



Professional
Partnership Workshop

Practical Accessibility in Georgia Government Facilities

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for *The “ADA for State and Local Government” Conference* for
Session 3 Professionals

in Atlanta, GA at Georgia Tech Hotel and Conference Center on
Thursday, November 29, 2018

Touch Points for Accessibility



Touch Points for Accessibility

Procure

Analyze

Design

Document

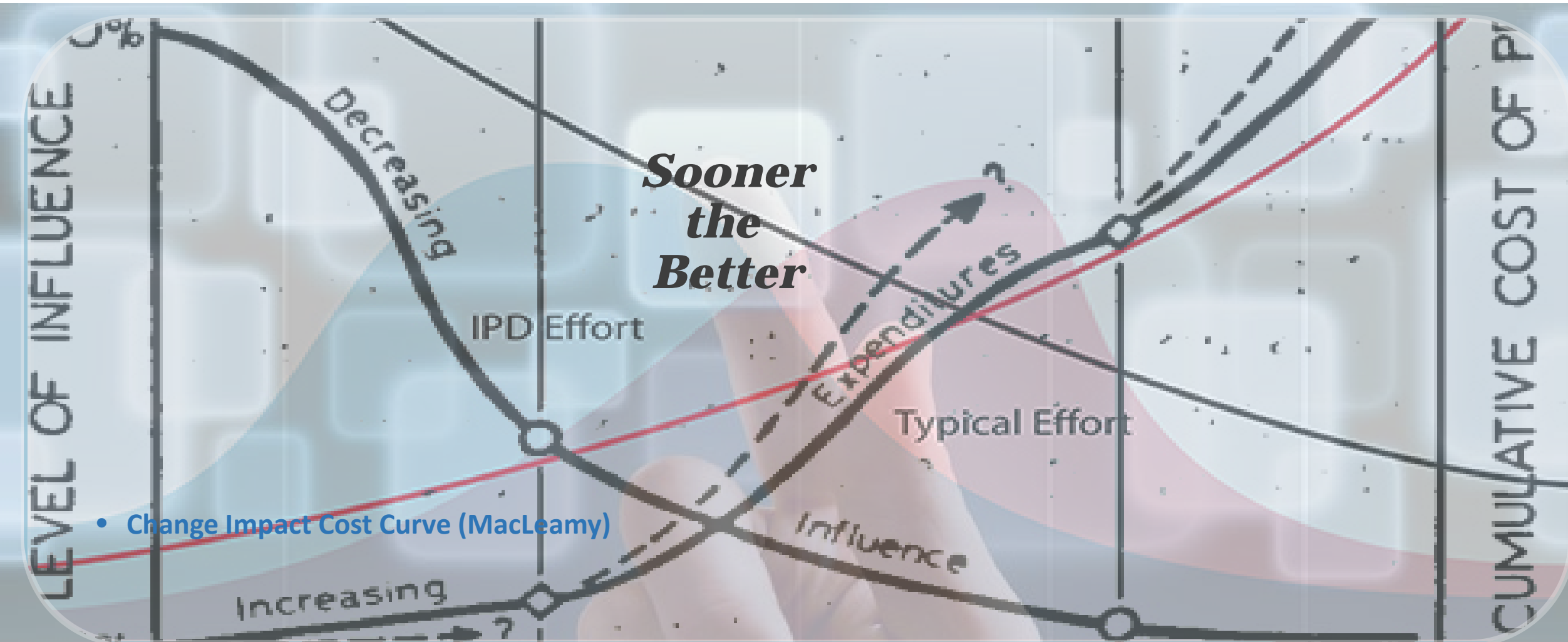
**Review
Design**

Construct

Complete

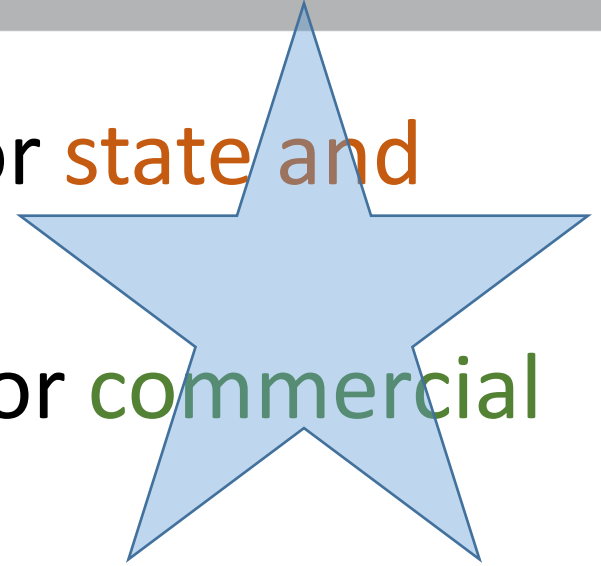
Occupy

Touch Points for Accessibility



Access to Programs and Facilities is Civil Rights Law

- ADA Title II “**program access**” requirements for **state and local government** entities and
- ADA Title III “**barrier removal**” requirements for **commercial ‘public accommodation’** entities include:
 - New Construction; *(including site and building access)*
 - Alterations; *(including primary function path obligations)*
 - Existing Buildings *(even without planned changes)*



