



# WASCITO

CIVIL RIGHTS TRAINING SYMPOSIUM | AUSTIN 2019



# ADA Best Practices – Transition Plans

March 7, 2019

A scenic view of the Austin skyline at sunset, with the city's lights and buildings reflected in the calm water of a lake. A bridge with a white railing is visible on the left side of the frame.

# Patrick Gomez

Civil Rights Specialist | FHWA Resource Center

# Sharon Field

ADA Team Leader | Headquarters Office of Civil Rights

# Title II - State and Local Governments

## Basic Requirements:

- 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:

- Designate an ADA Coordinator
- Development & postings of an ADA Policy Statement
- Development & postings of Grievance Procedures/Complaint Procedures
- Complete a self-evaluation
- 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

# State ADA Transition Plans: Review Process Expectations

# Transition Plan Work Group Members

Patrick Gomez –Resource Center

Sharon Field – Headquarters Office of Civil Rights

Joseph Werning – Division Administrator, NE

Robert Clark – Division Administrator, NJ

Jim Esselman - Headquarter Office of Chief Counsel

Elizabeth Hilton – Headquarters Office of Infrastructure

# ADA Transition Plans

Our Approach to the Challenge...The Beginning of a Journey...

- Balancing prescription and flexibility
- Not a “plan for a plan”
- Reviewing State DOT Transition Plans

# ADA Transition Plans

## Important Concepts...

- “Good Faith Efforts” and Transparency (a clear web presence)
- Cost is not an excuse!
- Who is responsible?
- Outcome-oriented...use the STIP process as a place to examine
- Jurisdictional Issues (particularly sidewalks)
- Intersections are top priority
- Harmonize with Transit

# Review Process

The FHWA Division Civil Rights Specialist conducts the initial review and informs the FHWA Division Administrator based on the “minimum attributes” review guide.

FHWA Division Civil Rights Specialist submits the Transition Plan to the RC and HCR with the concurrence of the Division Administrator.

FHWA RC and HCR convenes Transition Plan Workgroup for Review.

The workgroup meets with FHWA Division Administrator and Civil Rights personnel.

FHWA Division Administrator and Civil Rights personnel meet with State civil rights and engineering representatives to discuss our review.

# ADA Transition Plan Best Practices

- All elements of a transition plan should be posted conspicuously on the State's website
- During the State DOT self-certification process for their STIP, the State should document the status of its ADA transition plan

# ADA Transition Plan Requirements

Each “minimum attribute” is a direct reflection of what the regulations at *28 CFR 35.150(d)* require:

- Official Responsible for implementation of the transition plan
- Inventory of barriers
- Schedule
- Methods

# Minimum ADA Transition Plan Attributes

- 1. Official Responsible for implementation of the transition plan (i.e., Executive Director, Secretary, Commissioner, Chief Engineer, etc.);**  
*See 28 CFR 35.150(d)(3)(iv)*

# Minimum Transition Plan Attributes, cont'd

**2. Inventory of barriers** (identification of physical obstacles); See 28 *CFR 35.150(d)(3)(i)*; 28 *CFR 35.105(a)*: As a starting point, identify intersection information, including curb ramps, and other pedestrian elements

- **Action plan** to develop 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

# Minimum Transition Plan Attributes, cont'd

**3. Schedule:** Show strong commitment toward upgrading ADA elements identified in inventory in short term (planned capital improvements projects); and strong commitment over time toward prioritizing curb ramps at walkways serving entities covered by ADA. See *28 CFR 35.150(d)(2)*

- **Include** prioritization information, planning and investments directed at eliminating other identified barriers over time; See *28 CFR 150(d)(3)*
- **Best practice:** dedicate resources to eliminate identified ADA deficiencies

# Minimum Transition Plan Attributes, cont'd

**4. Methods:** Describe in detail the methods that will be used to make the facilities accessible; See *28 CFR 35.150(d)(3)(ii)*

- **Best practice:** Include the Standard that the State is following (i.e., 2010 ADAAG, 2011 PROWAG)

# Other ADA Requirements

- **Public Involvement** - 28 CFR 35.150(d)(1); 28 CFR 35.105(b)
- **ADA policy statement** - 28 CFR 35.106
- **ADA Coordinator** - 28 CFR 35.107(a)
- **Complaint/Grievance Process** - 28 CFR 35.107(b)

# Other ADA Requirements

- **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)(1); 28 CFR 35.105(b)
  - **Best practices:** a) detailed list of individuals consulted posted conspicuously on website, does not have to be in actual TP, but must be documented and available; b) have both electronic and hard copy notice. 28 CFR 35.105(c)

# Other ADA Requirements

- **ADA policy statement** is a requirement of State Agencies, but does not have to be in the TP per se, but it is a good practice and needs to be easily accessible by the public. 28 CFR 35.106
  - Best practice - post conspicuously on website, for internal and external use

# Other ADA Requirements

- Clear identification of the **ADA Coordinator** (dedicated trained staff) with contact information (i.e., name, office address, telephone number, email address, fax number) 28 CFR 35.107(a)

