California Department of Transportation
ADA Strategic Plan (Self Evaluation)

(as defined by *Californians for Disability Rights, Inc. v. California Department of Transportation*, Case No.: C 06 5125
Settlement Agreement Re Class Action Settlement)

California Department of Transportation
ADA Strategic Plan

(as defined by *Californians for Disability Rights, Inc. v. California Department of Transportation*, Case No.: C 06 5125 Settlement Agreement Re Class Action Settlement)

Summarized Departmental Compliance Activities (Achievement Goals)

A. Annual Expenditure: $25 million must be spent annually.
B. Grievance Procedure: All Grievances and Access Requests must be responded to within 15 working days.
C. Accessibility Guidelines: DIB 82 must be revised.
D. Temporary Routes: The accessibility of Temporary Routes through or around Work Zones must be defined and summarized, including modification of CA MUTCD and Caltrans' Construction Manual.
E. Annual Report: Each federal fiscal year an Annual Report must be completed.
F. Access Consultant: the Department must retain an Access Consultant.
G. Notice: The Department must establish a web site where a copy of the Settlement Notice will be available to the Public.
H. CapM Projects: Highway Resurfacing and other CapM (2R and 3R) projects, where such projects are performed on a Vehicular Way with adjacent Pedestrian Facilities, triggers a requirement from immediate curb ramp and other pedestrian route accessibility improvements.

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California Department of Transportation
ADA Strategic Plan

Appropriate Usage of the Annual Expenditure ($25 million)

Regarding pedestrian paths and park-and-rides

Note: In the event that the Department can or does obtain additional non-federal funding for Program Access Improvements, these additional funds will supplement the Department's Commitment. The Department will cooperate with other public entities that wish to undertake Program Access Improvements along Caltrans' Pedestrian Facilities

- Program Access Improvements (Development and Construction Costs)
- New Staffing or Contractors who specifically implement Program Access Improvements
- Costs pertaining to the new Accessibility Grievance Procedure, further surveying work, and retaining the Access Consultant

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California Department of Transportation ADA Strategic Plan

Inappropriate usage of the Annual Expenditure (Additional Funds must be spent)

- New Construction and Alterations Projects related to pedestrian and park-and-ride facilities — Must be funded separately, where such projects are for purposes other than Program Access Improvements
- Existing Departmental Access Programs (Curb Ramp program and others) — 25% of the Annual Expenditure can be used for these purposes under certain conditions
- Up-grading curb ramps when CapM work is performed on a vehicular way with adjacent pedestrian facilities — Including 2R and 3R Projects

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California Department of Transportation ADA Strategic Plan

Current ADA Curb Ramp/Infrastructure Program:

Approximate total funding expenditure for both programs = $32 million annually

– Recommendation: Cease these two programs, which will be replaced with the New ADA Strategic Plan (existing language of the Settlement does not prohibit such actions)

Americans with Disabilities Act Curb Ramp Program- SHOPP 201.461

10000

The purpose of this program is to fund projects that will install or upgrade curb ramps within the State's right-of-way, bringing the State Highway System into compliance with Title II of the ADA. The Department has pledged to complete the design and construction of approximately 10,000 new curb ramps; which meet the requirements of the Design Information Bulletin (DIB) 82-03; by the end of 2013.

American with Disabilities Act Pedestrian Infrastructure Program- SHOPP 2-1.378

The purpose of this program is to fund projects that will install or upgrade pedestrian infrastructure within the State's right-of-way, bringing the State Highway System (SHS) into compliance with Title II of the Americans with Disabilities Act (ADA).

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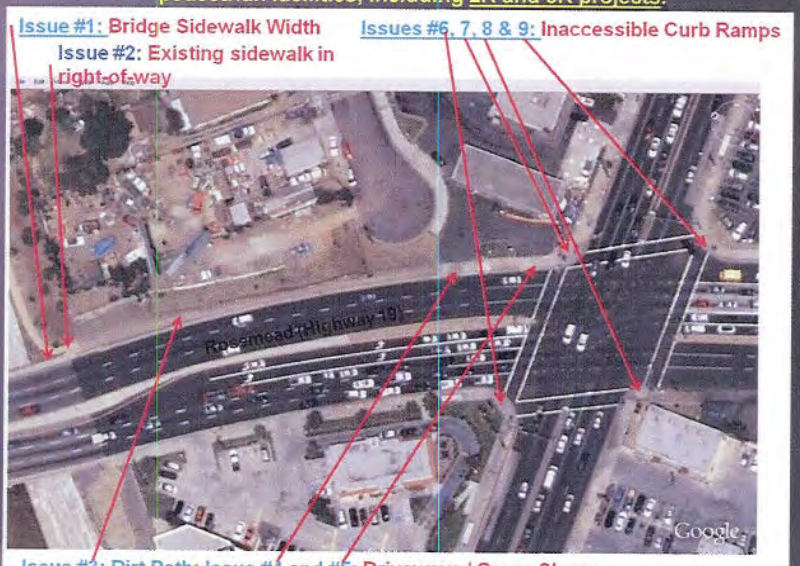
California Department of Transportation
ADA Strategic Plan

Up-grading curb ramps when CapM work is performed on a vehicular way with adjacent pedestrian facilities, including 2R and 3R projects.



California Department of Transportation
ADA Strategic Plan

New Construction and Alterations Projects related to pedestrian and park-and-ride facilities

California Department of Transportation ADA Strategic Plan

The Required Annual Expenditure must be prioritized as follows:

1st - Program Access Improvements, which address:

The most severe access barriers (Infrastructure inconsistencies that pose the most difficulty to use by individuals with disabilities) and the most significant safety hazards for individuals with disabilities

2nd - Program Access Improvements, which address Pedestrian Facilities and/or Park-and-Ride Facilities serving:

State and local government offices and facilities; Important Transportation Corridors; Places of public accommodation; and facilities containing employers; and other areas such as residential neighborhoods and undeveloped areas.

Note: Grievances and access requests will be addressed and prioritized on an individual basis

California Department of Transportation ADA Strategic Plan

Prioritization and Complaints:

California Department of Transportation ADA Strategic Plan

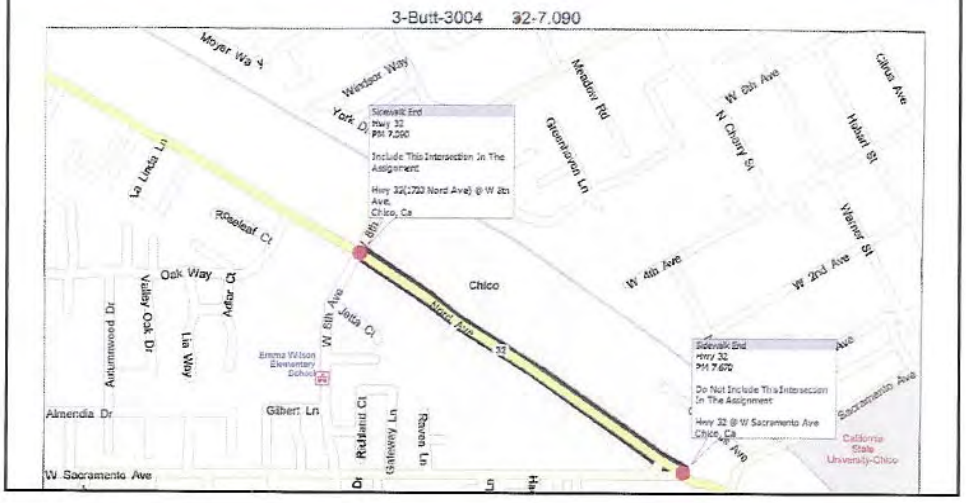
Prioritization of Annual Expenditure (Continued):

3rd Additional understanding of Projects and Prioritization

The Department will consider efficient methods of delivering such projects. (e.g. project scope may be expanded to address additional severe Program Access Improvements needed nearby, even if such improvement are not identified as a higher priority.	**The Department will make good faith efforts to follow the priority guidance.** However, the Department retains **ultimate discretion** in the selection and timing of the projects. This may result in addressing lower priority Improvements before those of higher priority.

