CIVIL RIGHTS
NONDISCRIMINATION INFORMATION
FOR LOCAL PUBLIC AGENCIES

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Americans with Disabilities Act
Purpose of this Session

• Understand your obligations and responsibilities under Title II of the ADA
• Roles and responsibilities for an ADA Coordinator
• Understand the objectives and minimum requirements for Self Evaluations by public entities.
• Understand how to use the results of their Self Evaluations to manage their ADA compliance efforts.
• Understand the objectives and minimum requirements for Transition Plans by public entities.
What this Session will not cover

• ADA Design Components

• ADA Compliant Construction

• Legal Opinion on ADA Matters
The intent of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 is to ensure nondiscrimination and access for individuals with disabilities. This nondiscrimination and accessibility applies to all programs, services, and activities within your community.
ADA Title II Basics

ADA Coordinator
What is an ADA coordinator and what do they do?

• An ADA Coordinator facilitates compliance with the Americans with Disabilities Act (ADA) Title II regulations, and

• Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), both of which prohibit discrimination on the basis of disability.

• The purpose of an ADA coordinator is to prevent discrimination and to make sure that people can easily get help if they are discriminated against because of their disability.

• They also make sure people with disabilities receive the accommodations and modifications they need to access the services and programs that agency provides.
ADA Position Requirements

Title II of the ADA stipulates five major administrative duties:

• 1. Publicize the name and contact information of the designated ADA Coordinator responsible to oversee compliance;

• 2. Provide Notice of ADA requirements (to communicate the City’s commitment to nondiscrimination).

• 3. Administer and write self-evaluation of the programmatic barriers in services offered by the local government;

• 4. Establish a complaint or grievance procedure to respond to complaints of noncompliance from the public;

• 5. Develop a transition plan if structural changes are necessary for achieving program accessibility; and retain the self-evaluation for three years.
Self Evaluations

Required of all entities
DOJ Implementing Regulations (28 CFR 35)
What’s the Purpose of a Self Evaluation?

• Identify barriers in programs & activities that prevents persons with disabilities from access (includes evaluation of policies/practices)
• Key – provide equivalent access to the maximum extent feasible
Why is it important?

The core purpose of the Rehabilitation Act is to ensure that disabled individuals have “meaningful access” to public programs and services.

Public entities must give access to services that is substantially equal to the services provided to non-disabled persons.
Self-Evaluation

Getting Started

● Develop a questionnaire (Survey) to go to all the different departments
  Accommodations
  Communication
  Polices, i.e. service animals
  Mobility aid policy
● ADA compliance team
  Members from each agency and/or department
  Conduct program interviews
● Public Involvement
  Advisory Council
● Review departmental procedure manuals
What Must Be Evaluated?

Identify Departments and Programs:

- Assessor
- Building
- City Clerk
- Council on Aging
- Fire
- Health
- Historical
- Hospital
- Human Resources
- Libraries
- Mayor's or Manager’s Office
- Parks and Recreation
- Police
- Planning
- Public Works
- Retirement
- School
- Treasurer
- Youth Services
- Veterans
- Voter Registrar
- Website
Self-Evaluation

• Identifying Barriers within public right-of-way
• Curbs
• Sidewalks
• Pedestrian Crossings
• Pedestrian Signals
• Shared Use Trails
• Parking Lots
• Bus Stops
<table>
<thead>
<tr>
<th>Issue</th>
<th>Possible Barriers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk/Pathway Clear Width</td>
<td>Narrow, Below Guidelines</td>
</tr>
<tr>
<td>Sidewalk/Pathway Cross Slope</td>
<td>Steepness, Irregularity, Variability, Warping</td>
</tr>
<tr>
<td>Landings along sidewalks/pathways</td>
<td>Less than 4’ X 4’</td>
</tr>
<tr>
<td>Sidewalk/Pathway Grade</td>
<td>Steepness, Angle Points</td>
</tr>
<tr>
<td>Materials/Finishes</td>
<td>Surface and Marking deterioration, rough materials (cobbles, stamped..)</td>
</tr>
<tr>
<td>Gratings</td>
<td>Type and Orientation</td>
</tr>
<tr>
<td>Discontinuities</td>
<td>Missing sections, gaps, drops, steps</td>
</tr>
</tbody>
</table>

