

# Overview of Nondiscrimination & Accessibility Requirements

Presented by:

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- This presentation is to provide technical assistance for informational purposes only. It is not intended to constitute legal advice.
- Compliance with the civil rights laws is an ongoing responsibility.
- The laws and regulations may change.
- INDOT makes no warranties regarding the accuracy, completeness or adequacy of the information.



# Overview

In this module you will learn:

- Which laws & regulations govern Accessibility & Nondiscrimination
- To whom these regulations and apply
- The scope of these regulations, and
- How they are enforced



# The Take Aways:

- Recipients of Federal Funds have both a **contractual and legal obligation** to comply with Title VI, including:
  - LEP,
  - EJ,
  - Disability.
- Recipients of Federal Funds must comply with Section 504 & not discrimination on the basis of disability while Public Entities must comply with the ADA.
- Once you are a recipient of federal funds, you must comply with Title VI regardless of whether or not federal funds are used.
- **Assurances** must be included in every subcontract and appropriate appendices included in deeds, leases, etc.
- Noncompliance may result in loss of funding and legal action.



# Title VI of the Civil Rights Act of 1964

“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)



# Purpose of Title VI

- To eliminate discrimination in federally funded programs and activities.
- To ensure equitable distribution of public funds for public benefit.

EVERYONE PAYS = EVERYONE PLAYS

Title VI is for everyone



# Civil Rights Restoration Act of 1987

- Clarified and restored the intent of Title VI.
- The scope of Title VI includes ALL programs and activities of Federal-aid recipients and contractors regardless if the programs are federally funded or not.



# FHWA Title VI Program

- Includes other civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs receiving federal financial assistance. (23 CFR 200.5(p))
- Prohibits discrimination based on **race, color, national origin, disability, sex, age, low income status or limited English proficiency** in programs and activities receiving federal financial assistance regardless of whether those programs and activities are FHWA funded or not.





# INDOT's Title VI Mission Statement

The Indiana Department of Transportation will implement compliance with Title VI of the Civil Rights Act of 1964 (Title VI); 49 CFR § 26; and related statutes and regulations to ensure that no person is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation (DOT) on the grounds of religion, race, color, national origin, disability, sex, sexual orientation, gender identity, age, low income status or limited English proficiency .



# INDOT's Title VI Policy Statement



The Indiana Department of Transportation (INDOT) values each individual's civil rights and wishes to provide equal opportunity and equitable service for the citizens of this state.

# INDOT's Title VI Policy Statement

As a recipient of federal funds, INDOT is required to conform to Title VI of the Civil Rights Act of 1964 (Title VI) and all related statutes, regulations, and directives; which provide that no person shall be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation (DOT) on the grounds of **religion, race, color, national origin, disability, sex, sexual orientation, gender identity, age, low income status or limited English proficiency.**



# Assurances of Nondiscrimination:

As a condition of receiving Federal Funds, INDOT (and ALL recipients & subrecipients of those funds) must sign **Assurances of Nondiscrimination**.

- Create a contractual obligation
- Require programmatic compliance: DO's & Dont's
- Contain appendices that MUST be included in certain kinds of agreements so that the contractual obligation follows the money to further subrecipients.

## **INDOT's Title VI Assurances:**

[http://www.in.gov/indot/files/DBWI\\_TitleVIAssurances.pdf](http://www.in.gov/indot/files/DBWI_TitleVIAssurances.pdf)



# Limited English Proficiency (LEP)

Executive Order 13166 requires federal-aid recipients to take reasonable steps to ensure meaningful access to their services to **Limited English Proficiency persons**.