ADA - What does it mean for Design and Construction

2010 **ADA Standards** for Accessible Design, *including*:

- Requirements in 28 CFR **35.151**, **36.406** *and* 2004 ADAAG for New Construction and Alterations.
- U.S. Department of Justice is lead federal agency for enforcement of ADA.
 - *They take complaints under consideration via their secure website at www.ADA.gov*

Title II of the ADA and Section 504: Civil rights laws

- * **Title II: Basic statutory provision**

“No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

- **Same provision in section 504**
...tied to federal funding

Federal regulations

- * Department of Justice issues title II regulations for all state/local governmental entities
 - 28 CFR part 35 (amended September 15, 2010, effective March 15, 2011, including new 2010 ADA Standards)

- * DOT issues section 504 regulations (49 CFR Part 27) and transportation-related ADA title II regulations (49 CFR Part 37)
 - Facilities built or altered on or after November 29, 2006: follow 2006 standards, based on 2004 ADAAG with additions:
 - Detectable warnings at curb ramps
 - Specific requirements about bus boarding and alighting



Contractors and other partners

- * A government entity (state, sub-recipient) is responsible for actions of contractors and other partners when it carries out governmental activities
- * The entity cannot “contract away” its duties
 - under title II or section 504
- * Include link to standards/guidelines in contracts
- * Monitor compliance by contractors and others

FHWA obligations increasing compliance efforts

- * FHWA is required to monitor compliance of recipients with self-evaluation and transition plan requirements (49 CFR 27.11)
- * And states have directed sub-recipients to submit transition plans,
 - Sometimes on short notice
- * Guidance about FHWA acceptance of state self-evaluations and transition plans was issued in late 2015
 - Failure to have a self-evaluation and transition plan would violate the DOT regulations
 - DOT can withhold federal financial assistance for failure to comply with regulations

Litigation

Lawsuits:

- Not just about New Construction and Alterations – 2010 ADA Standards
- Also addressing Existing Facilities obligations
 - Government entities – Title II – 28 CFR part 35.151
 - “Program Access” obligations
 - Public Accommodation & Commercial entities – Title III – 28 CFR part 36 subpart D
 - “Readily Achievable Barrier Removal” obligations
- ... and “Primary Function area Path of Travel” obligation in an altered facility

Accessibility Standards

- * Per statutes and regulations, new construction and alterations must meet accessibility standards issued by agencies
 - For alterations, to “maximum extent feasible”
 - Exception for technical infeasibility: when physical or site constraints prohibit modification or addition of features in strict compliance with standards
- * For program accessibility purposes:
 - Use alterations standards for assessing whether facilities used for programs are accessible

Program access: existing facilities

- * Operate each program/service/activity so that, when viewed in its entirety, it is accessible.
- * No exclusion/discrimination because of inaccessible facilities
 - Does not necessarily require physical change
- * **Remember:** Alteration standards are the measure of accessibility.

There are limits

- * Fundamental alteration in the nature of a service, program, or activity is not affected.
- * Undue financial and administrative burdens

BUT:

- Decision must be made by head of the public entity after considering all resources available and must be in writing
- And public entity must take other actions that will not result in fundamental alteration or undue burdens, but still provide access

Characteristics of program access

- * Provides equal opportunity
- * Range of choices similar to others
- * Integration
- * Privacy and or confidentiality
- * Dignity

Program accessibility methods

- * Flexibility allowed in achieving program accessibility:
 - Any method that results in making services, programs or activities accessible
- * *BUT* :
 - Public entity must give priority to those methods that provide for integration of persons with disabilities

Examples of methods

- * Relocate a service to an accessible location
- * Deliver services in alternate way (e.g., with assistance)
- * Provide benefits or services at an individual's home, or at an alternative accessible site.
- * Redesign or purchase equipment
- * Modify buildings and facilities
- * Modify policies and procedures
- * Alter existing facilities
- * Construct new facilities

Multi-site programs

- * DOJ 2010 regulation preamble: Entities have discretion in determining how many facilities of a multi-site program must be made accessible to achieve “accessibility in its entirety”
- * Describes factors for evaluation of multi-site program
 - Size of entity
 - Program features at each site
 - Distance between sites
 - Travel times
 - Number of sites
 - Public transportation
 - Integrated setting
- * Does not adopt concept of “reasonable number”

Questions ?



