

ADA Compliance in Difficult Times

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By Katherine McGuinness

The ADA is almost 19 years old, and ADA compliance is standard practice for most facilities managers. Implementing the design, construction, maintenance, and operational requirements is ongoing and routine. Yet, with widespread budget restrictions and layoffs there are new challenges to these practices. There are four initiatives that make sense for facilities managers during an economic downturn.

1. Prepare to use 2004 ADA/ABAAG
2. Implement accessible design and construction protocols
3. Ensure maintenance of accessible elements
4. Re-evaluate readily achievable barrier removal
5. Accessible evacuation plans

Prepare to use 2004 ADA/ABAAG

There are so many federal accessible design and constructions standards – not to mention the state and local ones – that it can rightfully make any facility manager's head spin. Depending on the type of facility you manage, construction may have to comply with one more of the following:

1988	UFAS	Uniform Federal Accessibility Standards
1991	FHA	Federal Fair Housing Guidelines
1991	ADAAG	Americans with Disabilities Act Standards for Accessible Design
2004	ABAAG	Architectural Barriers Act Accessibility Guidelines
2004	ADAAG	Americans with Disabilities Act Accessibility Guidelines

If you are responsible for ADA compliance, which standard should you use? The 'new' *ADA/ABA Accessibility Guidelines* were promulgated in 2004, but do not become enforceable design standards until they are adopted by various federal agencies. As of this writing, only four federal agencies have adopted these standards:

- U.S. Postal Services
- General Services Administration
- U.S. Department of Transportation
- U.S. Department of Defense.

Managers of these federal facilities should be using *the 2004 ABA Accessibility Guidelines*. Managers of all other federal facilities should be learning about these standards, but should be constructing to the *Uniform Federal Accessibility Standards*.

Facility Type	Outgoing Standards		Incoming Standards		
	1988 UFAS	1991 ADAAG	2004 ABAAG	2004 ADAAG	FHA
Privately Owned		x			
State/Local Government	x	x			
Federal Government	x		USPS, GSA, DoT, DoD		
Federally Funded	x				
Multi Family Housing	x	Leasing/Sales Offices			x
College Dormitories	x	x			x

Managers of all other facilities should be learning about *the 2004 ADA Accessibility Guidelines*, but should still be using the older standards. Privately owned facilities must continue to meet the 1991 ADA Standards for Accessible Design. If a project receives federal funding, it must also meet the Uniform Federal Accessibility Standards, in addition to the ADA Standards for Accessible Design.

This regulatory morass will be mitigated when the U.S. Department of Justice adopts the *2004 ABA/ADAAG* as the enforceable standard for ADA and ABA compliance. This adoption was underway, but has been stalled with President Obama’s cautionary moratorium on any new federal regulations initiated under the previous administration. They are generally expected to be adopted without change as soon as the new administration’s review is complete. In the meanwhile, facilities managers will benefit by becoming familiar with them. This will not be a difficult task for most managers, as these new guidelines are easier to use than current guidelines. They have been harmonized with the *International Building Code’s* scoping provisions for accessibility and with the *American National Standards Institute’s* technical standards.

Implement Accessible Design and Construction Protocols

ADA enforcement often cites failure to construct new and altered facilities to meet the *ADA Accessibility Standards*. Most facilities managers assume that their architects and contractors will ensure full ADA compliance. This is not the case. It is important that project managers take several steps to ensure that designers and contractors fulfill their obligations. These can include:

- Include specific reference to compliance with appropriate ADA, ABA, and FHA accessible design standards in RFPs and construction documents. General reference to compliance with ‘all applicable standards’ may not be adequate.
- Require architects and engineers to provide ‘accessible path of travel’ drawings in their program analysis, 60% submissions, and CDs.

- Require architects and engineers to include a page of accessible design details for typical accessible elements in any project.
- Provide a list of common errors and make it clear that these errors will not be tolerated in design or construction.
- Provide contractors with the use of a 'SmartLevel;' and include in the contract that all accessible routes must be constructed to ADA accessible route standards. There are no tolerances for slope and cross-slope; and standard construction tolerances do not apply.

