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Department of Transportation

AMERICANS WITH DISABILITIES ACT (ADA) REQUIREMENTS FOR ACCESS TO DEPARTMENT FACILITIES

PURPOSE:

The Mission of the Florida Department of Transportation (Department) is to "provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity and preserve the quality of our environment and communities."

In support of the Mission, this Procedures is intended to ensure that Department facilities, roads and structures provide accessibility for persons with disabilities in compliance with **Section 504 of the Rehabilitation Act of 1973 (504)**, the **Americans with Disabilities Act of 1990 (ADA)** and the **Florida Accessibility Code for Building Construction (Access Code)**; to effectively manage an accessibility program; to assign program responsibilities; to provide for employee/contractor awareness; to limit the Department's liability regarding access for persons with disabilities; to encourage a proactive role in the resolution of Department accessibility related problems; and to provide for prompt responses to requests for accessibility.

To provide for ADA inspections of Department-owned and operated buildings, roadways and pedestrian facilities; to develop ADA transition plans; to implement updated federal accessibility regulations and standards; to implement transition plan recommendations; to ensure compliance with accessibility regulations for Department buildings, roads and structures; and to maintain records. The goal is to ensure that Department operations, and Department Fixed Capital Outlay (FCO) and Work Program facilities and structures meet the intent of these requirements.

AUTHORITY:

Sections 20.23(4)(a) and 334.048(3), Florida Statutes (F.S.)

REFERENCES:

49 CFR 27, Nondiscrimination on the Basis of Disability in Programs and Activities Receiving Financial Assistance, as amended – U.S. Department of Transportation (10/73).

28 CFR 35, Nondiscrimination on the Basis of Disability in State and Local Government Services, as amended - U.S. Department of Justice (9/15/10)

28 CFR 36, Appendix A, ADA Standards for Accessible Design – U. S. Department of Justice (9/15/10)

49 CFR [2737](#), ADA Standards for Transportation Facilities - U.S. Department of Transportation (11/29/06)

Sections 553.501 - 553.513, Florida Statutes (F.S.) - Accessibility by Handicapped Persons, as amended - Florida Department of Business and Professional Regulation

Chapter 11 of Florida Building Code, Florida Accessibility Code for Building Construction, as amended - Florida Department of Business and Professional Regulation (Current, Adopted Edition)

Section 316.1955, F.S., Enforcement of parking requirements for persons who have disabilities - Florida Department of Transportation (Current, Adopted Edition)

Section 553.5041, FS - Parking spaces for persons who have disabilities – Department of Business and Professional Regulation (Current, Adopted Edition)

FDOT Reference Documents:

FDOT Notice Under the Americans with Disabilities Act

This document may be found on the Department Web site at:

<http://www.dot.state.fl.us/projectmanagementoffice/ADA/Notice.shtm>

FDOT ADA Grievance Procedure Under the Americans with Disabilities Act

This document may be found on the Department Web site at:

<http://www.dot.state.fl.us/projectmanagementoffice/ADA/ADAGrievance.shtm>

SCOPE:

Federal and state accessibility requirements apply to Department owned, occupied, operated, and maintained building facilities, leased facilities, public rights of way, roadways, bridge structures, supplemental facilities and public transportation facilities on state rights of way.

This procedure guides the Department's statewide ADA/504 Coordinator and district ADA Coordinators. The responsibility of these individuals is to assure that the Department complies with current applicable laws, rules, regulations, codes, standards, and guidelines governing facilities accessibility for persons with disabilities.

This procedure guides Department designers, project managers, Traffic Engineering Office managers, Freight, Logistics and Passenger Operations Office managers, design consultants, District Permits engineers, and State/District Bicycle and Pedestrian Coordinators. The duty of these individuals and entities is to ensure that Department projects are planned, designed and produced in compliance with applicable federal and state accessibility requirements.

This procedure guides Department Construction Project Administrators, Consultant Project Administrators, inspectors and contractors. The duty of these individuals and entities is to ensure that Department projects are constructed in compliance with the ADA and applicable federal and state accessibility requirements.

