ADA Transition Plans
Title II – Government Services: Must ensure that individuals with disabilities are not excluded from programs, services, and activities (pedestrian facilities are an example of a program).
US Population Statistics

• According to the 2010 Census, 21 percent (or approximately 59 million) of the U.S. population over the age of 15 has a disability.

• The National Council on Disabilities estimates that 70 percent of our country’s population will eventually have a temporary or permanent disability that makes climbing stairs difficult.
US Population Statistics

- According to the 2010 National Health Interview Survey, 16.1 million American adults between the ages of 18 and 64 and 5.4 millions American adults 65 years and older report experiencing significant vision loss
- Visual disability can range from total blindness to low vision
US Population Statistics

• According to the National Center on Aging, as of January, 2011 we are turning 65 at the rate of 10,000 people per DAY and will continue to do so until 2020
Legal Background

- Architectural Barriers Act (ABA – originated 1968)
- Rehabilitation Act (1973) – Section 504 (49 CFR Part 27)
- Civil Rights Restoration Act (1987)
- Americans with Disabilities Act (ADA) (1990)
  - DOJ Implementing Regulations (28 CFR 35)
Florida History

• Since ADA became fully enforceable, Florida has always had a strong influence in accessible design. They had an “approved” state standard that had 13 differences from the ADA.

• That changed in 2010 with the adoption of the 2010 ADAAG, and the 2010 Florida Building Code. Florida now has 7 areas that differ from federal law.

• However, they are NOT the same type of law. Florida Building Code is a CONSTRUCTION law. ADA is a CIVIL RIGHTS law. Compliance with one may not mean compliance with the other.
What’s the Difference?

• A CONSTRUCTION law has no requirements until construction activity occurs. Then what you do determines what needs to be done.

• A CIVIL RIGHTS law puts requirements on the agency regardless of planned construction activity.
Current Position

• Departments of Justice and Transportation announced their increased efforts to enforce compliance through “Project Civic Access” and potential withholding of Federal funding.

• Compliance is also becoming a requirement element for all Federal Grant programs.
Project Civic Access

Fernandina Beach, Florida – (10/02/00)
Fort Walton Beach, Florida – (9/11/02)
Citrus County, Florida, Sheriff's Office – (2/27/04)
Citrus County, Florida – (8/05/04)
Coral Gables, Florida – (8/05/04)
Lafayette County, Florida – (8/30/04)
Miami, Florida – (7/25/05)
City of Port St. Lucie, Florida – (8/10/09)
Fort Myers, Florida – (9/30/10)
Jacksonville, Florida – (4/19/13)
Five Titles of ADA

• Title I  Employment
• Title II  State & Local Governments (28 CFR Part 35)
• Title III  Public Accommodations (retail, commercial, sports complexes, movie theaters, et al) (28 CFR Part 36)
• Title IV  Telecommunications
• Title V  Misc., including requirements for the U.S. Access Board to develop design guidelines
Title II – State and Local Governments

Basic Requirement – Must ensure that individuals with disabilities are not excluded from programs, services, and activities (pedestrian facilities are an example of a program)
Title II – State and Local Governments

Basic requirements for government entities:

• Designate an ADA Coordinator
• Development & postings of an ADA Policy Statement
• Development & postings of Grievance Procedures/Complaint Procedures
• Complete a self-evaluation of current services, policies, and practices
• Development of a Transition Plan
Transition Plan Elements

• Identify/list physical obstacles and their location
• Describe in detail the methods the entity will use to make the facilities accessible
• Provide a schedule for making the access modifications
• Provide a yearly schedule if the transition plan is more than one year long
• Name/position of the official who is responsible for implementing the Transition Plan
Transition Plan Elements

Physical Evaluation:

- Buildings
- Parks
- Programs, services, activities
- Boards and Commissions
- Hiring/firing practices
- Job descriptions
- Amenities
- Design standards
Transition Plan Elements

Pedestrian right-of-way facilities:

- Curb ramps (special emphasis in regulation)
- Sidewalks
- Parking lots
- Pedestrian signals
- Transit stops
- Shared use trails
- Parks/recreational facilities
The Pedestrian Environment
Accessible Design Principles

• Construct the built environment to be usable by a broad spectrum of users
• Enable users to travel independently
• Integrate pedestrian facilities in planning and design - not as an afterthought
Title II – Existing Facilities

Undue Burden 28 CFR 35.150(a)(3)

• Based on all resources available for a program
• Claims must be proven and accompanied by a written statement of reasons and signed by the head of the public entity
• What constitutes undue burden will often be decided in courts