Ensure Maintenance of Accessible Elements

The ADA requires that accessible elements in facilities be maintained. This can include a wide variety of maintenance protocols:

- Regular lift and elevator monitoring and maintenance
- Testing of audible and visual alarms
- Snow removal from accessible routes
- Keeping space clear of storage, trash bins, bicycles:
 - Under elevator buttons
 - Within accessible toilet stalls
 - At maneuvering space around doors
 - At telephones and drinking fountains

Many facilities managers use custodial and security personnel to report issues and relocate obstacles. They can cycle lifts and test automatic door openers on a weekly basis to ensure their good working order. They can relocate trash bins that have migrated into the 'clear space' that is actually meant for people's scooters and wheelchairs to maneuver. They can report pooling water at accessible parking spaces and along accessible paths. They can test and adjust door pressure and report interior doors that require more than 5 LBF to open. Maintaining these elements will make any facility more accessible, and reduce both injury and complaint.

Re-Evaluate Readily Achievable Barrier Removal

Facilities that are open to the public are subject to the ADA's 'readily achievable barrier removal' requirements. This ongoing obligation requires property owners to remove those architectural barriers whose removal can be accomplished 'without significant difficulty or expense.' What is 'readily achievable' is not clearly defined, and the standard is meant to have a 'sliding scale.' For example, a chain of retail stores such as Barnes and Noble will probably have a higher standard of what is readily achievable than a single, independent book store.

Typical readily achievable barrier removal would include:

- Providing a ramp to mitigate 1-3 steps
- Making an accessible stall from two standard stalls
- Adding lever hardware to doors and sinks

Providing an elevator or adding a new audible/visual alarm system is rarely-if-ever considered to be readily achievable.

Many facilities managers have completed ADA readily achievable barrier removal programs. If you have not yet completed it, now is the time to review this program, and adapt it to current economic climate. What may have been 'readily achievable' in 2005 may no longer be 'readily achievable' today.

Although the obligation remains, the timeframe for achieving it might be extended. In any case, having an updated plan for this barrier removal, and documentation of past and proposed progress is good practice when enforcement agencies investigate and when complaints are raised.

Accessible Evacuation Plans

The federal courts have interpreted the ADA's access requirements to include effective evacuation plans for people with disabilities. If your facility has an evacuation plan for its occupants, it is important to review that plan for specific protocols that will ensure equal access to safe egress by people who cannot evacuate independently. The vast majority of people with disabilities who might have difficulty evacuating independently do not have visible disabilities, so do not assume that your plan is adequate. The most common disabling conditions are related to stamina, knee, and back problems. You will want to avoid a scenario where a person with a disability becomes a barrier in a stairwell preventing others from safely evacuating.

Accessible evacuation plans will include several elements:

- Identification of areas of rescue assistance and 'safe wait areas.'
- Coordination with Human Resources to plan for people who have confidentially identified themselves as needing assistance in an evacuation
- Identification and training of volunteer assistants for people with disabilities
- Availability of back-up mobility aids
- Coordination with local first responders
- Consideration of equipment such as evacuation chairs
- Practice of these protocols during normal evacuation drills

The ADA is not going away, and even in times of economic hardship, compliance with the federal civil rights law remains important. Although there may be limited new design and construction to manager, it is important to continue managing ADA compliance to avoid costly complaints and litigation.

To Obtain the 2004 ADA/ABAAG

The 2004 ADA/ABAAG and a useful summary of the changes are available at the federal [Access Board's Web site](#) or from the Access Board's automated publications order line, 202-272-0080 or 202-272-0082 (TTY). Request publication S-50.

About the Author

Katherine McGuinness is the founding Principal of Kessler McGuinness & Associates, LLC, a nationally recognized firm specializing in ADA and FHA compliance and universal design. www.kmaccess.com. Ms. McGuinness is also the Chairperson of the Boston Society of Architects Accessibility Committee. www.bsa-access.org.