This procedure guides Department Project Managers working on Local Agency Program (LAP) projects or Joint Participating Agreements (JPAs) with other state or local agencies. The duty of these individuals and entities is to ensure LAP and JPA projects are conducted in compliance with the ADA and applicable federal and state accessibility requirements.

This procedure guides Department Maintenance Project Administrators and Contractors. The duty of these individuals and entities is to ensure that Department facilities are maintained in compliance with the applicable state and federal accessibility requirements.

This procedure does NOT apply to employment issues (i.e., hiring, reasonable accommodation, promoting, discharging, etc.) Contact the Department's Personnel Offices and Equal Opportunity Offices regarding employment matters.

This procedure does NOT apply to municipal and county 'public transportation facilities' (i.e., terminals; fixed and key rapid, light, commuter, intercity, and high speed rail stations; intercity bus stations; airports; and boat and ferry docks), except when they are located on state rights of way or are funded with federal or state funds.

This procedure does NOT apply to public transportation vehicles. Those facilities are addressed by the **ADA, Title II, Subtitle B, Public Transportation**. Contact the Department's Freight, Logistics and Passenger Operations Offices and local transportation authorities regarding accessibility to vehicle operations and services.

The Use of Wheelchairs and Other Power-Driven Motorized Devices on Pedestrian Facilities within State Rights of Way by Persons with Mobility Impairments

The Department is committed to making all reasonable efforts to ensure its facilities, programs and services are accessible to and usable by all people, including those with disabilities. The **ADA Title II** regulations address the use of wheelchairs and of "other power-driven mobility devices" (OPDMDs) on pedestrian facilities by persons with mobility impairments.

To ensure pedestrian safety and the mobility of non-highway users, the Department may, in accordance with the U.S. Department of Justice (DOJ) rule, allow or deny the use of any motorized equipment by users of pedestrian facilities that are operated by the Department. A link to the full text of the OPDMD provisions in the **DOJ Final Title II Regulation, 28 CFR 35**, is available at: www.ada.gov/regs2010/ADAREgs2010.htm.

Mobility Device Guidelines

- Wheelchairs and manually-powered mobility aids are allowed anywhere foot traffic is allowed.
- OPDMDs may be permitted only for use by people with mobility impairments and shall typically comply with the following specifications in order to be considered acceptable for use on pedestrian with Department rights of way:
 1. **Speed** - The operating speed while on Department-managed shared use paths and sidewalks shall be that of typical walking speed, not to exceed 5 miles per hour.
 2. **Width** - The width shall not exceed 34 inches.
 3. **Length** - The length shall not exceed 62 inches.
 4. **Weight** - The weight of the device shall not exceed 550 pounds.
 5. **Type** - The type shall not include any motorized off-highway vehicle designed to travel on non-highway tires and/or having a seat designed to be straddled by the operator, and/or having handlebars for steering control, such as all-terrain vehicles (ATVs), off-highway motorcycles (OHMs) and recreational off-highway vehicles (ROV). **NOTE:** Gas-powered vehicles, no matter the type, shall not be allowed in any facility enclosed by walls and/or covered by roofs.
 6. **Local Ordinances** - The use of an OPDMD shall not be in conflict with any local regulations or ordinances that permit control or regulate similar devices on sidewalks or sidewalk areas.

Exceptions - The Department will conduct assessments of specific pedestrian facilities or devices not in conformance with typical mobility device specifications if requests to use a facility or device are received, or there are complaints or operational issues related to devices being used. See '**Appendix A**' for a description of this Assessment.

1. GENERAL INFORMATION

- 1.1 Federal law requires state and local governmental agencies to provide access to services, programs and activities provided by the agencies. To meet the requirements of applicable state and federal accessibility laws, rules, and regulations, the Department will provide access to Department services, programs and activities and, where appropriate, physical access to Department owned and operated buildings, roadways and structures to all persons, including those with disabilities.

- 1.2 Within this commitment is the intent to provide a safe level of access to the Department's facilities for persons with disabilities. The Department owns and operates more than 1,300 buildings statewide, and is responsible for maintaining more than 12,000 miles of state highways and 3,000 miles of sidewalks. In addition, the Department coordinates the planning of light, commuter, and high-speed rail facilities and corridors.