California Department of Transportation ADA Strategic Plan

Prioritization and Complaints (Google Image/ put in Brady's map



California Department of Transportation ADA Strategic Plan

Reporting

- Each fiscal year (federal fiscal year - Oct. 1st through Sept. 30th), the Department will complete an annual report.

When

- The first Report will be due on Sept. 30th of 2011

What

- The Annual Report will provide sufficient information to evaluate the terms of the Settlement

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California Department of Transportation ADA Strategic Plan

What specific information will the Report include

A detailed summary of Projects pursuant to Barrier correction activates, where the activities match the established prioritization.

A detailed summary of Projects derived from Grievances received from the Accessibility Grievance Procedure.

CapM projects funded by the Annual Commitment.

A detailed summary of allocation of the Annual Commitment funds, including any funds that will pour over to, or be credited against the following FFY.

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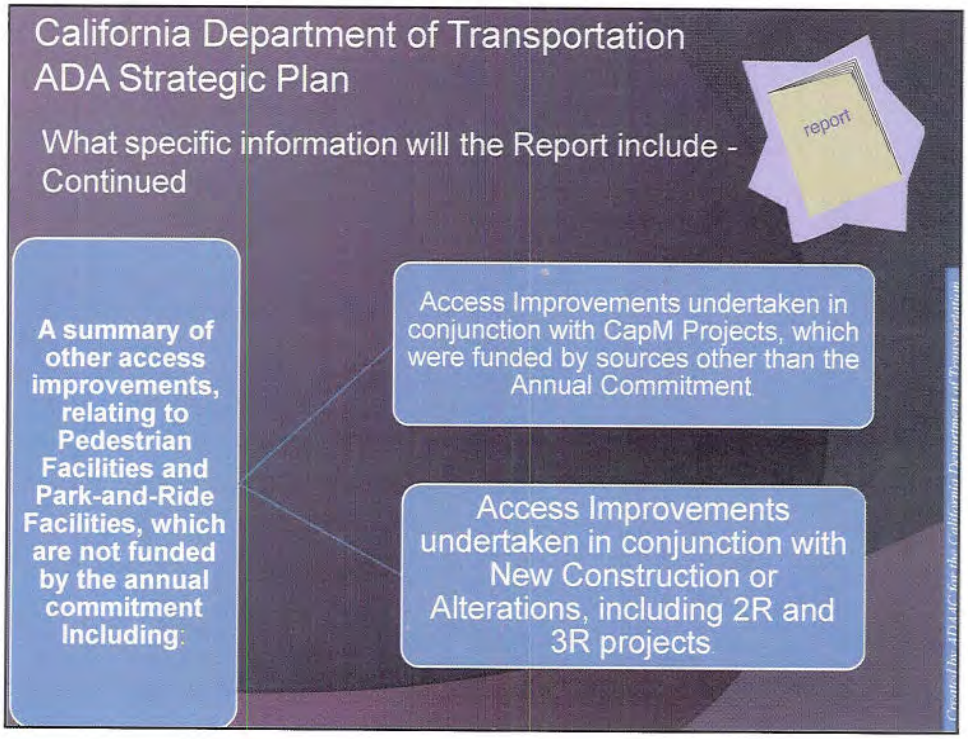
California Department of Transportation
ADA Strategic Plan
What specific information will the Report include - Continued
report
A summary of other access improvements, relating to Pedestrian Facilities and Park-and-Ride Facilities, which are not funded by the annual commitment Including:
Access Improvements undertaken in conjunction with CapM Projects, which were funded by sources other than the Annual Commitment
Access Improvements undertaken in conjunction with New Construction or Alterations, including 2R and 3R projects
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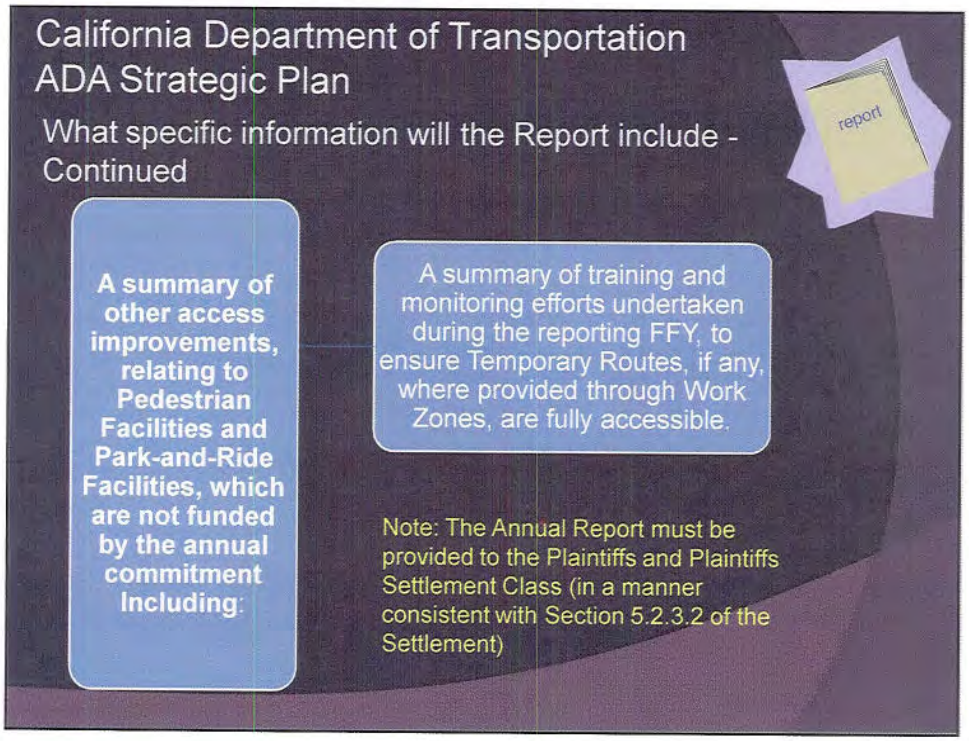
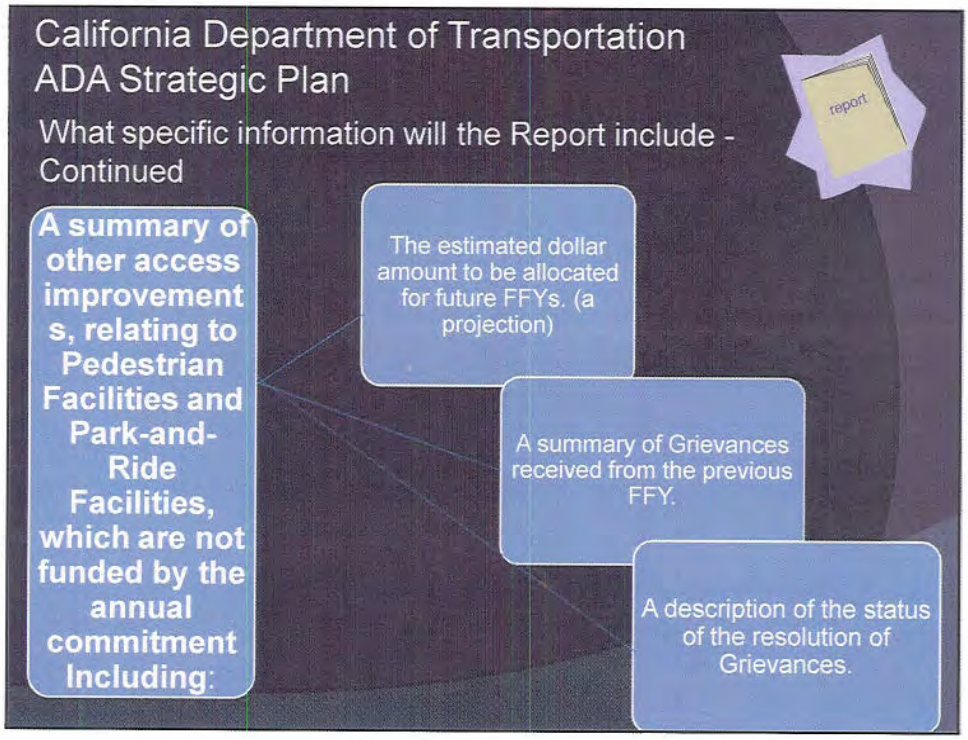
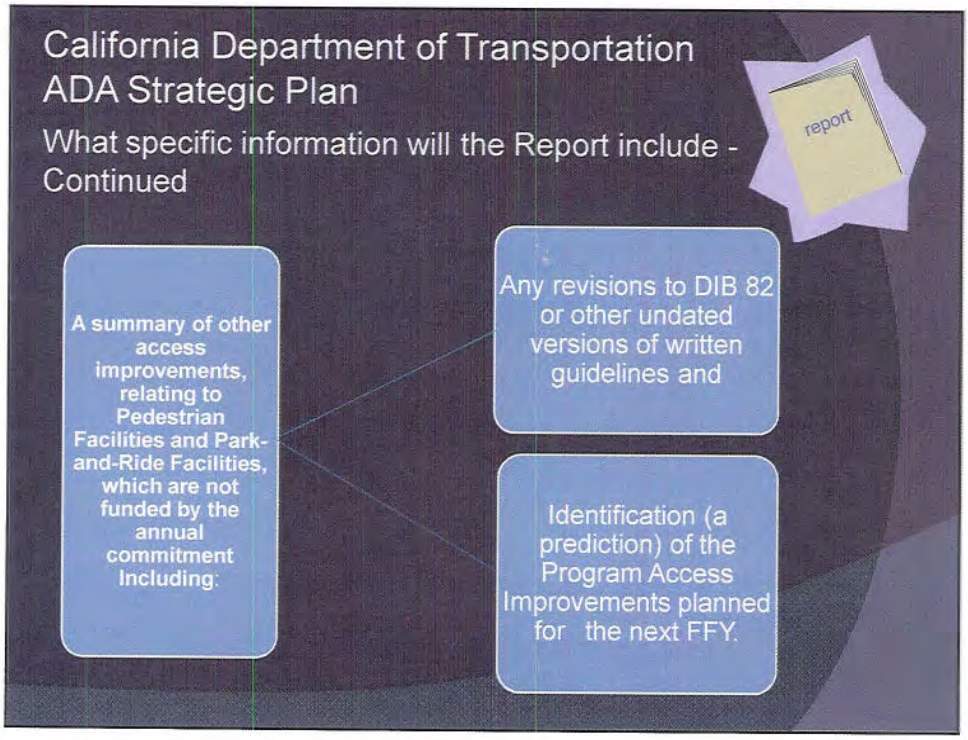