Strongly Recommend Using PROWAG Standards

<table>
<thead>
<tr>
<th>Issue</th>
<th>Possible Barriers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detectable Warnings</td>
<td>Missing, wrong materials, inadequate size or location</td>
</tr>
<tr>
<td>Obstructions</td>
<td>Signs, mailboxes, hydrants, furniture, phones, drainage structures, landscaping</td>
</tr>
<tr>
<td>Traffic Signal Systems</td>
<td>No Audible Ped. Signals for visually impaired, inadequate timing (too fast), inoperable, poor access</td>
</tr>
<tr>
<td>Curb Ramp</td>
<td>Missing misses marked crosswalk, fails to meet guidelines</td>
</tr>
<tr>
<td>Curb Ramp Flares</td>
<td>Missing, Too Steep</td>
</tr>
</tbody>
</table>
Self-Evaluation

• Methods
• Field inspections/surveys (form/checklist)
• GIS (recording locations/measurements)
• Segway (profiler for reading slopes)
Self-Evaluation

- **End Result**
  - Inventory (and details) of facilities where structural modifications are needed to make facilities accessible to persons with disabilities
  - Foundation for Transition Plan
  - Maintain in file/available for public inspection for 3 yrs from date of completion
Transition Plan
Transition Plan

• Required by Rehabilitation Act and the ADA
• 50 plus employees (entire agency)
• Public input
Purpose & Scope

- Set forth steps necessary to complete modifications identified through self-evaluation (those areas not covered in a previously developed plan)
- Provide a schedule for completing modifications
- DOJ reference to Program Access Plan
Transition Plan

At a minimum a Transition Plan must...

- Identify an ADA Coordinator
- Identify Complaint Process
- Develop/Adopt Design Standards
- Identify Public Involvement Opportunities
- Identify Barriers to Access
- Identify Plan (time and budget) to Remove Barriers
- Reevaluation Schedule

FHWA is NOT interested in MINIMUMS
Transition Plan

- Content (at a minimum)
  - Identify physical obstacles
  - Describe the methods to make facilities accessible
  - Specify the schedule for achieving completion (if longer than 1 year, identify steps to be taken each year but as expeditiously as possible)
  - Identify official responsible for implementation of plan
  - Estimated Cost of each modification
  - Status column to record completion date
Transition Plan

Important things to remember

- Prioritize modifications (using same criteria as self-evaluation)
- Coordinate/integrate schedule of modifications with planned alterations (paving, building, utility work)
- Inform/educate persons with authority over budget/prioritizing projects
- Transition Plan is a living document – evolving planning & monitoring tool
- As boundaries grow, so does the need to incorporate acquired facilities into Self-Evaluation/Transition Plan process
- Special Requests/Complaints & Transition Plan schedule
### ADA DOT Transition Plan Attributes Review Guide:

<table>
<thead>
<tr>
<th>Transition Plan Attribute</th>
<th>Review Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventory of barriers (identification of physical obstacles)</td>
<td>28 CFR 35.150(d)(3)(i); 28 CFR 35.105(a) – State demonstrates good faith by identifying intersection information, including curb ramps and other associated accessibility elements, as a starting point and showing movement and commitment toward developing a full inventory. Require an Action Plan to develop an inventory of sidewalks (slopes, obstructions, protruding objects, changes in levels, etc.), signals (APS), bus stops (bus pads), buildings, parking, rest areas (tourist areas, picnic areas, visitor centers, etc.), mixed use trails, linkages to transit. Best practice - have discussion of jurisdictional issues/responsibilities for sidewalks. Schedule – Show a strong commitment toward upgrading ADA elements identified in the inventory of programmatic barriers in the short term. Short term administrative steps to remove barriers can be implemented within one year of publication of the ADA Transition Plan. Long-Term items may require department-specific modifications to fit the services, programs, and activities provided by each department. It will take longer than one year to implement these changes to remove remaining programmatic barriers. Describe in detail the Methods that will be used to make the facilities accessible. 28 CFR 35.150(d)(3)(ii) Best practice – Include the Standard that the STA is following (i.e., 2010 ADAAG, 2011 PROWAG) Inventory of programmatic barriers (Identification of barriers in programs, administrative policies and procedures and administrative and municipal codes), i.e. availability, operation, and maintenance of auxiliary aids; provision of interpreter services; effective communications including print, visual, video, and website content; emergency evacuation preparedness; hiring practices; and contractor/vendor rights and responsibilities. Schedule – Show a strong commitment toward upgrading ADA elements identified in the inventory of programmatic barriers in the short term. Short term administrative steps to remove barriers can be implemented within one year of publication of the ADA Transition Plan. Long-Term items may require department-specific modifications to fit the services, programs, and activities provided by each department. It will take longer than one year to implement these changes to remove remaining programmatic barriers. Describe in detail the Methods that will be used to make the facilities accessible. Other ADA Requirements</td>
</tr>
<tr>
<td>Official responsible for implementation of the TP, i.e., Executive Director, Secretary, Commissioner, Chief Engineer, etc. 28 CFR 35.150(d)(3)(iv)</td>
<td>Best practice - Dedicate resources to eliminate identified ADA deficiencies</td>
</tr>
<tr>
<td>Public Involvement – Description of process to allow public to readily access and submit comments for both self-evaluation and transition plan. 28 CFR 35.150(d)(11); 28 CFR 35.105(b)</td>
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</tr>
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**Transition Plan Attribute**

