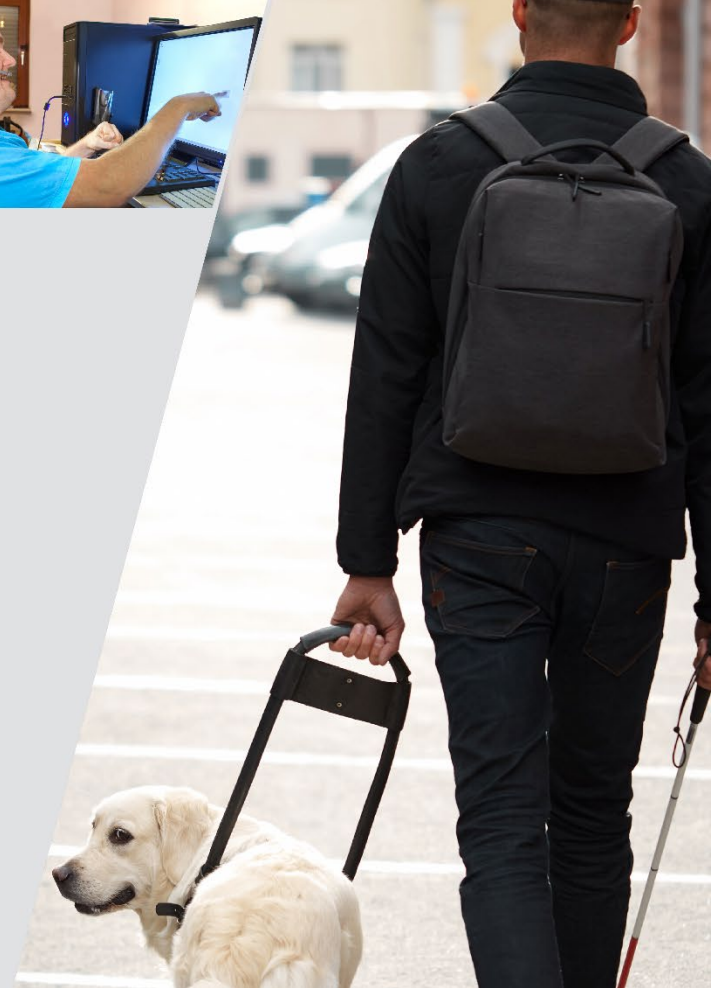




ADA SCAT Technical Assistance Workshop





Section 1: Overview of the ADA SCAT Program

What is the TxDOT Subrecipients Monitoring and Compliance Program (SCAT)?



In accordance with 23 CFR, 200.9(b)(7), TxDOT is responsible for developing and implementing an effective subrecipient monitoring program that conducts reviews of cities, counties, consultant contractors, suppliers, universities and colleges, planning agencies and other recipients of federal-aid highway funds with whom it does business.

- TxDOT's Subrecipient Monitoring Program is multi-faceted and includes:
 - Education
 - Oversight
 - Design review
 - Consultation
 - Monitoring

- TxDOT's Advanced Funding Agreement (AFA) outlines the basic requirements to ensure nondiscrimination in subrecipient transportation projects and is used by TXDOT as a starting point in the process of determining funding eligibility. See Sections 25-27.

- TxDOT is responsible for monitoring subrecipients to ensure compliance and must ensure entities are actively addressing deficiencies and demonstrating good faith efforts in their compliance with ADA.



- Required by ADA and Section 504

Title II – State and Local Governments

Basic Requirements : Must ensure that no person, on the basis of disability is excluded from participation in or denied the benefits of programs, services, and activities of a government entity or is subjected to discrimination by a government entity. [28 CFR 35.130] (provision of pedestrian facilities is a government service or program)

- 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

How Does the Program Work?



- **Three Surveys:**

Survey I – Baseline inquiry consisting of six (6) questions based on size, type of entity and ADA requirements (See Appendix E for Survey I).

Survey II – Survey contains 28 questions designed to gather specific information about the requirements. (See Appendix F for Survey II).

Survey III – Survey III is the required Compliance Check. It consists of 22 questions and is made up of two parts, Part A and Part B. Each Local Government is required to complete Survey III at the end of its designated compliance period. A compliance period is 18-36 months and based on the scoring method defined below (See Appendix G for Survey III).

Part A – Survey designed to evaluate fiscal responsibility.

Part B – Survey designed to evaluate ADA Compliance.