California Department of Transportation
ADA Strategic Plan
What specific information will the Report include - Continued
report
A summary of other access improvements, relating to Pedestrian Facilities and Park-and-Ride Facilities, which are not funded by the annual commitment Including:
A summary of training and monitoring efforts undertaken during the reporting FFY, to ensure Temporary Routes, if any, where provided through Work Zones, are fully accessible.
Note: The Annual Report must be provided to the Plaintiffs and Plaintiffs Settlement Class (in a manner consistent with Section 5.2.3.2 of the Settlement)

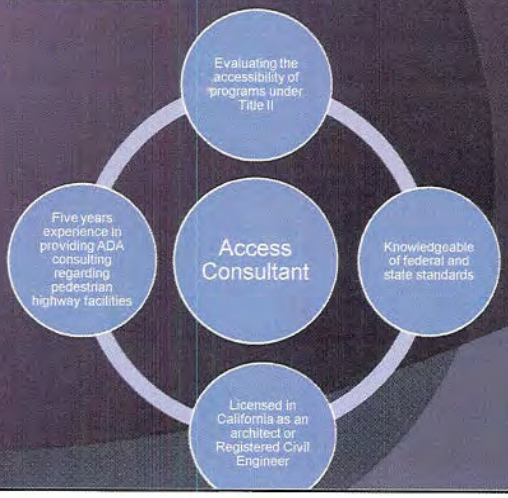

California Department of Transportation
ADA Strategic Plan
What specific information will the Report include - Continued
report
A summary of other access improvements, relating to Pedestrian Facilities and Park-and-Ride Facilities, which are not funded by the annual commitment Including:
The estimated dollar amount to be allocated for future FFYs. (a projection)
A summary of Grievances received from the previous FFY.
A description of the status of the resolution of Grievances.


California Department of Transportation
ADA Strategic Plan
What specific information will the Report include - Continued
report
A summary of other access improvements, relating to Pedestrian Facilities and Park-and-Ride Facilities, which are not funded by the annual commitment Including:
Any revisions to DIB 82 or other undated versions of written guidelines and
Identification (a prediction) of the Program Access Improvements planned for the next FFY.

California Department of Transportation ADA Strategic Plan

For the first seven years of the Compliance Period the Department must retain and Access Consultant in a manner consistent with State contracting requirements

What type of previous knowledge and experience is required by the Access Consultant?



California Department of Transportation ADA Strategic Plan

What are the Access Consultant's job duties?

- Compliance / Settlement Watch Dog
- Review Departmental program access improvements annually
- **Consult, as needed, with appropriate Department personnel, such as the Contract Manager and the Author of the Department's Annual Report, for the purpose of obtaining information concerning compliance**

California Department of Transportation ADA Strategic Plan

What are the Access Consultant's job duties?

Conduct field spot checks of Pedestrian Facilities and Park-and-Rides, as needed, to verify the following:

Completed Program Access Improvements.

- Completed New Construction or Alterations.
- Completed CapM Projects.
- The provision of Accessible Temporary Routes, when provided.
- Review a random sample of Grievances and Department responses.
- Provide an Annual Written Report to the Contract Manager and other parties consistent with the Settlement. The Written Report shall document and analyze:
  - The Department's compliance with the Settlement
  - The Departments Annual Report

California Department of Transportation ADA Strategic Plan

Pedestrian Accessibility Guidelines for Highway Projects (DIB 82) must be revised

Note: All required revisions are not listed here

DESIGN INFORMATION BULLETIN NUMBER 82-03
Department of Transportation
Division of Design
Office of Geometric Design Standards

CapM projects

Revised to provide that CapM projects, which are adjacent to Pedestrian Facilities, must include installation of Curb Ramps where they do not exist and upgrades to existing curb ramps at the time the CapM work is performed

Note: The Department will notify (via Annual Report) Plaintiffs of the revised DIB 82

California Department of Transportation ADA Strategic Plan

Pedestrian Accessibility Guidelines for Highway Projects (DIB 82) must be revised

Note: All required revisions are not listed here

DESIGN INFORMATION BULLETIN NUMBER 82-03
Department of Transportation
Division of Design
Office of Geometric Design Standards

Section 4.2

The Department must Revise, adopt and implement the DIB 82, Section 4.2 and others sections; and all relevant Caltrans's employees must be notified that the old DIB is superseded

California Department of Transportation ADA Strategic Plan

Pedestrian Accessibility Guidelines for Highway Projects (DIB 82) must be revised

Note: All required revisions are not listed here

DESIGN INFORMATION BULLETIN NUMBER 82-03
Department of Transportation
Division of Design
Office of Geometric Design Standards

Relationship to other standards

- If the DIB 82 does not address design features that are otherwise enforceable by other state of federal access standards, the Department will comply with those standards.
- As state and federal standards evolve, DIB 82 must be revised to synthesize and reflect these new standards.

Note: The Department will notify (via Annual Report) Plaintiffs of the revised DIB 82

California Department of Transportation ADA Strategic Plan

Pedestrian Accessibility Guidelines for Highway Projects (DIB 82) must be revised (Continued)

Note: All required revisions are not listed here

The Department will ensure that the Pedestrian Accessibility Guidelines (DIB 82) are followed for all New Construction or Alterations.