2. ADA STANDARDS FOR ACCESSIBLE DESIGN

- 2.1 The Department applies the Scoping and Technical Requirements of the **ADA Standards for Accessible Design (ADASAD)** and the **ADA Standards for Transportation Facilities (ADASTF)**, where appropriate, as Department policy.

- 2.2 It is the responsibility of the appropriate Department staff, consultants, contractors, and LAP and JPA partnering agencies to comply with the applicable provisions of federal accessibility regulations and standards to the maximum extent feasible. The Secretary or his designee must justify and document any instance where it is determined full compliance is not feasible.

- 2.23 Compliance will be ensured by reviewing District program administration, training staff in responsible offices, consultants, contractors, inspectors, local governments, and other agencies; reviewing plans for accessibility features; and inspecting for compliance with accessibility requirements.

3. FLORIDA ACCESSIBILITY CODE FOR BUILDING CONSTRUCTION (Current Adopted Edition)

- 3.1 The Department applies the Scoping and Technical Requirements of the **Florida Accessibility Code for Building Construction (Access Code)** as Department policy. This document implements the **Florida Americans with Disabilities Accessibility Implementation Act (Sections. 553.501-553.513, F.S.)** and incorporates criteria from the federal **ADA Standards for Accessible Design**.

- 3.2 It is the responsibility of the appropriate Department staff, consultants, and contractors to comply, to the fullest extent possible, with the applicable provisions of state regulations. Compliance will be ensured by training staff in responsible offices, reviewing plans for accessibility features, and inspecting for compliance with accessibility requirements.

- 3.3 The Department is responsible for complying with the applicable portions of federal and state accessibility regulations. The Department is responsible for complying with the more stringent provisions of applicable regulations.

4. DEPARTMENT RESPONSIBILITIES

The Department has designated certain staff members to administer different levels of accessibility compliance. The following describes the responsibilities of these program participants:

4.1 Statewide ADA/504 Coordinator:

The ADA Coordinator (ADAC) manages the Department's facilities accessibility program at the state level. This position is responsible for administering the overall Department compliance program. The ADAC ensures accessibility compliance for statewide projects, and for district projects upon request by district project managers, by providing technical support and plans reviews.

The ADAC works with the Equal Opportunity Office to coordinate accessibility issues with the Department's other non-discrimination programs (e.g., ***Title VI of the Civil Rights Act of 1964***).

The ADAC coordinates with the Department's Central Office and District Local Agency Program staff to ensure subrecipients of federal transportation funds comply with appropriate federal 504 and ADA regulations in the implementation of their programs.

The ADAC develops and provides accessibility training and technical support to district staff, consultants, contractors, inspectors and local agency representatives. The ADAC keeps district staff up-to-date on current accessibility regulations, and conducts Quality Assurance Reviews of district operations to ensure compliance with federal and state accessibility requirements.

The ADAC is the Department's representative for technical issues regarding public comments, concerns, complaints or legal actions on accessibility issues on the state road system and for Department facilities and structures. The ADAC advises the Secretary or his designee on technical compliance with the ***ADA/504*** and the ***Access Code***.

4.2 District ADA Coordinators:

The District ADA Coordinator (DADAC) manages the accessibility program at the district level. The DADAC is responsible for assuring accessibility compliance on District Fixed Capital Outlay (FCO) and Work Program projects through plans reviews and training of other district offices and staff. The DADAC coordinates with the ADAC and others, as appropriate.

In districts where there may be more than one DADAC appointed, each shall coordinate with the other to avoid conflicts and 'gaps' in district accessibility compliance.

4.3 Project Managers:

Ensure that applicable accessibility compliance issues are addressed during PD&E, Design, and Production phases of construction projects through research and plans reviews. Coordinate with DADAC and other appropriate district offices (i.e., Public Transportation Office, Safety Office, etc.) to determine applicable requirements. Coordinate with design consultants to ensure their familiarity with the applicable accessibility requirements. Submit construction plans to the DADAC, or designee, for review and approval prior to letting the work.

