Americans with Disabilities Act (ADA) Requirements for Transit Agency Facilities

Transport Chicago 2016

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Presentation Objectives

- The Americans with Disabilities Act (ADA) and Title II ADA Requirements
- FTA Regulations and Guidance
- ADA Obligations of Transit Agencies
- ADA Resources
- ADA Bus Stop Accessibility Case Study (if time allows)
- Questions and Answers (Please hold to the end)

All this in a totally insufficient amount of time. Consequently, level of detail is very low.
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Transportation Issues

By 2025, 20% of the U.S. population will be age 65 & over (over $\frac{1}{2}$ have a disability). Will increase the need to provide better access to fixed route services.

- Aging in Place and Independent Living movement
- Leading cause of death for 65 and over are falls
  - Makes barrier removal even more important!
- Paratransit costs and services at capacity
The ADA

- Enacted in 1990
  - Companion to Civil Rights Act of 1964
  - Companion to Section 504 of Rehabilitation Act of 1973

- Mandates that disabled individuals shall not be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity.

- Provides disabled employees with additional protections beyond Title VII

The ADA

• Five (5) Parts of ADA
  - Title I - Employment
  - Title II - Public Services (Public/Governmental Agencies)
  - Title III - Public Accommodations
  - Title IV - Telecommunications – covers private telephone companies
  - Title V - Miscellaneous – construction standards and practices, technical assistance provisions, etc.

• Federal Agencies with Enforcement Responsibility*
  – Department of Justice
  – EEOC (Title I)
  – Department of Transportation (including FHWA and FTA)
  – FCC (Title IV)
  – Department of Education
  – Department of Health and Human Services
  – Department of Labor
  – Department of Housing and Urban Development
  – Department of Interior
  – Department of Agriculture
Applicability of ADA to Local Units of Government

- **Title II - Public Services**
  - Requires a **self-evaluation** of programs, facilities, current services, policies, and practices, . . . .
  - *Facility* means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.
Applicability of ADA to Local Units of Government

• **Title II - Public Services (con’t)**
  – A public entity that employs 50 or more persons shall:
    • designate at least one employee to coordinate its efforts to comply with ADA (**ADA Coordinator**).
    • Adopt and publish **grievance procedures** providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.
    • Prepare a Transition Plan - completion was required by **July 26, 1992**.

*(Today is June 10, 2016. If you don’t have a plan you are only 23+ years late!)*
Self-Evaluation and Transition Plan: Title II
State and Local Governments

28 CFR 35.105

Self-Evaluation Report
- Data Collection
- Database Analysis
- Barrier Ranking

Disability Community Participation

28 CFR 35.150(d)(3)

ADA Transition Plan
- Corrective Measures
- Implementation Schedule
- Financing Plan
ADA Standards

• Buildings and Facilities
  – DOJ - 2010 ADA Standards for Accessible Design (ADASAD, NOT ADAAG)
    http://www.ada.gov/2010ADASTANDARDS_INDEX.HTM
  – Basis for enforceable standards maintained by other agencies (enforceable as of 03/15/2012)

• Public Right-of-Way

• Some Federal agencies have supplemental standards specific to their needs

• State & Local Codes
  – Must be equivalent to ADA Standards, but may be more “Stringent” than Federal
FTA Regulations & Guidance

ADA Regulations

Regulations
- Part 27—Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance
- Part 37—Transportation Services for Individuals with Disabilities
  - ADA Standards for Transportation Facilities
- Part 38—Accessibility Specifications for Transportation Vehicles
- Part 39—Transportation for Individuals with Disabilities: Passenger Vessels

Final Rule on Reasonable Modification
- Parts 27 and 37—Transportation for Individuals with Disabilities: Reasonable Modification of Policies and Practices (3/13/2015)

Statute and Legislative History
- The Americans with Disabilities Act of 1990
- Preamble—Transportation for Individuals with Disabilities, September 6, 1991
- Americans with Disabilities Act—Transportation Regulatory History

Other Resources
- DOT ADA 10/19/2011 Final Rule—Summary of Major Points (PDF)
Circular FTA C 4710.1

1. **PURPOSE.** This circular provides guidance to recipients and subrecipients of Federal Transit Administration (FTA) financial assistance necessary to carry out provisions of the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, as amended, and the U.S. Department of Transportation’s implementing regulations at 49 CFR Parts 27, 37, 38, and 39.