California Department of Transportation ADA Strategic Plan

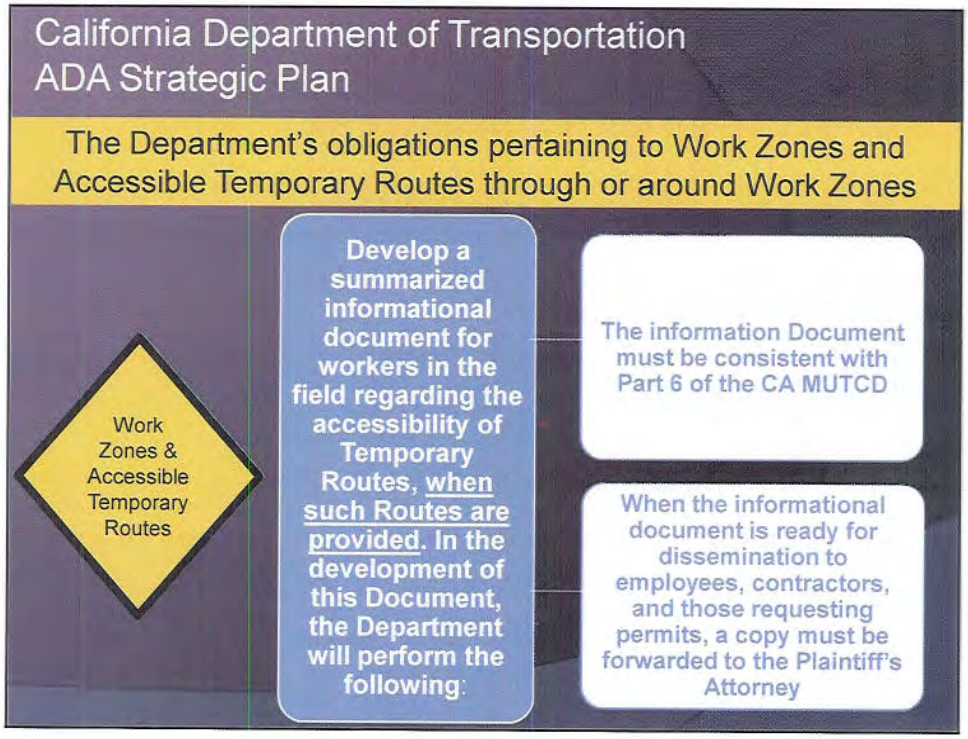
The Department's obligations pertaining to Work Zones and Accessible Temporary Routes through or around Work Zones

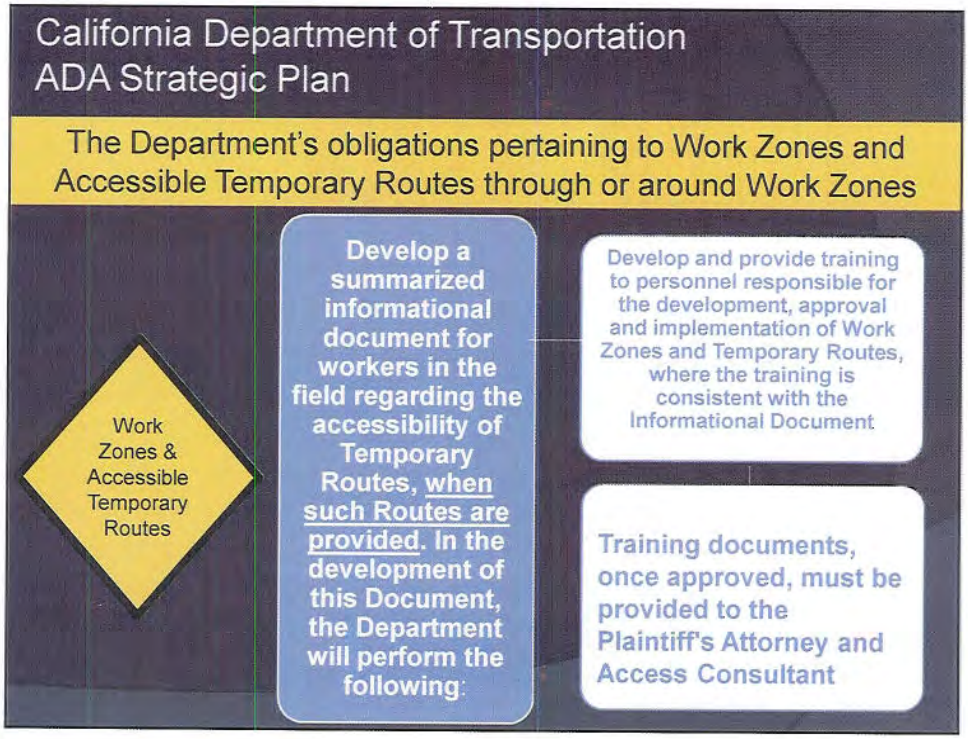
Work Zones & Accessible Temporary Routes

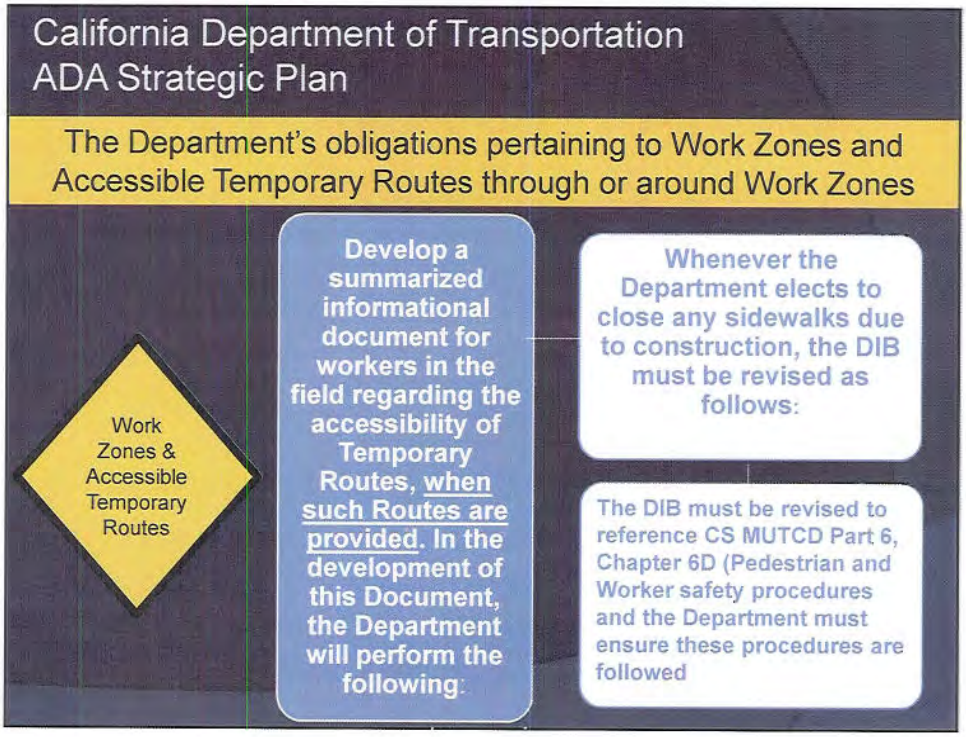
Develop a summarized informational document for workers in the field regarding the accessibility of Temporary Routes, <u>when such Routes are provided</u>. In the development of this Document, the Department will perform the following:

