is being evaluated and considered.

# Step 9: Title VI Reviews and Monitoring

- Collect Data on participants, and beneficiaries of your “agency’s” and “department’s” programs
  - Data Collected in an on-going manner
  - Related to the programs/projects



# Procedures

- Monitor Subrecipient Compliance
  - Pre-award reviews.
    - Best Opportunity to Prevent Discrimination
    - Contract Documents/Solicitation Procedures
      - » Contracts have language from Appendix A, B and/or C?
      - » Solicitations preventing groups of providers from participating?
    - Any history of discrimination, violations etc. by bidders?
      - » Any/all corrective actions required have been effective

# Procedures

- Monitor Subrecipient/Contractor Compliance
  - Post-award reviews –
    - Use a risk based approach
      - » History of discrimination
      - » Project Location (low income, minority, LEP?)
    - Review contractors documentation/practices
    - Provide them with corrective actions as indicated
    - Follow your established processes
    - DOCUMENT
      - » Maintain Records for NO LESS that 3-years after project is closed...though “forever” is better

# Disseminate Title VI Information

- Post on Website
- Place in libraries
- Keep at Official Sites (town hall, court house, departmental offices/site offices)
- Be broad in how you disseminate

# Wrapping it Up

- There are MANY RESOURCES that will yield great Title VI Plans & Programs
  - INDOT Technical Assistance Guide is #1 on the List
- Creating this Plans will take Time...but...
  - Required component
- FHWA/INDOT has been GONE...but we are here now based on 2014 Review

# Wrapping it Up

- Having a Plan that discusses how you will create a plan is good for NOW
- BUT INDOT/FHWA expects progress and implementation
- Indiana will emerge as a leader in this area...just as it has in ADA Transition Planning and compliance...

**JOIN THE SUCCESS STORY!**

# Contacts

Kenneth Woodruff  
Civil Rights Program Manager  
FHWA-Indiana Division  
575 N Pennsylvania, Room 254  
Indianapolis, Indiana 46204  
317-226-0542  
[Kenneth.woodruff@dot.gov](mailto:Kenneth.woodruff@dot.gov)

Erin Hall, Esquire  
Title VI and ADA Program Manager  
Indiana Department of Transportation  
100 N. Senate, Room N750  
Indianapolis, Indiana 46204  
317-234-6142  
[Ehall2@indot.in.gov](mailto:Ehall2@indot.in.gov)

**NIRPC Contact:**  
Gabrielle Biciunas  
Long Range Planner  
219-763-6060  
[gbiciunas@nirpc.org](mailto:gbiciunas@nirpc.org)



# Safe Travels Home