2. **CANCELLATION.** This is a new circular. It does not cancel any existing directive.

3. **SCOPE.** This circular applies to all assistance authorized by the Federal Transit Laws (49 U.S.C. Chapter 53) and all programs administered by FTA.

4. **AUTHORITIES.**
   a. Americans with Disabilities Act of 1990
   b. Section 504 of the Rehabilitation Act of 1973, as amended
   c. 49 CFR Parts 27, 37, 38, and 39

5. **WAIVER.** FTA reserves the right to waive any requirements of this circular to the extent permitted by law.

6. **FEDERAL REGISTER NOTICE.** In conjunction with publication of this circular, FTA published a notice in the Federal Register on October 5, 2015, addressing comments received during development of the circular.

7. **AMENDMENTS TO THE CIRCULAR.** FTA reserves the right to update this circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment, without further notice and comment on this circular. FTA will post updates on our website at www.fta.dot.gov. The website allows the public to register for notification when FTA issues Federal Register notices or new guidance. Please visit the website and click on “sign up for e-mail updates” for more information.

8. **49 CFR § 37.15 REVIEW.** The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR Parts 27, 37, 38, and/or 39, as applicable.

9. **ACCESSIBLE FORMATS.** This document is available in accessible formats upon request. To obtain paper copies of this circular as well as information regarding these accessible formats, call FTA’s Administrative Services Help Desk, at 202-366-4865. Individuals with hearing impairments may contact the Federal Relay Service at 1-800-877-8339 for assistance with the call.

Therese W. McMillan
Acting Administrator
Transit ADA Obligations

Is MUCH more than just paratransit!!

Paratransit service is an extremely important component of transit services to the disabled, but not the only means that services are provided.
Transit ADA Compliance Issues

• Many transit agency’s focus is on providing stops/shelters on fixed routes (which is good)
  • Focus is rarely on full ADA compliance. Rather it is on having enough stops.
  • Focus is rarely on having an accessible route, often don’t control sidewalks.
  • Assumption that shelters comply.

• Over-reliance on consultants/contractors that do not know the ADA standards/guidelines.

• No self-evaluation done, so no means to confirm compliance of facilities, including stops.

• Lack of $ to perform inventory, prepare SETP, and make corrective actions.

Non-compliance is much more common than you would think. Likely that most agencies have 50-75% non-compliance rate for bus stops and shelters. Difficult to get reliable data due to questionable methods in many cases.
Example – Washington D.C. Area

• Found over **52%** of stops were not compliant

• Evaluation limited to specific parameters, if comprehensive analysis were done it would be higher

**Inaccessible Stops (Metrobus and Regional)**

Source: Jurisdictional Presentations to the AAC

**Number of Inaccessible Bus Stops in the Region**

- City of Alexandria: 259
- Arlington County and Falls Church: 529
- Montgomery County: 3,400
- District of Columbia: 1,018
- Prince George’s County: 3,000
- Fairfax County: 900

• Of the region’s total 19,123 bus stops, **10,006** are estimated inaccessible
Example – New Orleans

New Orleans faces lawsuit over inaccessible bus stops

94% of stops are not compliant

Three New Orleans residents sued the city Monday (March 28) over allegations that its "bus system is inaccessible to persons with" mobility-related disabilities. The lawsuit comes after the group received an internal review of its bus stops that said roughly 94 percent of all bus stops in New Orleans are not compliant with the Americans With Disabilities Act.
Example – Arlington, VA

25 years after ADA, Va. bus stops miss key standards

By Dick Uliano (http://wtop.com/author/dick-uliano/)
July 26, 2015 4:23 pm

WASHINGTON — While the nation marks the 25th anniversary of the Americans with Disabilities Act, bus stops in our area are failing to meet the law's important standards.