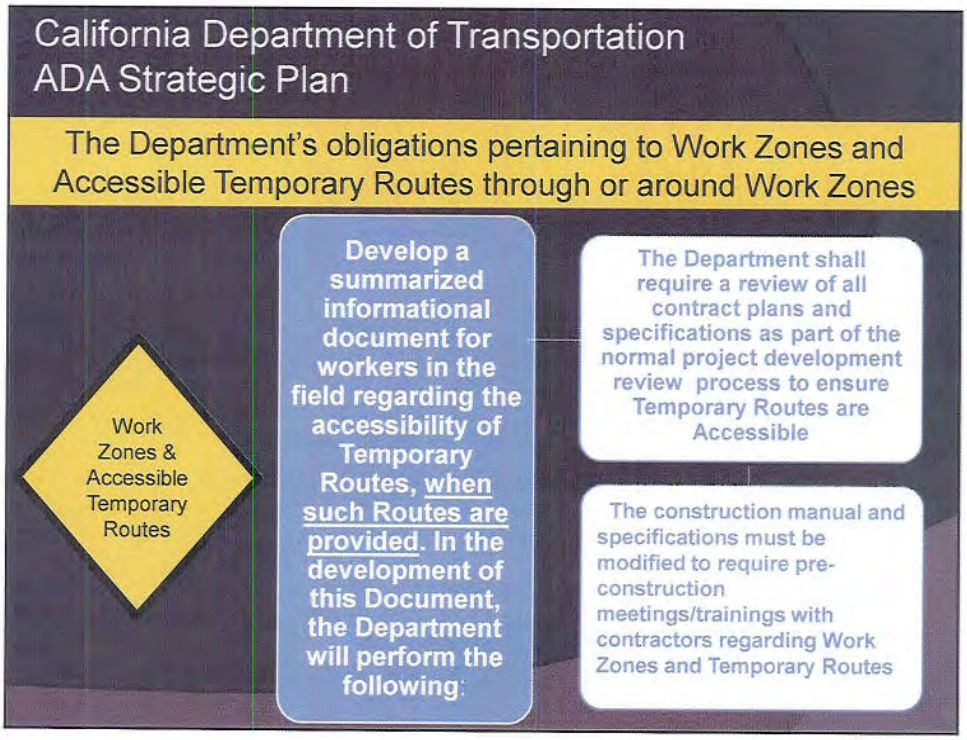
Investigate procedural models of other entities, including but not limited to:

Pacific Gas & Electric Company's "Path of Travel Encroachments" and Pedestrian Safety, and/or Federal Highway Administration Guidance Sheet "Temporary Traffic Control Zone Pedestrian Access Considerations"


California Department of Transportation
ADA Strategic Plan
The Department's obligations pertaining to Work Zones and Accessible Temporary Routes through or around Work Zones
Work Zones & Accessible Temporary Routes
Develop a summarized informational document for workers in the field regarding the accessibility of Temporary Routes, when such Routes are provided. In the development of this Document, the Department will perform the following:
The information Document must be consistent with Part 6 of the CA MUTCD
When the informational document is ready for dissemination to employees, contractors, and those requesting permits, a copy must be forwarded to the Plaintiff's Attorney


California Department of Transportation
ADA Strategic Plan
The Department's obligations pertaining to Work Zones and Accessible Temporary Routes through or around Work Zones
Work Zones & Accessible Temporary Routes
Develop a summarized informational document for workers in the field regarding the accessibility of Temporary Routes, when such Routes are provided. In the development of this Document, the Department will perform the following:
Develop and provide training to personnel responsible for the development, approval and implementation of Work Zones and Temporary Routes, where the training is consistent with the Informational Document
Training documents, once approved, must be provided to the Plaintiff's Attorney and Access Consultant


California Department of Transportation
ADA Strategic Plan
The Department's obligations pertaining to Work Zones and Accessible Temporary Routes through or around Work Zones
Work Zones & Accessible Temporary Routes
Develop a summarized informational document for workers in the field regarding the accessibility of Temporary Routes, when such Routes are provided. In the development of this Document, the Department will perform the following:
Whenever the Department elects to close any sidewalks due to construction, the DIB must be revised as follows:
The DIB must be revised to reference CS MUTCD Part 6, Chapter 6D (Pedestrian and Worker safety procedures and the Department must ensure these procedures are followed


California Department of Transportation
ADA Strategic Plan
The Department's obligations pertaining to Work Zones and Accessible Temporary Routes through or around Work Zones
Work Zones & Accessible Temporary Routes
Develop a summarized informational document for workers in the field regarding the accessibility of Temporary Routes, when such Routes are provided. In the development of this Document, the Department will perform the following:
The Department shall require a review of all contract plans and specifications as part of the normal project development review process to ensure Temporary Routes are Accessible
The construction manual and specifications must be modified to require pre-construction meetings/trainings with contractors regarding Work Zones and Temporary Routes

California Department of Transportation ADA Strategic Plan

The Department's obligations pertaining to Work Zones and Accessible Temporary Routes through or around Work Zones

Work Zones & Accessible Temporary Routes

Develop a summarized informational document for workers in the field regarding the accessibility of Temporary Routes, when such Routes are provided. In the development of this Document, the Department will perform the following:

The content of the contractor's meeting/training will include how contractors will meet their contractual obligations and applicable guidance in the CA MUTCD

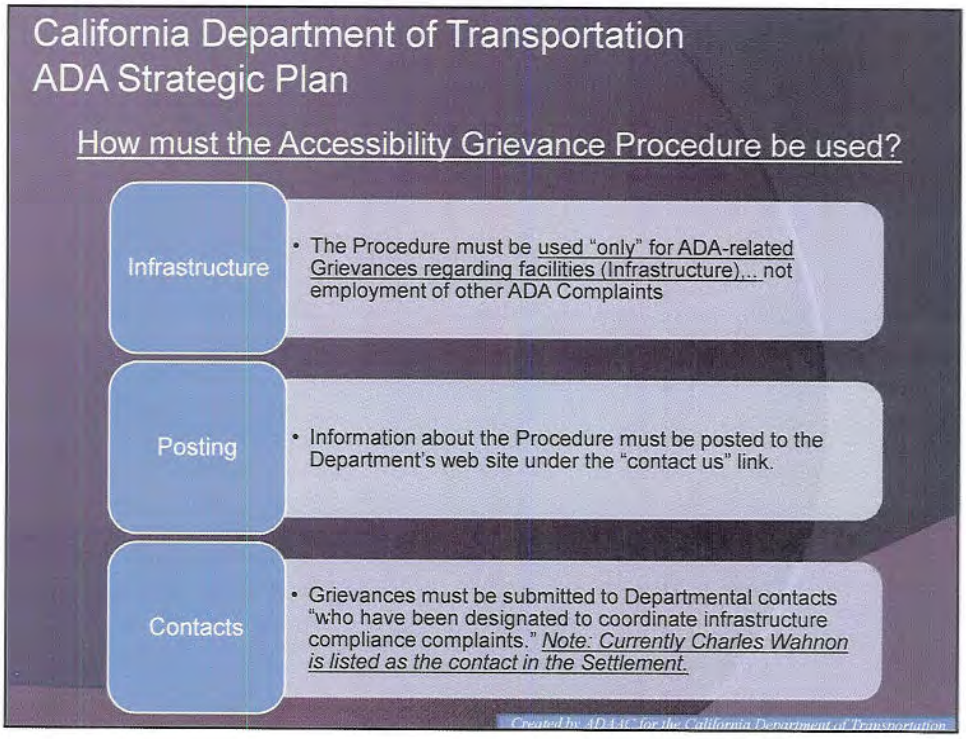
Contractors participation in these pre-construction meetings shall constitute certification that they fully understand said contractual obligations

California Department of Transportation ADA Strategic Plan

The Department must use the Accessibility Grievance Procedure as defined by the Settlement for all ADA-related grievances Regarding "Facilities" owned or controlled by the Department

The existing Department's Personnel Policy governs "employment-related complaints of disability discrimination and therefore will not be used for grievances pertaining to "Facilities"

Note: The Grievance Procedure, as defined by the Settlement, must be utilized in its entirety, where the entirety will not be restated in this presentation. However, the following facts, derived from the Procedure, will be addressed on the following slides to help ensure complete understanding of issues presented by the Grievance Procedure