BEFORE

AFTER
Title II – Maintaining Accessibility
(28 CFR 35.133)

- State & local governments must maintain the accessible features of facilities in operable working conditions.
- Maintenance examples: sidewalks that are in disrepair; overgrown landscaping, snow accumulation; broken elevator; work zone accessibility (if construction activity affects pedestrian facilities – provide alternate route if more than temp. disruption).
Steps to Compliance

• Step 1  Designating an ADA Coordinator
• Step 2  Providing Public Notice about ADA requirements
• Step 3  Establishing a Grievance Procedure
• Step 4  Developing internal design standards, specifications, details
• Step 5  Developing Self Evaluation and Transition Plan
• Step 6  Approving a schedule and budget to implement the Transition Plan
• Step 7  Monitoring progress on implementation of the Transition Plan
STEP 1: Designating an ADA Coordinator

- Person Must be familiar with agency operations
- Person must be trained or knowledgeable in ADA and other nondiscrimination laws (Title VI, Title VII)
- Person must have sufficient authority, time, and resources to accomplish the duties
- Possible needs for others to have ADA responsibilities, but ONE PERSON IN CHARGE.
- Suggested position locations – Office of CEO, Civil Rights Office, Legal Department, Planning, Public Information…
  - Regardless of where...must have authority to impact programs
Step 2: Providing Notice about the ADA Requirements

- The public must be notified about rights under the ADA and the responsibility of the agency under the ADA.
- Notice should be on-going/continuous.
- Each entity must decide what is effective
  - Accessible website is recommended at a minimum
- Provide the ability to offer comments and follow-up
- Public outreach should involve activists, advocacy groups, general citizens, organizations that support the rights of the disabled, elected official, Governor’s Council, as well as other agencies (local and State).

RESOURCE – Access Board
Step 3: Establishing a Grievance Procedure

• The grievance procedure should include:
  • A description of how and where a complaint under Title II may be filed with the government entity;
  • A description of the time frames and processes to be followed by the complainant and the government entity;
  • Information on how to appeal an adverse decision; and,
  • A statement of how long complaint files will be retained.

• The procedure should enable the filing of complaints in a variety of forms and formats.

• Once a state or local government establishes a grievance procedure under the ADA, it should be distributed to all agency heads.
Step 4: Developing Internal Design Standards, Specifications and Details

Use the ADAAG, IBC and PROWAG
Public Right-of-Way Accessibility Guidelines (PROWAG)

- Originally intended to supplement the ADAAG to provide standards specific to public rights-of-way; most recently formatted as a stand-alone document
- Applicable to new construction and alterations (of existing facilities)
- Undergoing the rulemaking process (2011 Notice of Proposed Rule Making published w/ updated guidelines)
Step 5: Developing Self-Evaluation & Transition Plan

Implementation Plan Components

- A list of physical barriers that limit accessibility to services/programs
- A detailed outline of the methods proposed to address the barriers
- A schedule for achieving compliance
- The name of the official responsible for the plan’s implementation (likely department level)
Develop Evaluation Criteria

- Adherence to ADA, ADAAG and IBC access standards
- Type, status, and proximity of surrounding land uses
- Nature of request / demand
- Potential health risks
- Pedestrian / automobile accident frequency
- Existing infrastructure
- Potential funding availability
- Implementation costs
Conduct Self-Evaluation

- Programs, Policies and Practices
- Design standards
- Infrastructure
Programs, Policies, and Practices

Program Access

• All community programs must be accessible to those with disabilities (28 CFR 35.149)
• Existing facilities
• Community programs
• Communication
• Methods of achieving program accessibility

Policies and Practices

• Non-discrimination requirements of Title II
• Employment
Conduct Self-Evaluation

Field Investigations:

- Extensive photos of site investigations
- Detailed data collection forms
- Data management / GIS based system
ArcGIS / GPS based Data Collection

• Integrated data collection field form
• Fully customizable field forms
• Integrated digital camera
• Field data and photos syncs with ArcGIS

Source: Panasonic.com
Data Collection Process

1. Features and photographs and downloads to the cloud
2. Export features and photographs to a GIS
3. Data collection software is used to attach the photograph to GIS features as attributes
4. Accurate GIS layer with photographs and field evaluation data
In-Field Application Display
GIS – ArcMap Display

Photo Hyperlink Display
Step 6: Approving Schedule and Budget

Schedule actions each year to address barriers

Regularly occurring programs
- say X crosswalks/year for X years
- resurfacing projects...others