Example – El Paso, TX

- Out of 414 facilities that the city owned at the time, 131 had elements that contained architectural barriers to accessibility
- **Sun Metro had 3064 bus stops - out of which, over 50% contained some accessibility deficiency (missing bus landing, curb ramps, etc)**
- **Sun Metro:** Out of 3,064 bus stops, 1,204 had curb ramps and 1,541 had bus stop landings. 31,400 Linear Feet of sidewalk needed for complete compliance.
- In addition to the Sun Metro deficiencies, there were an additional 7,996 corners that have been identified as needing curb ramps throughout the City.

Over **50%** of stops are not compliant
Transit ADA Facilities

- Transit Stops and Shelters – need to determine transit agency authority/control (independent?) and who controls ROW PAR (sidewalk)

Also need to connect boarding areas and shelters with a pedestrian access route (PAR)
Other Transit ADA Facilities

- Administrative Offices
- Public Meeting Facilities (Board Meetings, other public meetings)
- Parking Lots
- Transit/Rail Stations
- Rail Station Platforms
- Buses
- Train Cars
- Passenger Loading Zones
- Police Stations
- Others

Some facilities may have a dual obligation for accessibility (facility owner AND facility user).
Transit Programs/Policies

- Designation of ADA Coordinator
- Web sites (very hot topic currently)
- Point-of-sales kiosks (touchscreens)
- Ticketing
- Written materials (route maps, etc.)
- Grievance policy and written procedure
- Equally effective communication
- Contracted services
- Public meetings
- Alternative forms of communication
- Staff training
- Service animals and other written policies
- Others

These can be more difficult to comply with than architectural barriers! Varies widely by agency, can’t determine what applies until you get into it.
Bus Stop Inventory Case Study

How am I on time?
Bus Stop Case Study
Kalamazoo, MI

- Is a City Department (not independent entity)

- Provides service for:
  - City of Kalamazoo
  - City of Portage
  - City of Parchment
  - Comstock Township
  - Oshtemo Township
  - Western Michigan University
  - Kalamazoo Community College
  - Kalamazoo Township
  - Texas Township

- 2.3 million miles of fixed route service annually
- 3.1 million passenger trips (2013)
- 20 fixed routes (fluctuates)
Case Study – Kalamazoo Metro Transit

- Results – 751 unique stops, 82 shelters
  - 7.1% of bus stops were fully compliant. Biggest issues:
    - ✓ no boarding platform (in grass or dirt) – 72.2%
    - ✓ running slope >2% - 53.6%*
    - ✓ no pedestrian walk present – 31.2%*
    - ✓ <96” deep boarding/alighting platform – 28.2%*
    - ✓ <60” wide boarding/alighting platform – 10.5%*
    - ✓ cross slope of platform >2% - 9.6%*
  - 39.0% of shelters were fully compliant: Biggest issues:
    - ✓ no connection to platform – 30.5%
    - ✓ non-compliant slopes – 18.3%
    - ✓ no connection to pedestrian route – 14.6%
    - ✓ lack of clear space within shelter – 7.3%
- Estimated costs for corrective action - >$525,000
  - ✓ only for bus stop amenities
  - ✓ does not include costs for sidewalk connectivity
- No known city-wide SETP exists

*based on 209 stops with a platform
Case Study - Conclusions

• Results in Kalamazoo are likely fairly typical of most agencies
• Focus in planning is often on having enough stops where needed, with little regard to reviewing site conditions
• Verify conformance of bus stop standards (if you have one) and ensure design professionals and contractors know applicable guidelines
• Transit agencies cannot solve problem without assistance from communities
• Will be a bigger issue in the future, with need to comply being more important due to increase in disabled population and enforcement actions
Takeaways/Questions to Ask

• Are you an independent Title II agency or a department of a larger one?
• Do you (or the larger agency) have a current, compliant SETP?
• Do you have a bus stop standard that meets current guidelines? Do you really need one?
• What are the potential repercussions of being found to be in violation of ADA? (ineligibility for Federal funding? Lawsuits? USDOJ audit and enforcement action?)
• Is the entity in charge of pedestrian facilities on your routes compliant? Cooperative?
• What do you need to do first on Monday?
Questions??