# Other ADA Requirements

- Clear **Complaint/Grievance Process** to receive and address complaints/grievances from the public (is a requirement of State Agencies, but does not have to be in the TP per se, but it is a good practice and needs to be easily accessible by the public). 28 CFR 35.107(b)

# Ongoing Division and State Responsibilities

- **State Transportation Agency:** Ensure plan is a “living document,” with updates as needed; fulfilling commitment to ensure accessibility in PROW
- **Division Offices:**
  - Monitor State’s development of transition plan and progress toward full implementation;
  - Monitor State’s progress toward the elimination of barriers

# Next Steps

- Use guide to evaluate where STA currently is regarding their Transition Plan
- STA meets with Division Office to discuss plan of action for its Transition Plan

# Transition Plan Review Guide

State \_\_\_\_\_

State DOT Transition Plan Attributes Review Guide: All Elements posted conspicuously on website, for internal and external use	
Transition Plan Attribute	Review Comments
<p><b>Official responsible</b> for implementation of the TP, i.e., Executive Director, Secretary, Commissioner, Chief Engineer, etc. 28 CFR 35.150(d)(3)(iv)</p>	
<p><b>Inventory of barriers</b> (identification of physical obstacles) 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.</p> <p>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.</p> <p>Best practice - have discussion of jurisdictional issues/responsibilities for sidewalks</p>	
<p><b>Schedule</b> – Show a strong commitment toward upgrading ADA elements identified in the inventory of barriers in the short term (planned capital improvement projects) and a strong commitment over time toward prioritizing curb ramps at walkways serving entities covered by the ADA. 28 CFR 35.150(d)(2) This would also include prioritization information, planning, and investments directed at eliminating other identified barriers over time. 28 CFR 35.150(d)(3)</p> <p>Best practice - dedicate resources to eliminate identified ADA deficiencies</p>	
<p>Describe in detail the <b>Methods</b> that will be used to make the facilities accessible. 28 CFR 35.150(d)(3)(ii)</p> <p>Best practice – include the Standard that the STA is following (i.e., 2010 ADAAG, 2011 PROWAG)</p>	
Other ADA Requirements	Review Comments
<p><b>Public Involvement</b> – Description of process to allow public to readily access and submit comments for both self-evaluation and transition plan. 28 CFR 35.150(d)(1); 28 CFR 35.105(b)</p> <p>Best practices: a) detailed list of individuals consulted posted conspicuously on website, does not have to be in actual TP, but must be documented and available; b) have both electronic and hard copy notice. 28 CFR 35.105(c)</p>	
<p><b>ADA policy statement</b> is a requirement of State Agencies, but does not have to be in the TP per se, but it is a good practice and needs to be easily accessible by the public. 28 CFR 35.106</p> <p>Best practice - post conspicuously on website, for internal and external use</p>	
<p>Clear identification of the <b>ADA Coordinator</b> (dedicated trained staff) with contact information (i.e., name, office address, telephone number, email address, fax number) 28 CFR 35.107(a)</p>	
<p>Clear <b>Complaint/Grievance Process</b> to receive and address complaints/grievances from the public (is a requirement of State Agencies, but does not have to be in the TP per se, but it is a good practice and needs to be easily accessible by the public). 28 CFR 35.107(b)</p>	
<p>REVIEWER _____</p>	<p>DATE _____</p>

# Statistics: State Transition Plans

- States with Transition Plans – 38
- States In-Development (not yet submitted) – 4
- States currently under review – 4
- States to resubmit for re-evaluation – 6

# State Transition Plan Good Examples

Alaska, California, D.C., Nevada

- Good web presence (transparent)
- Information was easy to find
- Clear understanding who was responsible for TP
- Clear inventory (lists)
- Average member of the public could understand what was taking place and when (specialized knowledge not needed)
- GIS Mapping with pictures
- Good understanding what Standards were being used

# Take Aways for ADA Transition Plans

# Take Aways – Transition Plans

- Make sure TP information is easy to find and follow in simple language without the need of specialized knowledge in Civil Rights, Engineering, Law, etc.
- Have materials that appear on your website and at public meetings available in languages other than English.
- Consider using GIS mapping for identifying and documenting noncompliant facilities.
- Distinguish between Title VI and ADA on website and in documents (e.g., complaint process).

# Take Aways – Transition Plans

- Be specific about what was the nature of the public's involvement in the self-evaluation and transition plans.
- Make sure that your ADA policy statement is conspicuous on your website, and make sure that it is separate from your Title VI/Nondiscrimination Policy Statement.

# Take Aways – Transition Plans

- Hold public meetings at accessible locations on days and times when you will get the best turnout, take into account individuals' work schedules, religious holidays, etc.
- In addition to your buildings, make sure to inventory everything for which you are responsible that has an affect on persons with disabilities, such as: your facilities on-site, electronic communications, and your public right-of-way facilities.
- Make materials available in electronic and hard copy forms.
- Be clear about the Standards you are using.