## 4 factor analysis:

- > number LEP persons encountered, > need for assistance
- Frequency of contact with LEP persons
- Importance of program or service provided (warning signs)
- Available resources (reasonable test)



# What are Language Services?

- Oral interpretation
- Bilingual staff
- Telephone interpreters
- Written language services
- Use of community volunteers
- Language cards
- Use of universal signs, symbols and pictures



# Environmental Justice



Executive Order 12898  
Requires all federal  
agencies to make  
Environmental Justice  
("EJ") part of their  
mission by identifying  
and addressing the  
effects of all programs,  
policies, and activities  
on **minority and low-  
income populations.**

# Environmental Justice

- **EJ applies to all transportation decisions, including:**
  - Policy making
  - System planning
  - MPO and statewide planning
  - Preliminary review under NEPA
  - Preliminary design
  - Final design engineering
  - Right-of-way
  - Construction
  - Operations and maintenance





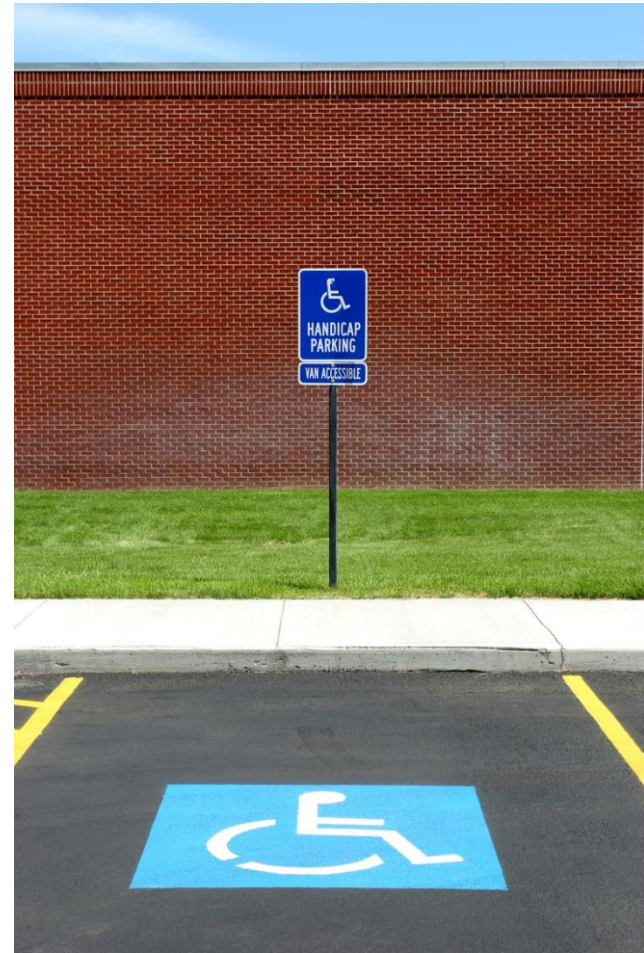
# EJ Requirements

- Make a meaningful effort to involve minorities and low income populations in the decision making process.
- Evaluate the nature, extent and incidence of probable, favorable and adverse human health or environmental impacts on protected populations.
- Incorporate EJ considerations throughout the project development process.



