

ADA Day, October 29, 2015

Questions for ADA Panel

1. Is this a directive from FHWA, ALDOT or DOJ, and are other State's under this kind of deadline?

Yes, This is part of the Self-certification process for the transportation planning process. The FHWA has requested the ALDOT to provide documentation of the self-certification process which includes ADA. The MPOs have been certifying ADA requirements are being met.

2. Does the ADA Compliance need to be a Full Transition Plan or just a roadway plan by the July 20th, 2016 deadline?

This is part of the Transportation Planning Process and of course the review of the public right of way is the key to the TIP and STIP developments. FHWA is tasked with reviewing transportation facilities. However, this does not exempt other areas from being compliant but there should be a discussion from each government of the level of transition planning and what is being certified. It will need to be a transition plan or self-evaluation.

3. Is there any flexibility in the proposed timeline of having every municipality adopt a transition plan by July 2016?

Yes, there was already the year grace period built in and if there are exceptional circumstances then we will review to consider additional time. An MPO may partially certify but this will on a case by case basis. The STIP can approved to exclude MPOs that cannot self-certify their planning process and have not made any progress. This has happened many times before when a TIP or LRTP could not be completed and the STIP was approved excluding that MPO until the process was complete.

23 CFR 450.334 self-certification and federal certifications: for all MPAs concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the State and the MPO shall certify at least every four years that the planning process is being carried out in accordance with all applicable requirements.

4. What items must be addressed in the transition plan? Is it limited to the roadway/sidewalk issues or does it extend beyond the right-of-way to the buildings, parks and other properties owned by the entity?

See answer #2.

5. What makes up a self-evaluation checklist?

A resource: ADA.gov. It is up to the MPO to coordinate a standardized ADA inventory, and implementation schedule. MPOs may want to share ideas on checklists.

6. Who do ADA Transition Plans get turned in to? If FHWA, what format will FHWA accept (bound copies, CDs, emailed files)?

There is no requirement for the Transition Plans to be submitted to FHWA for review. The MPO and or ALDOT should maintain a copy or have access to local government copies. ALDOT if you sign certification, ALDOT will assume that you have checked them. They will not need plans.

7. What government agencies require a copy of the transition plans?

MPO should have access to them so they know where they are. Plans will not necessarily approved/disapprove, just recommended changes and show improvement.

8. What happens if FHWA does not accept a transition plan?

N/A There is no requirement to approve/disapprove, just recommend changes. Future reviews may include recommendations for improving plans or ensuring actions are completed in a timely manner.

9. Who is responsible for checking/updating the ADA Transition plans?

Local government is responsible and should make available for any review. MPO may want to review plans.

10. How often do the ADA Transition Plans have to be updated?

No required update cycle, recommend continuous.

11. How will FHWA check compliance for governments that certify that they have addressed all ADA issues?

The FHWA conducts routine reviews of the self-certification process with the ALDOT. FHWA and FTA also conduct Transportation Management Certification Reviews. The FHWA may sample set number of agencies documentation during the normal certification review for each MPO.

12. FHWA has indicated that even if one local government in the planning area does not respond, all federal transportation funds will be cut from all of the governments in the planning area. This seems unreasonable and impossible to enforce. What happens when one local government does not comply with the FHWA directive?

The MPO must make every effort to ascertain whether all member agencies are complying with the legal requirements of ADA before signing the certification. Then let FHWA know and they will try to enforce. If they receive federal funds they should have plan. Note if a local government doesn't participate they cannot receive Federal funds of any kind.

13. If a small government that does not receive federal transportation funds refuses to provide the ADA information, how does FHWA expect the MPO staff to make them respond?

The MPO must make every effort to ascertain whether all member agencies are complying with the legal requirements before signing the certification. (Send Clint and he will beat it out of them ☺)

14. Are the local governments required to formally adopt the transition plans?

Not necessarily that formal but recommend adoption. The local government may follow its own guidelines for local plans.

15. The pictures on the flyer show non-compliance due to above ground utilities placed before the sidewalks. Will FHWA, in order to abide by ADA Compliance, begin restricting governments from allowing above ground utilities in road rights of way?

No but the sidewalks must be compliant.

16. When will this directive be extended to the non-MPO areas? What is their timeline?

Not at this time, but plans are to include them soon. This will be part of the Start of STIP certification process.

17. Does the size (population) of a city or the number of municipal employees have any effect on ADA compliance requirements?

Yes, the level of documentation is reduced for under 50 employees but all must have a self-evaluation and a plan to address ADA.

18. What deliverables does FHWA expect from the small governments that have less than 50 employees? Areas with less than 50 employees were told the following regarding ADA coordinators based upon FHWA guidance online:

- If a public entity has 50 or more employees, they must have an ADA Coordinator to be in compliance with the ADA regulations. The ADA Coordinator administers the ADA transition plan.
- If a public agency has fewer than 50 employees, it is not required to have an ADA coordinator, but must still have a “program access plan,” which addresses how it will address non-compliant facilities. The agency should also complete a self-evaluation or inventory of its facilities, including barriers in policies, programs and activities that prevent persons with disabilities from access. The entity must also provide an opportunity for interested persons, including persons with disabilities and/or organizations representing persons with disabilities, to participate in the self-evaluation/inventory process.
- The 90 day letters from small municipalities included the following to answer the ADA Coordinator question: As a municipality with less than 50 employees, the [Small Municipality] is not required to have an ADA Coordinator. Is this correct or incorrect?

Correct, but the MPO must have a local government contact person. It may be the Mayor, city clerk etc.

19. Are transit facilities Public ROW or open spaces in terms of ADA Transition Plan, in the eyes of getting MPO Self Certification approved?

There is a new circular on ADA requirements for transit. It should be incorporated into transition planning. FTA circular Nov 4 2015, c4710.1.

20. What items must be addressed in the transition plan? Is it limited to the roadway/sidewalk issues or does it extend beyond the right-of-way to the buildings, parks and other properties owned by the entity?

See answer #2.

21. Can the transition plan area be limited to the MPO planning area?

No answer.

22. We have created our ADA transition plan but before we had the opportunity to hold a public hearing and officially approve it - we were sued for non-compliance on one of our parking lots. Our City Attorney is working to defend and/or settle this suit if possible. Our fear is that if we approve our plan before this suit is settled - or even after we settle that we, in effect, show our faults and provide the information that will enable others to sue us for areas where we are non-compliant, even though we have a plan to correct that non-compliance. Do we have any protection at either the

state or federal level from suits of this nature once we approve and begin to implement our plan? It would be helpful to us, and maybe to others, if we could specifically address this point during training.

The Transition Plan should have some schedule and level of protection if it is reasonable. But there are no other protections. Plan is built to help show that you are doing your best effort to be compliant. Need to show improvements, due diligence.

23. Can ALDOT provide a copy of their transition plan as a template for other municipalities?

Will be glad to share.

24. US11 is an ALDOT road so who is responsible for sidewalk compliance?

It depends whether it is within city boundary.

25. If in fact open spaces (other than ROW) owned by local governments are to be included in the adopted ADA Transition Plans that are due July 20th, 2016, can ALDOT/FHWA change the MPO Self Certification to apply to only USDOT issues? MPOs, ALDOT, FHWA do not have the authority to make directives to local governments on non-USDOT issues.

See #2.