

TLG 2010 Case Study Application

BUILDING AN ACCESSIBLE COMMUNITY AND CULTURE

City of Wichita, Kansas
Robert Layton, City Manager



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Intent of Project

Wichita, Kansas is on its way to becoming the most accessible major metropolitan community in the country for persons with disabilities. It is well into and ahead of schedule on a thirteen-year facility and programmatic conversion to provide the greatest accessibility feasible. The scope of this project includes a built environment of 196 city structures or improved parks, and over 1900 linear miles of City right of way infrastructure. It also includes all City services or benefits provided to those people within its bounds.

Anticipated and Actual Outcomes

Wichita implemented its ADA transition plan by first creating internal and external process improvements. The City now solicits and engages public participation through a Citizen's Advisory group that has direct access to participating City staff. Staff routinely report back activity to the Advisory Board, providing accountability and receiving feedback. Internally, the City has a separate ADA departmental coordinator for every City department. These coordinators directly receive any ADA comment or complaint from citizens they serve, and insure appropriate disability sensitivity training for supervisors and front line staff. These coordinators also survey the services and programs their departments provide, feeding this data to the City's ADA implementation team for guidance on how to make those programs more accessible.

The performance improvements already accomplished by the City range from construction of hundreds of curb cut/wheelchair ramps throughout the City (with an aggressive plan to have eventual full City coverage) to major public building renovations, including lifts and elevators. Wichita inventoried every City structure and park, prepared an itemized and prioritized list of the modifications and their tasks completion of these tasks. The initial inventory contained over 4,000 required facility modifications, large and small, and additional necessary changes have been noted since the initial inventory. As previously noted, the City is ahead of schedule on implementation of this plan.

Costs

The City anticipates that the entire Facility Transition Plan will be accomplished with direct Capital Improvement Program (CIP) bonded expenditures over 13 years at a figure less than \$3.6 million, with \$1.2 million of this amount in the last two years to account for the most expensive, lowest priority modifications. Although these modifications clearly are accomplished at significant cost, all work has been done, and will continue to be done, without increasing the City's operations budget. Several factors allowed this to transpire:

- Allocation, before the City began the initial audit process, by the Public Works Department of incremental funding for facility ADA modifications in the bond funded Capital Improvement Program (CIP). This was done without any specific projects in mind; the division director simply knew some changes somewhere would be necessary.
- Approval by Bond Counsel and Engineering of the detailed facility inventory and analysis as a design prerequisite, therefore making it eligible as CIP expenditure.
- Scheduling of the independent inventory and analysis over two consecutive budget years to make sufficient funds available to pay its cost from the CIP.
- Creating a build-out schedule that did not outpace available CIP funds in out-years.

- Use of “Other People’s Money,” by requiring through policy that ADA changes, as much as possible, were to be funded as part of specifications for ongoing space utilization or remodeling projects. These changes, funded by allocations from other departments, are accomplished without tapping the ADA CIP funding.

These factors together have allowed the ADA implementation team to move ahead to do work projected in future years, and also have money available to other departments to enhance ADA compliance.

Savings

The City’s actual and planned costs become meaningful only when compared to ADA obligations imposed on sister cities. Comparison is possible through use of data from the federal Department of Justice’s Project Civic Access. Under this program, DOJ audits cities around the country for ADA compliance, files enforcement lawsuits, and enters into settlement agreements to move forward the target City’s level of compliance. To date, 167 cities of all sizes have been so targeted. The filed settlement agreements routinely call for much less substantial compliance than Wichita (often one quarter the number of buildings or even fewer), over a much more restrictive time period (from 4 years down to a single year for total funding and implementation) at a great deal more expense (typically several million dollars in immediate expense). Review of the consent orders from comparable sister cities would indicate the savings from the Wichita approach to be in the range of \$5-9 million. In September, 2009, Wichita was audited under Title VI for adherence with federal requirements relating to all forms of discrimination. During that process, Wichita’s ADA efforts were lauded as a model of compliance.

Innovative Characteristics

- Transformation of limited litigation demands into broadly sweeping voluntary action. This project began from a lawsuit filed against the City by the local independent resource center. That lawsuit alleged various violations in parking space lay out, signage, water fountain positioning, etc., primarily in the City’s public parks. The initial City reaction was to cure the violations listed to moot the case. It was quickly realized that even if successful, this reaction would induce a constantly moving target, simply shifting from one set of violations to another, staying ahead of any potential City reaction. This course of action would have only delayed the inevitable defeat in litigation, and generated an ever-growing attorney fee obligation. At the same time, City staff was aware of Project Civic Access investigations by DOJ in a community only fifty miles away. As an alternative, City staff conceived of an all-encompassing ADA remediation plan through a demonstratively public process that hopefully would fend off both DOJ interest and private lawsuits. The City happily found an adverse litigant and counsel truly interested in fundamental improvement of disability access.
- Formation of a public-private partnership with an “adverse” litigant. To demonstrate willingness to broadly expand the scope of ADA facility modifications, the City Council approved use of an independent contractor to inventory and audit ADA compliance in all City facilities. Furthermore the City gave the party suing it for ADA compliance a seat on the contractor selection committee, without requesting any concession in the litigation. The contractor selected through the RFP process was the expert the plaintiff had arranged to use for testimony against the City at trial. (City staff had used this

expert previously for City training, when he was associated with the regional DBTAC, and had found him reasonable and objective). This selection eliminated any possible claim of bias or shirking of obligations that might otherwise have been leveled against the City.