Prioritization
- Government Centers/Transit/Public Services...
- Pedestrian Level of Service
- Citizen requests/complaints
- Population Density
- Presence of Disabled Community
Evaluation Criteria
Signalized Intersections

Prioritization Factors

• Curb ramp design
• Height of push buttons
• Compliant landing area in front of all buttons
• Signage
• Pavement markings

Ranking Factors

• Proximity to attractors
• Proximity to residential population
• Number of existing complaints
• Number of crashes
• Age of signal
• Street classification
• Funding availability
Sidewalk Prioritization
Develop Cost Projections

• Improvement construction costs
• Engineering and surveying costs
• Project contingency
### CITY OF TULSA – BUILDING REPORT

#### GENERAL AREAS, LOWER LEVEL:

<table>
<thead>
<tr>
<th>STORAGE ROOM 28:30:20</th>
<th>PRIORITY MEDIUM</th>
</tr>
</thead>
<tbody>
<tr>
<td>COST: $500</td>
<td></td>
</tr>
</tbody>
</table>

No visual strobe alarm is provided.

#### RESTROOMS (By Section 112/114)

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $1,250</th>
</tr>
</thead>
</table>

The men's restroom is only 5'6” wide. It's required to be a minimum of 60” wide.

Men's, Women's and Family restroom have the mirrors mounted at 41” to the bottom of the reflecting surface.

#### CONCESSION TABLES:

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $840</th>
</tr>
</thead>
</table>

All of the tables provided are for standing people only. Where those are provided it is required to have some at accessible heights. Ensure at least 5% of the tables provided are fully compliant in each area where tables are provided.

#### ONEOK SUITE:

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $490</th>
</tr>
</thead>
</table>

The seat covers are mounted behind the water closets where there is no clear floor space for access. They need to be moved to a side wall so they can be reached prior to getting on the water closet.

Men's and Women's restroom have the mirrors mounted at 41” to the bottom of the reflecting surface.

#### RESTROOMS (By Section 106)

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $3,250</th>
</tr>
</thead>
</table>

Men's, Women's and Family restroom have the mirrors mounted at 41” to the bottom of the reflecting surface and seat covers are behind the water closets. Seat covers will be required to be moved to an accessible location.

The women's restroom has the door opening directly in front of the water closet instead of into the clear floor space. This must be altered for compliance.

The men's restroom has the flush control on the wrong side.

#### RESTROOMS (By Section 102)

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $1,250</th>
</tr>
</thead>
</table>

Men's, Women's and Family restroom have the mirrors mounted at 41” to the bottom of the reflecting surface.

Women's restroom door has only 10’ on the pull side.

#### GENERAL AREAS, UPPER LEVEL:

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $1,180</th>
</tr>
</thead>
</table>

All of the restrooms on the upper level have the mirrors mounted at 41” to the bottom of the reflecting surface and the seat covers mounted behind the water closet. This will need to be resolved for full compliance.

#### SUITES:

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $840</th>
</tr>
</thead>
</table>

Tablets provided in the suites are all high tables. Please ensure at least one (or 5%) of the tables are at accessible heights.

#### STAFF KITCHEN:

<table>
<thead>
<tr>
<th>PRIORITY MEDIUM</th>
<th>COST: $1,850</th>
</tr>
</thead>
</table>

Both of the doors going into the staff kitchen area have 1'7/8” on the pull side. At least one of the doors is required to have a minimum of 18” on the pull side.
Step 7: Monitoring the Progress

• Use Transition Plan in annual planning cycle
• Track from initial inventory (baseline)
• Transition Plan is a “Living Document”
  • UPDATE regularly (annually recommended)
• Changes in the pedestrian environment have impacts (e.g., adding street furniture, landscaping, path of travel)
References

• ADA Title II Regulations, September 15, 2010
  • www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm

• Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way, July 26, 2011

• Americans with Disabilities Act (ADA)/Section 504 of the Rehabilitation Act of 1973 (504)
  • www.fhwa.dot.gov/civilrights/programs/ada.cfm

  • bookstore.transportation.org/item_details.aspx?id=119

• Department of Justice/Department of Transportation Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing, July 8, 2013
  • www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm
Contact Information

Accessology
Kristi J. Avalos
kjavalos@Accessology.com
(972) 434-0068

Kimley-Horn
C. Brian Shamberger, P.E. (TX, OK), PTOE
brian.shamberger@kimley-horn.com
(817) 339-2245
Questions?

ADA Transition Plans