4.4 Project Administrators and Inspectors:

Ensure that applicable components of accessibility requirements are followed during the construction phase of projects through inspection of construction projects. Coordinate with the DADAC to determine applicable requirements. Coordinate with contractors to assure their familiarity with the applicable accessibility requirements. Confirm that field changes do not reduce accessibility or violate accessibility requirements.

4.5 Public Information Office Staff:

Ensure that Department issued or sponsored public documents (brochures, pamphlets, notices, maps, etc.) and communications (announcements, radio and television advertisements, video tapes, etc.) are provided in accessible formats and media. Accessible alternate formats include: large print documents, Braille documents, audio tapes of printed publications, computer disk of printed publications, audio-described videos, closed-captioning on video tapes, etc.

Ensure that Internet web pages developed by the Department are produced in a manner accessible to persons who are visually impaired and cannot use computer pointing devices (e.g., mouse, trackball, joystick, etc.).

4.6 Public Transportation Office Staff:

Coordinate with project managers during Project Development and Environmental (PD&E), Design, Production and Construction phases of Department projects to ensure that appropriate ADA *Title IIb* issues are addressed.

4.7 Responsible Offices:

While not charged with direct responsibility for accessibility matters, various offices within the Department have staffs that are knowledgeable and experienced in responding to public requests. These offices are available as resources when addressing accessibility requests. These offices include:

- (a) Production Support Office
- (b) State Structures Design Office, Design Standards Section
- (c) State Roadway Design Office, Design Standards Section
- (d) State and District Pedestrian/Bicycle Program Offices
- (e) State and District Design Offices
- (f) State and District Traffic Operations Offices
- (g) State and District Construction Offices
- (h) State and District Maintenance Offices
- (i) Equal Opportunity Office
- (j) Office of the General Counsel

5. COMPLIANCE

- 5.1 The Department has the responsibility pursuant to **Chapter 334, F.S.**, to regulate the design, construction, and operation of the state highway system. This responsibility includes ensuring compliance with the state and federal accessibility requirements. Certain offices have been charged with planning, design, production, construction, and management of road and bridge projects.
- 5.2 The Florida Department of Business and Professional Development has the responsibility under **Section 553.73, F.S.** for adopting minimum state building codes. The document describing the state accessibility requirements is the **Access Code**. The **Access Code** coordinates with the **Florida Building Code**, which covers other 'life safety' elements for the design and construction of building facilities.
- 5.3 County and municipal governments are charged with local enforcement of the state minimum building codes for state-owned and state-leased buildings and facilities, including the above accessibility requirements, pursuant to **Section 553.80, F.S.** Construction documents for building projects must be submitted to the local building official for plans review, permitting and construction inspection for compliance with the **Florida Building Code** and **Access Code**.
- 5.4 To facilitate local code authority review, building project construction documents may be submitted to the DADAC, for building code and accessibility code reviews (progress reviews, "final" check, etc.) prior to submittal to the appropriate code official. Plans may also be sent to the ADAC for their review.

6. PUBLIC REQUESTS/COMPLAINTS

- 6.1 The Department is responsible for providing appropriate responses to requests for information and complaints from the public related to the **ADA**, the **Access Code**, and other accessibility issues. Refer to the Department's **FDOT ADA Grievance Procedure Under the Americans with Disabilities Act**. This may be found on the Department Web site: www.dot.state.fl.us/projectmanagementoffice/ADA/ADAGrievance.shtm.

- 6.2** Accessibility requests or complaints may be directed to the ADAC and/or the DADAC(s), as appropriate, who may forward them to other responsible offices. Responses shall be coordinated with the respective DADAC(s) and/or the ADAC. Responses should describe the Department's proposed action plan to satisfy/answer the request. The action plan shall include, as appropriate: research into the subject issue(s), documentation of existing conditions, date(s) of construction, available public right of way, site constraints, planning/preliminary engineering proposals, design and/or construction actions to be taken, proposed project development schedule, funding needs/resources, etc.
- 6.3** Actions to address accessibility requests may include coordination with city and/or county agencies, metropolitan/transportation planning organizations (MPOs/TPOs), public transportation agencies, pedestrian/traffic safety offices, traffic engineering offices, public works and engineering offices, etc.
- 6.4** All Department activities related to 504/ADA, and customer comments and complaints will be included in an annual, "ADA Program Plan" report to the U.S. Department of Transportation, Federal Highway Administration (FHWA), Florida Division, submitted each November.