- Imbuing all affected stakeholders with shared, actual authority to set priorities among needed modifications for the Final Transition Plan. The City formed the Wichita Access Advisory Board to provide structured community input into the Transition Plan development process. Some board members were appointed by the elected City Council members and the City Manager, some board members were chosen by disability advocacy and service organizations. The resulting group combined personal experience dealing with barriers of all types and political responsiveness. This group was allowed to participate in setting the priorities and timeline for modifications, led by practical realities expressed by the independent expert.
- Web posting of the entire facilities transition plan for public viewing and comment. The draft transition plan was arranged by facility, but also contained details locating and describing each violation with its associated ADAAG regulation, the proposed priority of that change, the projected date of work and the completion date of work. This entire document (comprising over 1200 pages if printed out) was made available for public comment for approximately six months prior to final approval. The final document as approved is still available for public inspection at the following URL: <http://www.wichita.gov/CityOffices/ADA/TransitionPlan.htm>. Furthermore, this document provides a totally transparent record of City facility modifications, as the actual completion dates of all work continue to be recorded here.
- Incorporation of the Final Transition Plan at all levels of facility, infrastructure and programmatic planning and performance. Through engineering design and plan review requirements, the City insured that facility upgrades include in their construction budgets all planned ADA modifications to that structure, irrespective of the original implementation date set in the Transition Plan. This forward-looking approach keeps the City transition plan well ahead of schedule, on balance, yet has not caused any affected project to be bid higher than the original engineer's planning estimate to date.
- Training, followed by compliance requirements of contractors. Technical training from the regional DPTAC was obtained for plan reviewers, building inspectors and engineers. In turn the City developed and provided training for private contractors who wished to do construction work for the City, and required them to certify, during the bidding process, competence in ADAAG requirements and warranty correction of any errors made.
- Use of program changes to limit facility modifications. City staff found in several instances that expensive facility changes were required only due to the public service provided there, which could just as easily be provided at an existing, accessible site. Terminating all public access to a building eliminates the need for the ADA modification under Title II, and the resultant expense.

- Broadening the scope of the Advisory Board to foster community-wide standard. From its initiation, the Wichita Access Advisory Board had members which represented Sedgwick County and USD 259, the major school district for metropolitan Wichita. The goal was to create uniform community standards for accessibility. A major advance toward that goal has been taken in the past 2 years, as Sedgwick County has hired an ADA coordinator, and the constituency of the Board has been reconfigured with County political appointees. The City and County now look to the same advisory group, the Wichita-Sedgwick County Access Advisory Board. To this day, that board is chaired, on a volunteer basis, by the lawyer who brought the instigating lawsuit.

Obstacles

This project started as the latest in a series of ADA-focused lawsuits brought against the City of Wichita by Independent Living Centers. Previous suits had related to transit facilities and curb cut wheelchair ramps in the core area. Beginning from that vantage point put the stakeholders in an initial state of antagonism. Some long-time advocates felt more ownership in the struggle than in its resolution. In the end, these individuals were simply left behind, overwhelmed by the substantial positive moves forward seen by the great majority of the advocates involved.

Results

The City has a master plan to make its built environment and its programs and services as fully accessible as feasible by 2017 or before. Hundreds of changes have already been made, and the entire plan is well ahead of schedule. The modifications will be massive in total, and yet will be accomplished without a mill levy increase. The culture of City staff has shifted to value accessibility as an integral component of all we do. The City Council has expressed goals to create and maintain an efficient infrastructure, and to foster a high quality of life level for the city's residents. The ADA Transition Plan effectively advances both ends.

The City of Wichita would appreciate the opportunity to share its successes with others and exchange ideas at the 2010 TLG Conference to generate further improvements.

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Attachment.

1. Innovation/Creativity

- a. The organization was improved by altering the entire mentality of City staff, so that accessibility is an initial consideration, not an afterthought, at best. Willing accommodation of persons with disabilities is now part of customer service expectations throughout the City. Each ADA departmental coordinator looks to improve accessibility to all City facilities and programs, and is regularly polled by the ADA Implementation Team on potential improvements to be gained.

- b. Technologies new at the time were used in the initial inventory. The independent contractor doing the inventory utilized proprietary software and new-to-the-market tablet style computers. Neither of these is essential to compilation of the inventory data. The essential component is having the inventory survey be done by individuals both well versed in ADAAG regulations, and practiced in observing those violations in the field.