California Department of Transportation
ADA Strategic Plan
How must the Accessibility Grievance Procedure be used?
Infrastructure
• The Procedure must be used "only" for ADA-related Grievances regarding facilities (Infrastructure)... not employment of other ADA Complaints
Posting
• Information about the Procedure must be posted to the Department's web site under the "contact us" link.
Contacts
• Grievances must be submitted to Departmental contacts "who have been designated to coordinate infrastructure compliance complaints." Note: Currently Charles Wahnon is listed as the contact in the Settlement.
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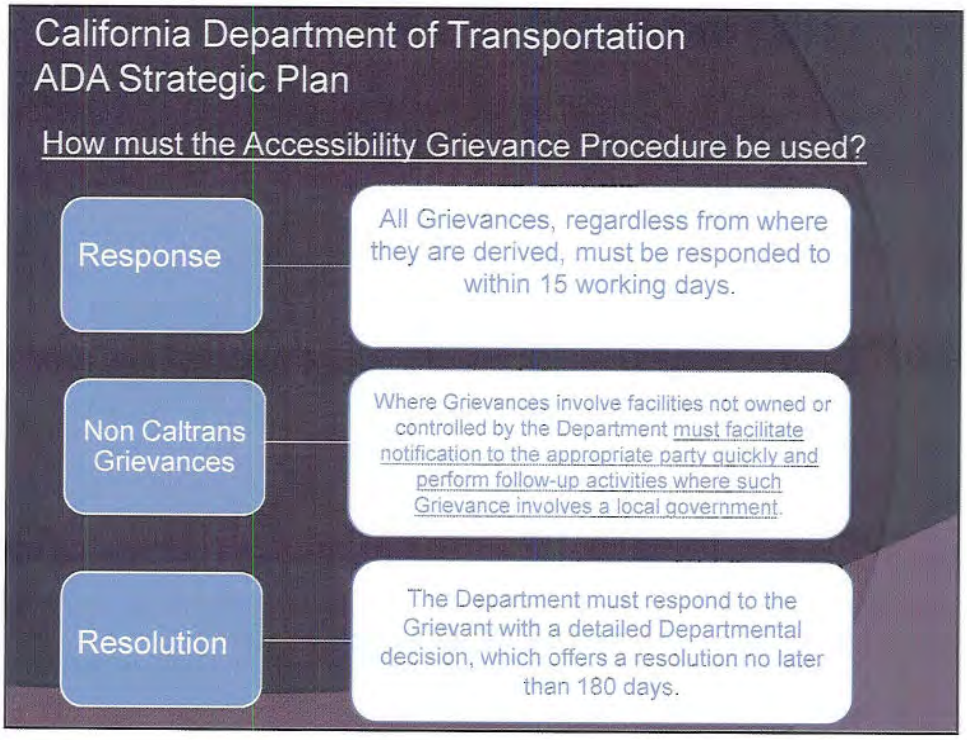

California Department of Transportation
ADA Strategic Plan
How must the Accessibility Grievance Procedure be used?
Response
All Grievances, regardless from where they are derived, must be responded to within 15 working days.
Non Caltrans Grievances
Where Grievances involve facilities not owned or controlled by the Department must facilitate notification to the appropriate party quickly and perform follow-up activities where such Grievance involves a local government.
Resolution
The Department must respond to the Grievant with a detailed Departmental decision, which offers a resolution no later than 180 days.

California Department of Transportation ADA Strategic Plan

What are the Department's obligations to provide "Notice of Proposed Settlement Of Class Action Lawsuit"

Mail Copy

- A copy of the Notice (as defined in Exhibit 8) must be mailed to the following organizations:
- U.S. Attorney General, Assistant Attorney General for Civil Rights, U.S. Department of Justice, and the Attorney General for the State of California. (Along with a request that each office publicize the Notice on their web sites.)

Question: The above sentence begs the question of whether or not compliance with the Settlement relieves the Department from other Title II regulations regarding "Accessible Communications" including a variety of related Title II regulation?

California Department of Transportation ADA Strategic Plan

What are the Department's obligations to provide "Notice of Proposed Settlement Of Class Action Lawsuit"

Notice to Class Members

- The Department must provide (without charge) the "Notice" in accessible formats to class members, advocacy groups, governments, or their Counsel.
- *Question: The above sentence begs the question of whether or not compliance with the Settlement relieves the Department from other Title II regulations regarding "Accessible Communications" including a variety of related Title II regulation.*

What are the Department's obligations to provide "Notice of Proposed Settlement Of Class Action Lawsuit"

Web Site

- The Department must establish a web site where a copy of the "Notice" will be available in English, Spanish and accessible to individuals with visual impairments.
- *Question: Once again, Title II and the Rehabilitation Act of 1973 (Section 508) require all pages of the Department's public web site to be fully accessible. Does the above language exempt the Department from compliance with these Title II and Rehab Act regulations.*

Question: Once again, Title II and the Rehabilitation Act of 1973 (Section 508) require all pages of the Department's public web site to be fully accessible. Does the above language exempt the Department from compliance with these Title II and Rehab Act regulations?

California Department of Transportation ADA Strategic Plan

Important Settlement Definitions

Settlement Definitions must be fully understood prior to the creation of a comprehensive and accurate ADA Strategic Plan

Access Requests

- Requests, comments, inquiries and formal Accessibility Grievances, from anywhere or anyone, that relate to Pedestrian Facilities and Park-and-Rides.

Question: Does this Language exempt other types of facilities in the right-of-way from Title II accessibility regulations?

California Department of Transportation ADA Strategic Plan
Important Settlement Definitions

Settlement Definitions must be fully understood prior to the creation of a comprehensive and accurate ADA Strategic Plan

Caltrans' Jurisdiction

- Pedestrian Facilities and Park-and-Ride owned or controlled by Caltrans, either in part of in full.
- Does this language exempt other types of facilities in the right-of-way from Title II accessibility regulations?

Pedestrian Facilities

- Paved walkways under Caltrans' Jurisdiction that are intended for use by the public, including, but not limited to: Outdoor pedestrian walkways, sidewalks, crosswalks, pedestrian under crossings and overcrossings.
- Comment: Therefore, Park-and-Rides and under and over crossings still need to be surveyed.

California Department of Transportation ADA Strategic Plan

Settlement Definitions (Continued)

Program Access

- Applicable federal access laws and California Access laws directing a public entity to operate each service, program or activity so they are readily accessible and usable by individuals with disabilities, accept for purposes of the settlement, as related to **APS.**

California Department of Transportation ADA Strategic Plan

Settlement Definitions (Continued)

Note: The below information does not appear to relieve the department from other applicable Title II regulatory requirements

Settlement Statement

- Except for **APS**, "by complying with the terms of this Settlement, the Department shall have no obligation to do more to comply with federal access laws and/or California access laws relating to the subject matter of the Settlement."
- "The Department's compliance with the terms of the Settlement shall constitute a full and complete defense to any claim for injunctive or declaratory relief asserting that the Department has failed to comply with any and all federal and state laws, statutes, rules, regulations (including without limitation that **Self Evaluation and Transition Plan**, the Access Coordinator and grievance procedure…"

California Department of Transportation ADA Strategic Plan

Settlement Definitions (Continued)

Settlement Statement

- This Unparalleled commitment to access for disabled pedestrians will serve as a nationwide model, because no entity previously has addressed accessibility to a system of Pedestrian Facilities and Park-and-Ride Facilities on such a large scale.