7. PUBLICATIONS

- 7.1** Publications that should be referred to include the current, adopted editions of the following:
1. ADA Standards for Accessible Design (ADAS)
 2. ADA Standards for Transportation Facilities (ADASTF)
 3. Proposed Guidelines for Accessible Public Rights of Way (PROWAG)
 4. AASHTO – Policy on Geometric Design of Highways and Streets
 5. FHWA – Older Pedestrian Characteristics for Use in Highway Design
 6. Florida Accessibility Code for Building Construction (Access Code)
 7. Manual on Uniform Traffic Control Devices (MUTCD)
 8. U.S. Access Board – Accessible Public Rights-of-Way Planning and Design for Alterations
 9. FDOT Roadway and Traffic Design Standards (Design Standards)
 10. FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Street and Highways (Florida Green Book)
 11. FDOT Florida Pedestrian Safety Plan
 12. FDOT Walkable Communities
 13. FDOT Facilities Design Manual (FDM)
 14. FDOT Plans Preparation Manual (PPM)
 15. FDOT Strategic Highway Safety Plan
 16. FDOT Utilities Accommodations Manual (UAM)
 17. FDOT Accessing Transit Handbook

8. RECORDKEEPING

- 8.1 Each DADAC must maintain, for public review, a current copy of documentation describing the District's ADA compliance activities. Examples of documents to be retained are: facility survey records, transition plans, barrier removal projects, responses to public comments/complaints, programs/policies modified to meet ADA, publications offered in accessible formats, etc.
- 8.2 Each DADAC shall submit a copy of the district ADA Program Plan(s) to the ADAC.
- 8.3 The DADAC will maintain for public review the program plans submitted to Central Office. The ADAC will maintain current copies of applicable laws, rules, regulations, codes, standards and guidelines governing accessibility for persons with disabilities.

9. TRAINING

- 9.1 The Department offers ADA Compliance Training for Department staff, consultants, contractors, inspectors, local government and other agency staff involved in projects or operations affected by accessibility issues. These courses have been approved by the Florida Board of Professional Engineers for Professional Development Hours (PDH) continuing education credit for PEs.
- 9.2 ADA training for specialized work areas or specific project phases offered is listed below:

Course No.	Course Title	Description
BT-05-0150 <i>1-hour (computer-based training)</i>	ADA 101: Basics (below) the	Overview of the, 'basics' of the 504 & ADA regulations and standards. Other courses provide details for the implementation of regulations and standards.
BT-05-0019 <i>2-hours (2 PDHs)</i>	ADA - Facilities Access accessib Department on	Comprehensive review of ADA & Florida ility requirements affecting operations. This course focuses on building facilities
BT-05-0062 <i>3-hours (3 PDHs)</i>	ADA for Design & Construction towards managers, construction inspectors, and	Review of ADA requirements targeted design/production staff (project roadway designers, etc.) and project staff (project administrators, etc.) This course focuses on road bridge facilities

10. FORMS

- 10.1 There are two forms available for public reporting of accessibility deficiencies on the state road system:

625-020-06 – ADA Constituent Accessible Route Request

This form may be found on the FDOT Web site at:

<http://formserver.dot.state.fl.us/MiscRepository/forms/62502006.pdf>

625-020-05 – ADA Constituent Curb Ramp Request

This form may be found on the FDOT Web site at:

<http://formserver.dot.state.fl.us/MiscRepository/forms/62502005.pdf>

Appendix A

ASSESSMENT for OTHER POWER-DRIVEN MOBILITY DEVICES

The ADA Regulations (28 CFR Part 35) clarify the requirements for use of commonly recognized mobility aids and add new devices that may be used by persons with disabilities. These are divided into two categories: wheelchairs and similar devices, and 'other power-driven mobility devices (OPDMDs).