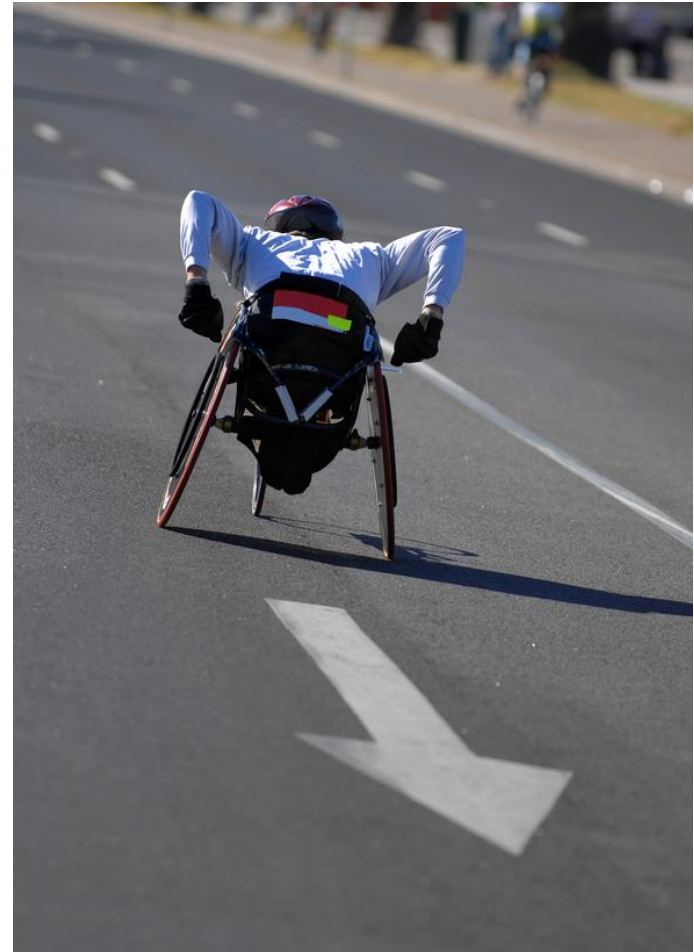
# Americans with Disabilities Act

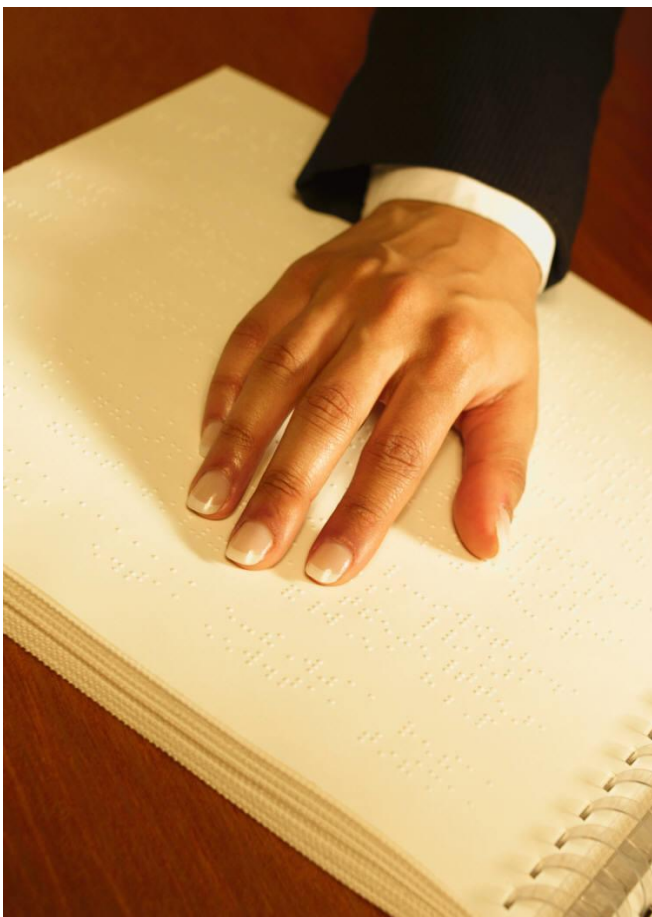
- Applies to all **public entities**
- Requires provision of program access and effective communication
- Includes public transportation
- Enforced by U.S. Dept. of Justice



# Goals of the ADA

- Equal opportunity
- Full participation
- Independence
- Economic self-sufficiency





## Section 504 of the Rehabilitation Act of 1973:

“No qualified handicapped person shall, solely, by reason of his **handicap**, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under **any program or activities that receives or benefits** from Federal financial assistance.”

# Terms of Art



## ■ Recipient

Anyone to whom federal financial assistance is extended, directly or through another recipient for any program. 23 CFR 200.5(n)

↳ **Subrecipients** may include Metropolitan Planning Organizations (MPOs), Local Public Agencies (LPAs), universities, contractors, consultants and any other recipients of Federal-aid highway funds.