California Department of Transportation ADA Strategic Plan

Summarized Departmental Annual ADA Funds to be Spent

Settlement Annual Expenditure	• $25 Million • Includes costs for grievances and infrastructure correction
Additional Settlement Expenditure	• $200 to $500 Million (Speculation) • Costs for correcting pedestrian infrastructure along re-surfaced highways
Existing Departmental Access Programs	• ~~$32 Million~~ • ~~SHOPP 361 and 378 Projects~~

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps

1. Enable the Department's Infrastructure Program to implement and manage all structural-related ADA activities, Including grievances and access requests related to structures;

2. Spend $25 million annually on "structural" projects regarding the most severe access barriers and most severe potential safety issues "State-wide";

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps

3. DIB Section 4.1.3 should be revised according to new internal policies and programs

(Settlement...."New Construction and work done pursuant to Section 4.1.3 of DIB 82 (attached as Exhibit 3A to the Settlement Agreement) shall not count towards the Annual Commitment, except as follows: For each year of the Compliance Period, no more than 25% of the Annual Commitment shall be allocated to installation of missing Curb Ramps and upgrading Curb Ramps to the extent necessary for the Curb Ramps to comply with the applicable provisions of the Accessibility Guidelines when CAPM work is performed on a Vehicular Way with adjacent Pedestrian Facilities. Annual costs in excess of the 25% commitment cap (related to installation and/or upgrade of curb ramps for CAPM projects in order to comply with DIB 82 Section 4.1.3) shall be paid from other funds"):

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps (Continued)

4. Enhance / modify projects performed under the new ADA Strategic Plan so they are completed timely;

5. Enact and improve the new ADA Grievance Process, as it pertains to infrastructure, so that complaints and access requests do not become federal or state complaints or lawsuits *(re-organization of the Headquarters and District components of this process will be required)*;

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps (Continued)

6. Produce and enact training, new procedures and related actions, which are necessary to ensure that newly constructed or modified pedestrian infrastructure is in full compliance with applicable accessibility guidelines

7. Complete updated Transition Plan by finishing site surveys of pedestrian paths (sidewalks, curb ramps, crosswalks), pathways pertaining to over and under passes, and park-and-rides;

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps (Continued)

8. Designate who will act as the Department's liaison to the new "Access Consultant" and who will be the author of the Department's Annual Report;

9. Designate who will assist and provide oversight in the development and implementation of all activities regarding Work Zones and Accessible Temporary Routes, including contractor trainings/meetings, spec. development and inspection;

10. Ensure all Settlement required Notices, Postings, Web Site Announcements, and mailings are performed;

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps (Continued)

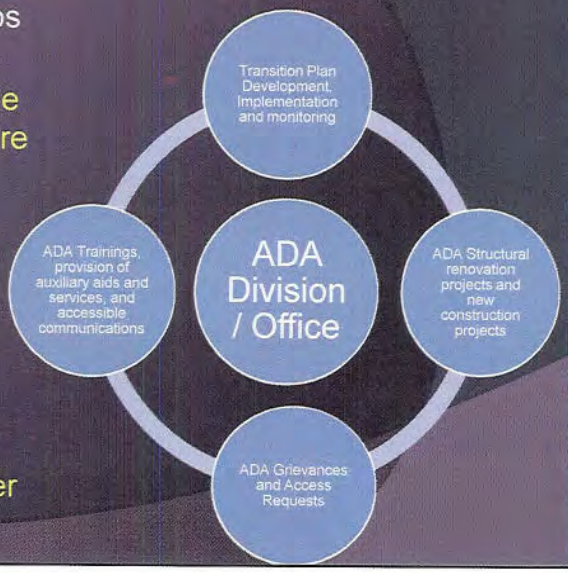
11. Ensure that all other ADA Title II requirements are followed, where such requirements are not part of the Settlement, including, but not limited to:

- The provision and notice of auxiliary aids and services
- The provision of employment related accommodations
- ADA Web Site information
- Creation of an external disability advisory council
- Define and train internal compliance teams
- Institutionalization of reasonable accommodation policies
- Departmental web site compliance with 508
- District ADA Coordinators
- Disability Awareness Training
- TAC Training
- Accessible emergency evacuation procedures, and
- All policies and practices meet or exceed Title II, Including APS, and revisions of DIB 82 (more stringent specifications)

California Department of Transportation ADA Strategic Plan

Detailed Settlement Compliance Action Steps

Action Step #1: Enable the Department's Infrastructure Program to implement and manage all structural-related ADA activities, Including grievances and access requests related to structures and all other activities related to the Settlement, including other ADA-related activities



California Department of Transportation ADA Strategic Plan

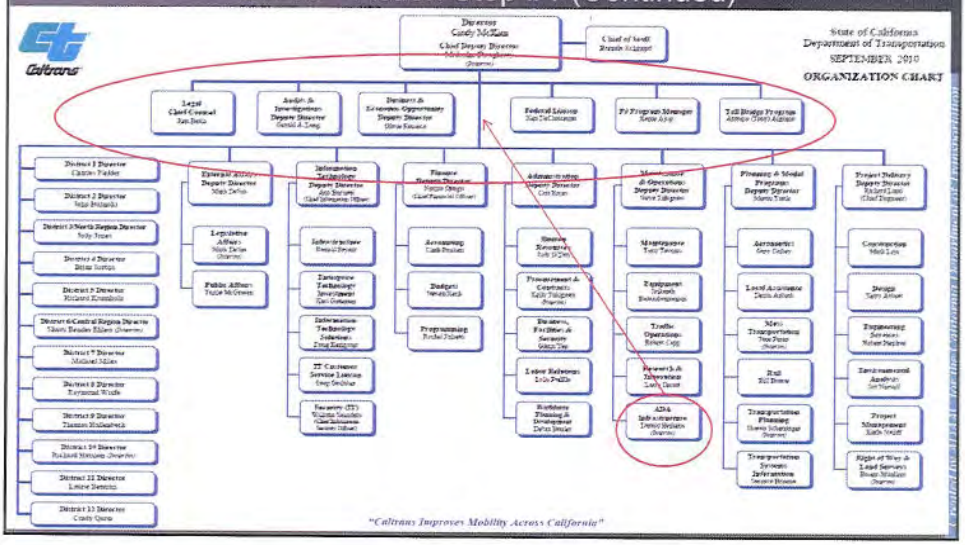
Detailed Settlement Compliance Action Steps – ADA Division / Office – Action Step #1 (Continued)

The formalization of an ADA Office, along with the Departmental positioning of this ADA Office, is **one of the most important overall Department-wide internal compliance actions CalTrans can take at this time** to ensure the immediate and long-term success of the Department's ADA compliance initiatives.

Why?

California Department of Transportation ADA Strategic Plan

Detailed Settlement Compliance Action Steps – ADA Division / Office – Action Step #1 (Continued)



California Department of Transportation
ADA Strategic Plan

Detailed Settlement Compliance Action Steps – ADA Division / Office – Action Step #1 (Continued)

The new ADA Office will provide oversight, monitoring, training and/or instruction to, at a minimum, the following Departmental offices *(along with utilization of personnel within these offices):*

1. **Districts – Project delivery / Inspection**
2. **Civil Rights – Employment provisions compliance**
3. **Public Affairs – Public notices**
4. **Construction – Project delivery and training**
5. **Design – DIB / MUTCD / ADAAG / DOT**
6. **Project Management – Project Delivery**
7. **Local Assistance – Non-Departmental Complaints**
8. **Maintenance – Transition Plan implementation**
9. **FHWA – Best practices**
10. **Information Technology – 508 compliance and related web based issues**
11. **Legal – Advise**
12. **Finance**

Representatives from these offices should also become part of the TAC membership

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California Department of Transportation
ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #2

Spend $25 million annually on "structural" projects regarding the most severe access barriers and most severe potential safety issues "State-wide"

How?

1. **Utilization of New Transition Plan priorities** – *Action Step #7: (Complete updated Transition Plan by finishing site surveys of pedestrian paths (sidewalks, curb ramps, crosswalks), pathways pertaining to over and under passes, and park-and-rides.)*
2. **Control, manage and implement all grievances – by priority** *(Action Step #5: Enact and improve the new ADA Grievance Process, as it pertains to infrastructure, so that complaints and access requests do not become federal or state complaints or lawsuits.)*
3. **Speed existing project management and implementation** – *(Action Step #4: Enhance / modify projects performed under the new ADA Strategic Plan so they are completed timely;*

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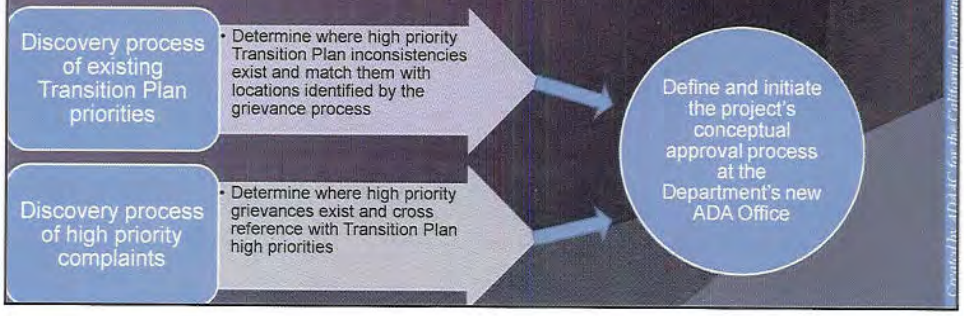
California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #2