- **Location:** <https://www.txdot.gov/business/grants-and-funding/subrecipients-resources.html>

- **Scoring Method & Flowchart (See next 2 slides)**

SCAT Survey Results



Satisfactory Status

Green Satisfactory Status

- Primary questions are answered appropriately
- Supporting documents are verified
- Other questions are answered appropriately



Unsatisfactory Status

Yellow Unsatisfactory Status

- Primary questions are answered appropriately
- Supporting documents are verified
- Other questions are answered negatively



Unsatisfactory Status

Red Unsatisfactory Status

- Survey incomplete
- Primary questions are answered negatively
- Supporting documents not provided

ADA SCAT Program

SUBRECIPIENT RECEIVES INITIAL NOTIFICATION TO COMPLETE SUBRECIPIENT COMPLIANCE ASSESSMENT TOOL (SCAT) AND IS DIRECTED TO CIV WEBSITE

SUBRECIPIENT COMPLETES ADA SURVEY ONE IN SCAT WITHIN TWO WEEK PERIOD AND RECEIVES SATISFACTORY OR UNSATISFACTORY STATUS

TxDOT CIV TEAM WILL PERFORM SCAT REVIEW BASED ON SUBRECIPIENT CERTIFICATION OF THEIR ADA PROGRAM AND VERIFIES SATISFACTORY VERSUS UNSATISFACTORY STATUS



SUBRECIPIENTS WITH RED OR YELLOW (UNSATISFACTORY) STATUS MUST COMPLETE ADA SURVEY TWO

SUBRECIPIENTS WITH RED OR YELLOW (UNSATISFACTORY) STATUS ARE REQUIRED TO ATTEND ADA WORKSHOPS

IF NECESSARY CIV WILL PROVIDE INDIVIDUALIZED TECHNICAL ASSISTANCE FOR SUBRECIPIENTS WITH UNSATISFACTORY STATUS

SUBRECIPIENT MUST COMPLETE SURVEY THREE (COMPLIANCE CHECK) AT THE END OF 18 MONTH PERIOD.

SUBRECIPIENT WITH GREEN (SATISFACTORY) STATUS MUST COMPLETE SURVEY TWO WITHIN DESIGNATED TIME PERIOD (TWO WEEKS)

SUBRECIPIENT WITH GREEN (SATISFACTORY) STATUS MUST COMPLETE SURVEY THREE (COMPLIANCE CHECK) BY THE DESIGNATED TIME PERIOD (AT THE END OF 36 MONTH PERIOD)

What Happens if an LG is Non-responsive or Non-compliant?



- This is not a “gotcha” situation. The goal is to ensure compliance with ADA and provide an inclusive environment for people with disabilities.
- TxDOT is awaiting further guidance from FHWA regarding non-responsiveness or non-compliance.
- Many of you are considering applying for BIL funds; compliance with the ADA (including having a completed Self-Evaluation & Transition Plan) is a requirement to receive those funds. Successful participation in the SCAT program can serve as “proof” of ADA compliance.
- See Advanced Funding Agreement sections 25 – 27
- Applies to both ADA and Title VI

***Manuals will be updated this Fall



Section 2: Overview of ADA Requirements for Title II Agencies



- Designate an ADA Coordinator
- Development and Notice of an ADA Policy Statement
- Development and Posting of Grievance/Complaint Procedures
- Public Involvement (considered in decision making processes)
- Complete a self-evaluation of all public facilities and programs as applicable
- Develop a transition plan, if applicable

***See Technical Manual p.18



- When is this required?
 - 50 or more employees (full-time and part-time employees are counted)
 - However, recipients of DOT financial assistance need to appoint a coordinator under DOT Section 504 regulations (49 CFR 27.13(a))
- Per § 35.107: “The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.”

Development and Notice of an ADA Policy Statement



- Per § 35.106

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

This is a public dissemination of its Nondiscrimination Policy Statement

- See Appendix B & Appendix C in the Technical Manual

Appendix B – TxDOT's ADA Notice



Appendix C – TxDOT's ADA Nondiscrimination Statement





- Per § 35.107

(b) Complaint procedure. A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.



- Include people with disabilities in the decision-making processes (28 CFR 35.105):
 - Public Comments
 - Public Meetings
 - Other Events Open to the Public

Complete a Self-evaluation (The Inventory Baseline)



- Per § 35.106
- When is this required?
 - All Title II agencies are required to complete a self-evaluation
 - If 50 or more employees, additional requirements apply

- Areas to evaluate include, but are not limited to, websites, public outreach policies, buildings, parks, and sidewalks, shall be evaluated for ADA compliance.
- Per § 35.105:
 - A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:
 - (1) A list of the interested persons consulted;
 - (2) A description of areas examined, and any problems identified; and
 - (3) A description of any modifications made.