**\$ JUST ONE DOLLAR \$ = RECIPIENT**



# Terms of Art



## ■ **Beneficiary**

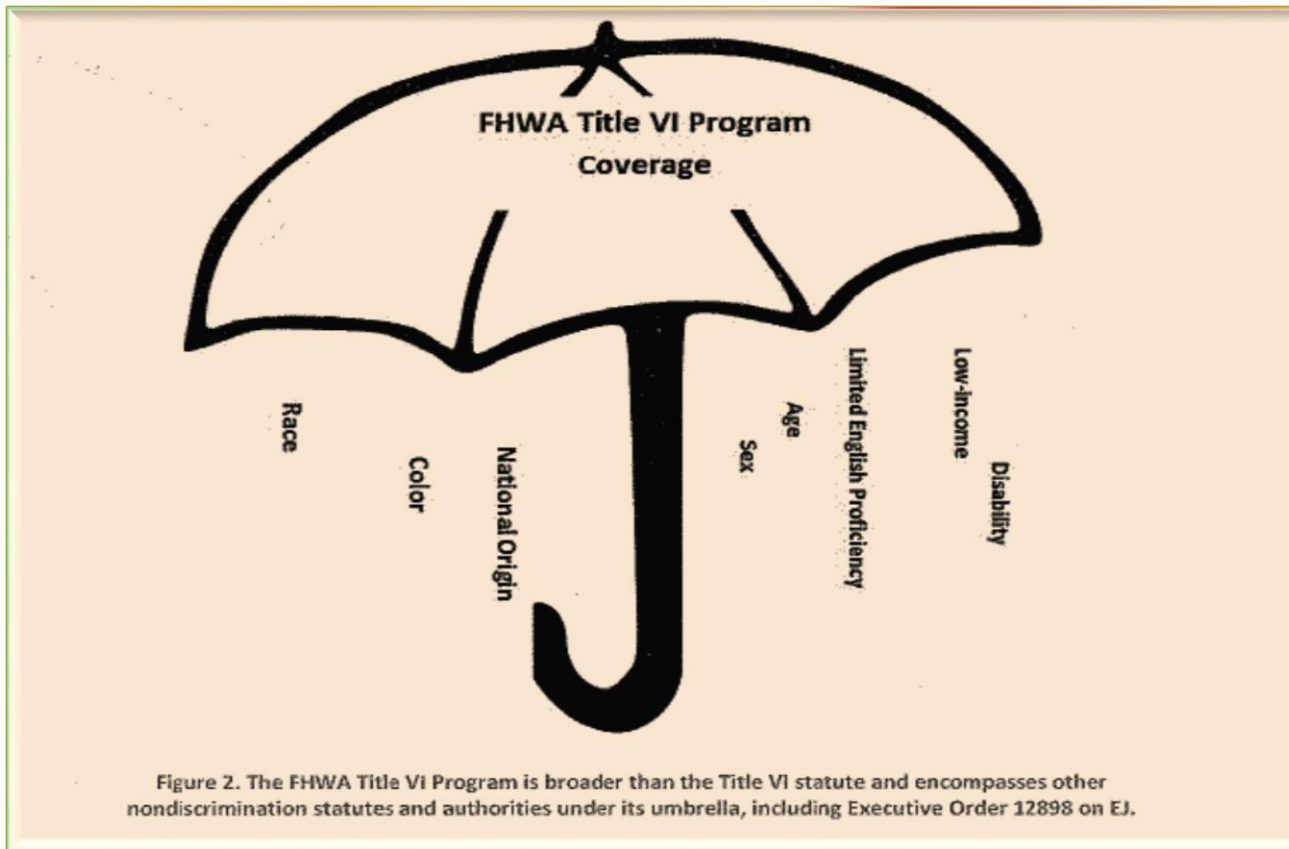
Anyone who benefits from a program or facility developed by recipients (e.g. "public")

\$ TAX DOLLARS FROM EVERYONE \$ = Equal Opportunity for Everyone



# A Visual:

Think of Title VI as a Large Umbrella broadly covering ALL programs:



# Consequences of Noncompliance

- **Withholding of payments on the contract until the sub recipient complies, and**
- **Cancellation, termination or suspension of the contract in whole or in part, or**
- **Other authorized action including provisions under state and local law (e.g. referral to INDOT Prequalification Committee or the U.S. Department of Justice)**





# Things to Remember:

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