"Use of wheelchairs and manually-powered mobility aids: *A public entity shall permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use." (28 CFR 35.137(a))*

"Use of other power-driven mobility devices: *A public entity shall make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the public entity can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the public entity has adopted pursuant to Sec. 35.130(h)." (28 CFR 35.137(b))*

1. Assessment of Facilities and Mobility Devices:

Department staff or consultants must conduct an assessment for each pedestrian facility the Department owns or maintains to determine whether OPDMDs may be used on that facility. Upon the completion of an assessment the Department may determine that certain classes of OPDMDs would pose a danger to users or damage the facility. In such case it is permissible to restrict the use of those OPDMDs on the facility.

"A public entity may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, the public entity must ensure that its safety requirements are based on actual risks, not on speculation, stereotypes or generalizations about individuals with disabilities." (28 CFR 35.130(h))

2. Assessment Factors:

In determining whether a particular other OPDMD may be allowed on a specific facility as a reasonable modification . . . a public entity shall consider:

- (i) The type, size, weight, dimensions, and speed of the device;
- (ii) The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- (iii) The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted outdoors, its dimensions, geometrics, design speed, placement of appurtenant facilities, environment and natural or cultural resources, etc.);

- (iv) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
- (v) Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations."
(28 CFR 35.137(b)(2))

3. Assessment of Safety:

Department staff will determine valid safety criteria to permit or limit the safe operation of an OPDMD on the facility. Both the facility and the mobility device must be assessed to determine whether the device is appropriate for use on the facility. Criteria to assess include:

For the Facility:

- Surfaces
- Width
- Vertical curves
- Horizontal curves
- Sight distances at curves and crossings
- Obstructions, pinch points, etc.

For the Mobility Device:

- Type
- Size
- Weight
- Dimensions
- Stability
- Speed

Compare the facility and device assessments to determine whether certain mobility devices may be safely used on the facility and if any limitations to their use are warranted. Safety issues to evaluate include:

Danger to self or other users. Evaluate the potential of danger to an OPDMD user or other facility users based on:

- Size, weight, stability and speed of the mobility device compared to other users
- Width, grade and other geometrics of the facility
- Volume of pedestrians and other users

Danger to facilities & features. Evaluate the potential damage to facilities due to the type, size, weight, dimensions, and speed of the mobility device based on:

- Operational characteristics of the facility
- Potential for OPDMDs to damage surfaces or structures
- Potential for errant OPDMDs to damage adjacent features

4. Assessment of Environmental Resources:

Adjacent environmental, natural, or cultural features and resources. Evaluate the potential risk of harm to resources near the facility. These include:

- Sensitive or protected species of plants
- Sensitive or protected species of animals

- Sensitive or protected natural or cultural features

Relation to other federal land management laws and regulations. Determine whether the use of OPDMDs would be in conflict with any of the following:

- Endangered Species Act (16 U.S.C. §§ 1531 et seq.)
- National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.)
- National Historic Preservation Act (16 U.S.C. §§ 470 et seq.)
- Wilderness Act (16 U.S.C. §§ 1131 et seq.) or
- Other federal, state, or local law designed to preserve threatened or endangered species; the environment; or archaeological, cultural, historical, or other significant natural features

5. Conclusions:

If the above assessments determine that OPDMDs can be safely used on the facility, the Department will consider means to allow the use of these devices.

If the above assessments determine that certain types of OPDMDs may constitute a danger to users of the facility or damage the facility itself, it is permissible to restrict the use of those types of OPDMDs on the facility in its entirety, or for some portions of the facility. These conditions must be documented and supportable based on the assessments.

If portions of the facility are determined to justify restrictions on the use of OPDMDs, these restrictions must be clearly identified and signed for facility users (e.g., weight limit on pedestrian bridge, width of bridge, speed limit, etc.) If a reasonably practical alternate path is available that will allow a user of an OPDMD to avoid a restricted portion of the facility and return to the facility, the alternate path must be accessible and clearly identified.