- All Elements posted conspicuously on website, for internal and external use

**Review Comments**

- 28 CFR 35.150(d)(3)(iv)
Questions
Resources for ADA Coordinators

U.S. Department of Justice Resources on ADA Title II
https://www.ada.gov/resources/?filters=(link is external)

ADA Best Practices Tool Kit for State and Local Governments
https://archive.ada.gov/pcatoolkit/toolkitmain.htm(link is external)

Guidance on Web Accessibility and the ADA
https://www.ada.gov/resources/web-guidance/(link is external)

ADA Title II Action Guide for State and Local Governments
https://www.adaactionguide.org/ada-title-ii-requirements#introduction(link is external)

ADA National Network
https://adata.org
Civil Rights
Title VI Program
Implementation Plans
TITLE VI Learning Objectives and agenda

- Title VI Background and Purpose
- Title VI LPA Responsibilities, Compliance and Enforcement
- Title VI Implementation Plan checklist
- Title VI Common Mishaps
- Questions and answers
What is Title VI?

• Title VI prohibits discrimination on the basis of:
  - Race
  - Color
  - National Origin
Understand your Title VI Responsibilities:

- Methods of Program Administration:
- Designate a Title VI Coordinator
- Ensure Programmatic Implementation throughout your agency
- Develop, Implement, & Post a Title VI policy
- Implement a Complaint Policy
  - Maintain a Complaint Log
- Notify INDOT of all complaints with Department nexus
- Evaluate the following for discrimination:
  - programs / facilities /policies /activities
- Develop, Post & Implement annual program documents:
  - Title VI Implementation Plan, and
  - Annual Goals & Accomplishments
Understand your Title VI Responsibilities:

• A Federal-aid recipient must have a formal plan to prevent discrimination in all of its programs and activities.

• The program includes:
  a) methods of administration, and
  b) a system of polices and practices
Title VI Implementation Plan Elements:

Critical elements of an implementation plan and additional documentation related to Title VI:

- Nondiscrimination Policy Statement
- Standard USDOT Title VI Assurances.
- Organization & Staffing
- Primary Program Area Descriptions
- Program Area Review, Compliance, and Enforcement Procedures
- Sub-recipient Review, compliance, enforcement Procedures
Title VI Implementation Plan Elements Continued:

• Data Collection and Analysis
• Staff Training
• Complaint Procedures
• Dissemination of Title VI Information
• Limited English Proficiency
• (Language Assistance Plan)
• Review of Directives
• Compliance & Enforcement Procedures
Title VI Plan—Procedures

- Annually submit a Title VI Implementation plan to INDOT for approval.
- Annual means Federal Fiscal Year, by October 1st.
- Plan represents policies and procedures for implementation in next Fiscal Year: e.g. Plan submitted October 1st, 2023 is for Federal Fiscal Year 2024.
- If approved INDOT sends approval letter
- If disapproved INDOT sends deficiency letter
- No statutory timeframe for approvals but INDOT completes performance tracking by end of Calendar year.
Title VI Plan Common Mishaps

• Finding a template and filling in the blanks
  
  (no two plans are alike)

• Failing to truly assess all programs, activities, policies and procedures for discriminatory practices

• Failing to determine what data to evaluate and how to collect and analyze

• Including accomplishments & goals in the Title VI plan, or

• Submitting the Accomplishments & Goals statement as the Plan

• Failure to execute the Assurances
ANY QUESTIONS?
Programs and activities receiving federal financial assistance must abide by civil rights requirements.

- **Title VI of the Civil Rights Act of 1964**
  Race, color, and national origin

- **Civil Rights Restoration Act of 1987**
  Clarifies the scope of the Civil Rights Act of 1964

- **Section 504 of the Rehabilitation Act of 1973**
  Disability

- **Americans with Disabilities Act (ADA) of 1990/ADA Amendments Act (ADAAA) of 2008**
  Disability

- **Age Discrimination Act of 1975**
  Age

- **Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324)**