Spend $25 million annually on "structural" projects regarding the most severe access barriers and most severe potential safety issues "State-wide" (Continued)

1. **Utilization of New Transition Plan priorities, and**
2. **Control, manage and implement all grievances – by priority**

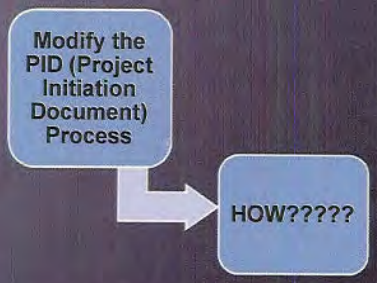


California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #2

Spend $25 million annually on "structural" projects regarding the most severe access barriers and most severe potential safety issues "State-wide" (Continued)

1. **Speed existing project management and implementation**



- Take District personnel out of the process so that the process is performed solely at the new ADA Office in Headquarters???

The current process goes back and fourth between Districts and Headquarters – "The draft PIDs for curb ramp projects are to be submitted to Headquarters Office of Traffic Safety Program, prior to District approval, to ensure program eligibility. Upon District approval, an amendment request should be submitted to Headquarters Division of Programming for SHOPP programming."

Suggested organizational structure change.

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #3

DIB Section 4.1.3 should be revised according to new internal policies and programs

1. **The Settlement requires some revisions of the DIB. This task should be fairly simple since a good design program already exists.**

However

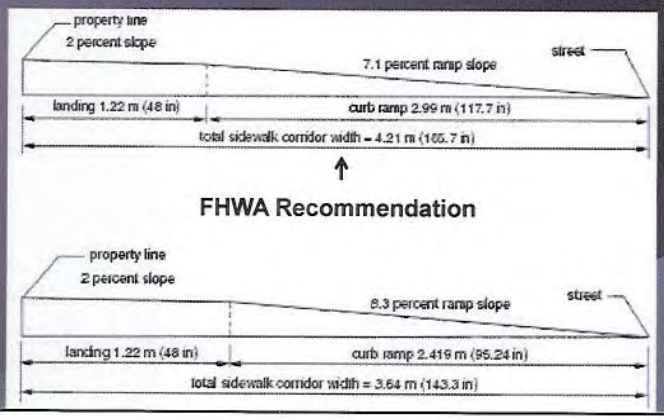
Since new construction appears to be continually completed in a manner, which is non-compliant with the DIB, we recommend the DIB (and MUTCD where necessary) be modified to require more stringent specifications than just minimums and maximums as defined by federal and state guidelines and codes.

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #3

DIB Section 4.1.3 should be revised according to new internal policies and programs

DIB Modification example:



California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #5

Enact and improve the new ADA Grievance Process, as it pertains to infrastructure, so that complaints and access requests do not become federal or state complaints or lawsuits *(re-organization of the Headquarters and District components of this process will be required)*.

Problems:

1. **Based on our experience, ADA complaints are not currently dealt with in an appropriate time frame – 15-day response time from complaint intake.**
2. **Structural measures taken to fix/resolve complaints do not comply with minimum specifications.**
3. **Structural measures taken to fix/resolve complaints are not completed in a timely manner – some complaining parties have actually died before the structural fix was performed.**
4. **Communications and technical understanding of complaints and resolutions between Headquarters and Districts appear to be inefficient and ineffective – District and Headquarters personnel appear to be confused.**
5. **Lack of personnel solely dedicated to the complaint/grievance process.**

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #5

Enact and improve the new ADA Grievance Process, as it pertains to infrastructure, so that complaints and access requests do not become federal or state complaints or lawsuits *(re-organization of the Headquarters and District components of this process will be required)*.

Possible Resolutions:

1. **Detailed training and effective job descriptions written for all employees involved in the complaint process**
2. **Disability awareness and in-house grievance process training for all front-line employees.**
3. **Due to a lack of personnel solely dedicated to the complaint/grievance process and the enormity of existing and upcoming complaints – farm-out (contract-out) all complaints to expert professionals temporarily.**
4. **Re-vamp all complaint/grievance related publications directing all complaints to the new ADA Office.**
5. **House the Department's ADA Coordinator within the new ADA Office, where this individual would sort employment-related grievances to OBEO(Civil Rights).**

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #6

Produce and enact training, new procedures and related actions, which are necessary to ensure that newly constructed or modified pedestrian infrastructure is in full compliance with applicable accessibility guidelines;

Possible Resolutions:

1. Detailed training (on-going) and effective job descriptions written for all employees involved in the ADA inspection process.
2. Place the burden of compliance on contractors by changing the contract process, as defined by the Settlement, by providing training to contractors and changing contract documents clearly spelling out that the contractor is liable.
3. Due to a lack of personnel solely dedicated to the complaint/grievance process and the enormity of existing and upcoming complaints – farm-out (contract-out) all inspections to expert professionals temporarily. Such inspectors will hold contractors responsible on the spot and contractors ***will*** begin performing their work correctly.
4. The inspection process should be wholly contained, monitored and performed as part of the new ADA Office.

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #7

Complete updated Transition Plan by finishing site surveys of pedestrian paths (sidewalks, curb ramps, crosswalks), pathways pertaining to over and under passes, and park-and-rides;

↑

The ADA would require much more than the above Settlement obligations – all Caltrans buildings and Facilities within and outside of the right-of-way.

Except for **APS**, "by complying with the terms of this Settlement, the Department shall have no obligation to do more to comply with federal access laws and/or California access laws relating to the subject matter of the Settlement." "**The Department's compliance with the terms of the Settlement shall constitute a full and complete defense to any claim for injunctive or declaratory relief asserting that the Department has failed to comply with any and all federal and state laws, statutes, rules, regulations (including without limitation the Self Evaluation and Transition Plan, the Access Coordinator and grievance procedure...**"

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #8

Designate who will act as the Department's liaison to the new "Access Consultant" and who will be the author of the Department's Annual Report;

Due to the enormity of the Report, it will likely take, at least, one full-time individual just to author the report.

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #9

Designate who will assist and provide oversight in the development and implementation of all activities regarding Work Zones and Accessible Temporary Routes, including contractor trainings/meetings, spec. development, inspection and brochure development, including internal training.

Work Zones & Accessible Temporary Routes

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #10

Ensure all Settlement requirements are performed

- Notices
- Postings
- Web Site
- Announcements
- and Mailings

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #11

Ensure that all other ADA Title II requirements are followed, where such requirements are not part of the Settlement, including, but not limited to:

- The provision and notice of auxiliary aids and services
- The provision of employment related accommodations
- ADA Web Site information
- Creation of an external disability advisory council
- Define and train internal compliance teams
- Institutionalization of reasonable accommodation policies
- Departmental web site compliance with 508
- District ADA Coordinators
- Disability Awareness Training
- TAC Training
- Accessible emergency evacuation procedures, and
- All policies and practices meet or exceed Title II, Including APS, and revisions of DIB 82 (more stringent specifications)

California Department of Transportation ADA Strategic Plan

Settlement Compliance Action Steps – Action Step #11

Except for **APS**, "by complying with the terms of this Settlement, the Department shall have no obligation to do more to comply with federal access laws and/or California access laws relating to the subject matter of the Settlement."

"**The Department's compliance with the terms of the Settlement shall constitute a full and complete defense to any claim for injunctive or declaratory relief asserting that the Department has failed to comply with any and all federal and state laws, statutes, rules, regulations (including without limitation the Self Evaluation and Transition Plan, the Access Coordinator and grievance procedure…"**

Due to the above statement "relating to the subject matter of this Settlement" we recommend complying with all other ADA Title II regulations, which are not part of the Settlement.