- c. There were two private contractors involved in this project.
 - i. Kent Johnson
Disability Management Consulting Group, LLC
100 Corporate Lake Drive
Columbia, Mo 65203
573-817-5826
Mr. Johnson and his staff conducted the building and park inventory, created the detailed worksheet transition plan, and led a Council workshop and several of the community involvement sessions up through the interim settlement agreement. At that point, City staff took over plan development and adherence.

 - ii. Jeff Farney
Complete Access Solutions LLC
P.O. Box 20259
Wichita, KS 67208
316-258-6653
Mr. Farney was an original member of the Wichita Access Advisory Board, serving for approximately one year. Later, he served as a sub-contractor to DMCG, above, and prepared a comprehensive downtown parking analysis and plan that would incorporate accessible spaces. Mr. Farney's enterprise now does comprehensive municipal inventories as well.

2. Citizen Outcomes

- a. It may seem self-evident that the customer and community need of accessibility addressed by this project would be defined through the ADAAG regulations, but this is not the case. The allowance in regulation of accommodation by any alternative means providing equivalent facilitation, along with entire subject matter fields covered only by recommendations, left many of the planned changes open to interpretation. Here, the combination of City staff construction experience and citizen usage preferences was particularly effective. For example, ADAAG and FTA regulations allow the use of a single, radius-set wheelchair ramp with detectable warnings leading from the corner of an intersection. However, this configuration directs a pedestrian with visual disabilities out into the middle of the intersection, in significant danger and with no relation to the intended path of travel. After consultation with advisory board members, City staff learned that by cutting and laying the inset of truncated dome bricks on the bias, they could be placed on the intersection radius, yet have the domes aligned to direct pedestrians using them correctly to the sidewalk across the street.
- b. The accessibility of the facilities and programs has made City services available to all with greater ease, and to some for the first time. City staff has learned that physical access to a location is often just the initial barrier encountered. The second, and often more meaningful step, is moving from presence as a spectator to having program access sufficient to be a participant. This can positively affect family and friends, as well as the person with a disability. This summer, the Parks Department conducted a softball game for children with disabilities. There were multiple wheelchairs and walkers on the field. Over 500 people came to watch their children or friends do something that had never been available to them before – playing ball for the pure joy of participation. This was such a success that the Capital Improvement Program now includes plans for a softball field surfaced to be fully accessible to enhance this experience and widen its availability in the future.
- c. The vitality of the community improves with each modification, although sometimes that is difficult to gauge upon installation. Some ADA modifications address immediate, expressed needs, and others are passive, waiting for future discovery and use by one for whom the accommodation is critical. State statistics indicate that at any given time, approximately 18% of the drivers in Sedgwick County have hang tags designating their vehicle as belonging to a person with a mobility disability. This statistic does not reflect the many persons with disabilities of a nature that do not allow them to drive. To the extent that the scope of ADA modifications widens, participation in the community increases for all people, for ever-longer periods in their lives.

3. Applicable Results and Real World Practicality

- a. The City of Wichita would be willing to share all documents, specifications and plans it has created (some specifically required by federal regulation), the policies it has used to implement the described modifications, the mission statement and organizational documents from the Wichita-Sedgwick County Access Advisory Board, training materials used for internal staff and external contactors, the settlement agreement and any other documents of value from the initiating lawsuit, City ordinances it has passed to accomplish certain changes, etc.
- b. The City of Wichita's program should be applicable to a large majority of other local governments. Compliance with Title II of the ADA is mandatory for all municipalities in the United States. Despite passage of the law almost twenty years ago, compliance varies widely, and few municipalities approach conformity as envisioned by the law. It is notable that no City actually sued by the DOJ has evaded the onus of substantial effort following a consent settlement that recognizes the work to be done.
- c. Results and outcomes available for sharing would include before-and-after photos of the physical facility changes accomplished, and description and explanation of the programmatic changes accomplished. Presentation of these results in a compelling manner is described below at item #4.
- d. The best method to demonstrate performance measures would be through use of the Transition Plan database, which tracks changes made and the actual completion date. This is also described below at item #4.

4. Case Study Presentation

- a. The case study presentation could include PowerPoint demonstrations of both facility changes linked to the rationale used, and the implementing policies or ordinance enactments.
- b. The City's communications team includes a former newspaper writer/reporter and a former television reporter/anchor. The City also has its own television production studio. These talents and facilities could be used to produce video interviews of City staff who implement the ADA changes, Advisory Board members who help develop them and have seen the City's growth in this area, and citizen users of the facilities and programs as modified.
- c. The documents and other written materials described above at item #3a could be made available as handouts or in electronic format for ready use.

- d. The City could arrange for remote access to the City computer network. This would allow a demonstration to be displayed through a PowerPoint-style projector, Smart board, or other equipment capable of displaying a live computer screen to a large group. This connection would permit a demonstration of the full use of the Transition Plan document, which displays, for selected City staff only, pop-ups that present the full text of the applicable ADAAG regulation and digital photos of the facilities at the time of the inventory, before changes were begun.