- Developing a Transition plan, if applicable (recipient type/size)*
- Per § 35.150
 - When is this required?
 - 50 or more employees
- What is required?
 - (i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
 - (ii) Describe in detail the methods that will be used to make the facilities accessible;
 - (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
 - (iv) Indicate the official responsible for implementation of the plan.
- Other Accessibility Plan required by FHWA (discussed in the next section)



Pedestrian right-of-way facilities

- Curb ramps
- Sidewalks
- Parking lots
- Pedestrian signals
- Bus stops
- Shared use trails
- Parks/recreational facilities

*** Requires executive support (staff, budget, time, and authority)



- Per § 35.150

- (1) Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.

- Per § 35.130

- (a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.



- Per § 35.105

(d) If a public entity has already complied with the self-evaluation requirement of a regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous self-evaluation.

- Per § 35.150

If a public entity has already complied with the transition plan requirement of a Federal agency regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this paragraph (d) shall apply only to those policies and practices that were not included in the previous transition plan.

- Per § 35.130

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

- Per 35.133

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part.



Section 3: Technical Guidance on ADA SCAT Survey



- TxDOT would expect the Transition Plan to:
- Identify your ADA Coordinator by name and include contact information
- Include the ADA policy
- Include the grievance procedure for ADA complaints
- Include the ADA self-evaluation results (for programs and facilities)
- Identify the design standards for all facilities (buildings & roadway assets)
- Include a prioritization schedule for remediating assets and programs that are not ADA compliance with a means of identifying the subrecipient's commitment to complete the schedule by identifying either (if not both) of the following:
 - The completion date for each item on the schedule
 - A budget to be applied to the items on the prioritization schedule together with cost estimates for their remediation.
- Demonstrate that there were ample public involvement opportunities involved in the development of this plan
- Identify how often the plan will be updated (every two years, for example)
- Effectuate the plan by signature, ordinance or other means of adoption



- ADA Accessibility Transition Plan vs other Accessibility Plan
- What is another Accessibility Plan? Who does this apply to?
 - Applies to non-traditional Title II agencies (MPO's for example)
- TxDOT would expect the Plan to include:
 - Projects listed
 - Amount of funds that have been allocated
 - Identify whom the MPO has funded (i.e., LG's)
 - Non-discrimination statement
 - "Complaint" process
 - Inventory of their physical barriers (facilities)
 - Program accessibility (policies/procedures, effective communication, website, etc..)
 - Monitor SR's (can use CIV's SCAT findings)
 - Contact person for ADA/Title VI

Survey 2, Question 3

Do you have an ADA Coordinator



- When is this required?
 - 50 or more employees (full-time and part-time employees are counted)
 - However, recipients of DOT financial assistance need to appoint a coordinator under DOT Section 504 regulations (49 CFR 27.13(a))

- Per § 35.107: “The public entity shall make available to all interested individuals **the name, office address, and telephone number** of the employee or employees designated pursuant to this paragraph.”

- Include email address

Are the subrecipient's websites and telephone services accessible to persons with sight and hearing impairments?



- Digital accessibility includes both the website and the material associated, or obtainable through, the website
 - Effective communication

- TxDOT would expect to see your website evaluated as part of your agencies self-evaluation

- Here is a free tool you can use to assess your agencies current website accessibility found at <https://wave.webaim.org/> .
 - Note: this tool should not be used in place of a detailed assessment by a qualified service provider



- 100% Collection
- Phased Collection Acceptable
- Helpful tips to Monitor the Progress
 - Track progress from the baseline inventory that was taken
 - Keep in mind that the Transition Plan is a “Living Document”
 - » Update Regularly: whenever changes are made to the plan
 - » Preferred – annually; semi-annually (take credit for achievements)
 - » At a minimum – update consistently with STIP
- Per FHWA Resource Center
 - All changes in the pedestrian environment (i.e., adding street furniture, landscaping) may have impacts on your current and future transition plan.



- Please provide a detailed description of how the Subrecipient made its self-evaluation and/or ADA Accessibility Transition Plan or other Accessibility Plan available for public inspection or comment.
 - For example:
 - » How many events were held?
 - » How long individuals had to provide feedback?
 - » What types of alternative methods were available to provide feedback as to ensure effective communication.



- Follow the guidance provided in the links related to **28 CFR 35.150** for:

Question 17 (which refers to the Self-evaluation and Transition Plan and is usually signed by the official responsible)

Question 18

- Questions 19 -27 are straight forward



Thank you

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