

9. AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE

**BACKGROUND**

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The Houston-Galveston Area Council (H-GAC) Transportation Department receives federal financial assistance from the U.S. Department of Transportation (DOT) through the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA). 49 Code of Federal Regulations (CFR) Parts 27 and 28 require that all recipients of federal-aid highway funds comply with Section 504 of the Rehabilitation Act of 1973. It states that "no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance." 28 CFR 35 implements the Americans with Disabilities Act of 1990 (ADA), which extended the prohibition of discrimination on the basis of disability to all local agencies, including those that do not receive Federal financial assistance.

**CURRENT SITUATION**

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The Houston-Galveston Area Council Transportation Department will provide an update on the efforts and actions of our ADA Coordinator towards fulfilling ADA Compliance. Following the completion of the TxDOT ADA Subrecipient Monitoring and Compliance Survey I and Survey II, we will provide a brief overview of steps undertaken to address identified deficiencies. These surveys serve as an initial step for TxDOT to determine subrecipient compliance, help subrecipients understand their ADA/504 responsibilities, and assist TxDOT in planning future training and technical assistance. Additionally, it highlights our ongoing efforts to ensure accessibility across our services and facility, with particular focus on fulfilling the "Good Faith Effort" Guidance Document provided by TxDOT, attached.

**ACTION REQUESTED**

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Information only.

## Subrecipients ADA Program 'Good Faith Effort' Guidance:

TxDOT Civil Rights Division is a state agency division that monitors its subrecipients of federal funding and reports the progress of subrecipients (SR) to FHWA or other federal agencies requesting that information. The Division offers many guiding documents with information about the SR monitoring and tracking program. TxDOT's survey response process provides the SR a letter communicating 'green, yellow, or red' status, with specific targets for milestone meetings, narrative updates, and future survey schedules.

***This 'Good Faith Effort' document provides informal guidance and additional framework as your agency considers steps toward ADA compliance, which it will report to TxDOT over time.***

We recognize that achieving ADA compliance is a journey, not a destination. As public agencies expand and change, so do their policies, practices, services, people, and assets. Maintenance efforts, capital projects, and environmental factors create an ever-evolving effort to design, construct, and remediate sites. Further, it is a challenge to monitor each agency's program, activity and service as they shift. This is why building your own ADA program strategy that regularly monitors and tracks your own agency's progress is important.

The 'ADA Self Evaluation and Transition Plan', among other requirements of Title II of the ADA, provides a baseline to evaluate a public agency's commitment to nondiscrimination and equal access. The existence of a report, or a policy, however, is not an adequate measure of a *good faith effort*. In layman's terms, oversight agencies are generally looking for demonstration and progress vs. completion when creating ADA compliance. *Because environments are ever-changing, no agency will ever fully reach 'completion' of an ADA program. To be successful, agencies must evolve through a continuum of progressive action steps.*

Agencies are encouraged to be transparent in the TxDOT survey questionnaires, draft custom responses where appropriate, and showcase progress in each area where policies, practices, data, or reporting are lacking. Because no two agencies have the same deficiencies, each should define a unique action plan to report 'good faith efforts' over time. Agencies are encouraged to self-assess, based on the TxDOT Survey responses received and develop strategies and action plans to reflect your good faith efforts in future reporting check points. A 'green status' SR will still experience shifting environments and changes over time and should be prepared to continue with 3-year cycle reporting efforts, so long as an advanced funding agreement is active or if seeking to enter future advance funding agreements or participation in TxDOT projects.

*See Sample images on page 2 for a visual reference to the process of assessing and defining a plan for the SR's Good Faith Effort.*

## TxDOT ADA Accessibility Program

**Example ADA Program Check:** see samples of 'self-assessing' your survey -- NOT literal criteria for status results

deficient /need action			gaps / take more action			on track / implement				keep progressing								
ADA Coord	Nondiscrimination policy	Grievance policy	public dissemination	holds meetings - accessible locations	public meetings announcements;	updated self-eval	updated transition plan	public outreach	provides auxiliary aids	complaint logs	ADA training logs	effective comm plan	website accessible	monitors compliance	mgt plan MUTCD	Nondiscrimination - contracts	tracks barrier removal	metrics based tracking
	x	x	x	x	x					x								
x	x	x	x	x	x	x			x			x						
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x			

Review your survey results. Where can you check or not check the boxes? What other gaps do you have relating to compliance? Which questions were well covered? Where are there gaps in practices? Regardless of green, yellow, red status - take steps.

Self-assess through TxDOT's Survey responses. Identify your areas of opportunity. Develop plans & take progressive actions.

**Through Surveys, Compliance Check Meetings, Milestone Calls, and Narrative Reports: show Good Faith Efforts**

**"Green" Status does not mean an SR has fully reached compliance. Reporting and efforts must continue.**