Georgia's Accessibility Law

- Georgia law mandates that, “All government buildings, public buildings and facilities *receiving permits for construction* ...after July 1, 1995, shall comply with the rules and regulations adopted by the Commissioner which meet ADAAG and establish the minimum state standards for accessibility.” O.C.G.A. § 30-3-3 **SFM 120-3-20**
- These rules and regulations are commonly referred to as the **Georgia Accessibility Code**,
 - **Revised** on March 15, 2012 **to harmonize** with the federal government’s 2010 ADA Standards for Accessible Design.
 - Revised on January 1, 2015 to point “covered multi-family housing” construction to ANSI A117.1-2003 for technical requirements.

Georgia's Accessibility Law

- Georgia Accessibility Code has a handful of different obligations
 - O.C.G.A. § [30-3-4](#) and § [120-3-20](#)
 - “Covered multifamily dwelling”
 - March 31, 1993 first occupancy
 - Four or more units
 - Elevator or ground floor units
 - “Public buildings”
 - Apartments
 - 2% of privately funded complex with more than 20 units to be accessible or adaptable
 - Parking Signage
 - O.C.G.A. § [40-6-221](#)
 - Religious Facilities covered per Attorney General Official Opinion
 - April 24, 1995 [Opinion 95-20](#)
 - all accessible, *although exception federally in ADA since it began.*
 - Georgia Accessibility Code does not require improvements to existing facilities.
 - Be aware federal ADA obligations to existing facilities apply. *NO Grandfathering*

Questions ?



Steps to Program Access

- Identify Accessibility Team
- Compile Facilities Inventory
- Identify Surveyors
- Choose Survey Tools
- Set Process Plan for Survey
- Summarize Barriers
- Examine Program Access Options
- Determine How to best Achieve Access
- Develop Transition Plan for Access

Steps to Program Access



Identify Accessibility Team

Facilities Operations
Agency Architects
Capital and Financial Planning
Disability Services
ADA Coordinator
People with disabilities

Steps to Program Access



Compile Facilities Inventory

Compile a list of facilities owned or leased by the agency or institution. Identify: programs, services and activities provided in each, along with dates and costs for construction and alterations in each facility.

Steps to Program Access



Choose Survey Resources

Select surveyors, including people with disabilities for each facility to identify physical barriers.

Choose a straight forward survey tool to collect the data, like www.adachecklist.org.

Provide training on how to complete the evaluations, and the forms.

Steps to Program Access



Set Process Plan for Survey

Coordinate survey around daily schedule, planned capital projects, new construction, alterations, seasonal closings and underutilized facilities.

Conduct detailed evaluation of the key issues for existing facilities and new construction:

Primarily focused on the facility's primary function

Accessible Public Routing and Entrances and Accessible Toilet Rooms along the route to an altered area, or in new construction.

Steps to Program Access

Individual with Disabilities Act	...
The challenge of identifying access barriers	...
Limited background knowledge	...
Unfamiliar background knowledge	...
Complexity of the act	...
Misunderstanding of the role of technology	...
...	...

Summarize
the Barriers
Self-Evaluation

Summarize identified barriers as a comprehensive list per facility and/or general activity.
Reference compliance standards
Be sure to clearly and specifically describe and prioritize each barrier.
Add a picture if possible.

Steps to Program Access



Evaluate Program Access Options

Identify whether barriers can be removed through nonstructural program changes or if structural modifications are needed.

Either way, what are creative solutions to compliant accessibility.

Apply appropriate cost analysis as part of the decision making.



Steps to Program Access

Develop Transition Plan

...with costs, schedules, facilities and personnel limitations appropriately considered, set a step by step plan for transitioning from existing conditions to a more inclusive arrangement in both how and where your programs are offered.

Each step to have a responsible party with reasonable budget and schedule for implementation and completion.



Steps to Program Access

Approval
Publish
Implement

Seek approvals from appropriate authorities.

Publish Plan so stakeholders understand planned results, schedules and who's responsible for each step in the transition, include explanation of why if some expected measures are not part of the plan.

Work the plan to improve access for all program users. Be prepared with interim measures, and remember accessibility for short term special events.

Steps to Program Access

○ ..from Facilities...to Programs...to Action for Equal Access...



Identify
Accessibility
Team



Compile
Facility
Inventory
Facts



Choose
Survey Tools
and
Resources



Set Plan for
Survey
Process



Summarize
Barriers
Self
Evaluation



Evaluate
Program
Access
Options



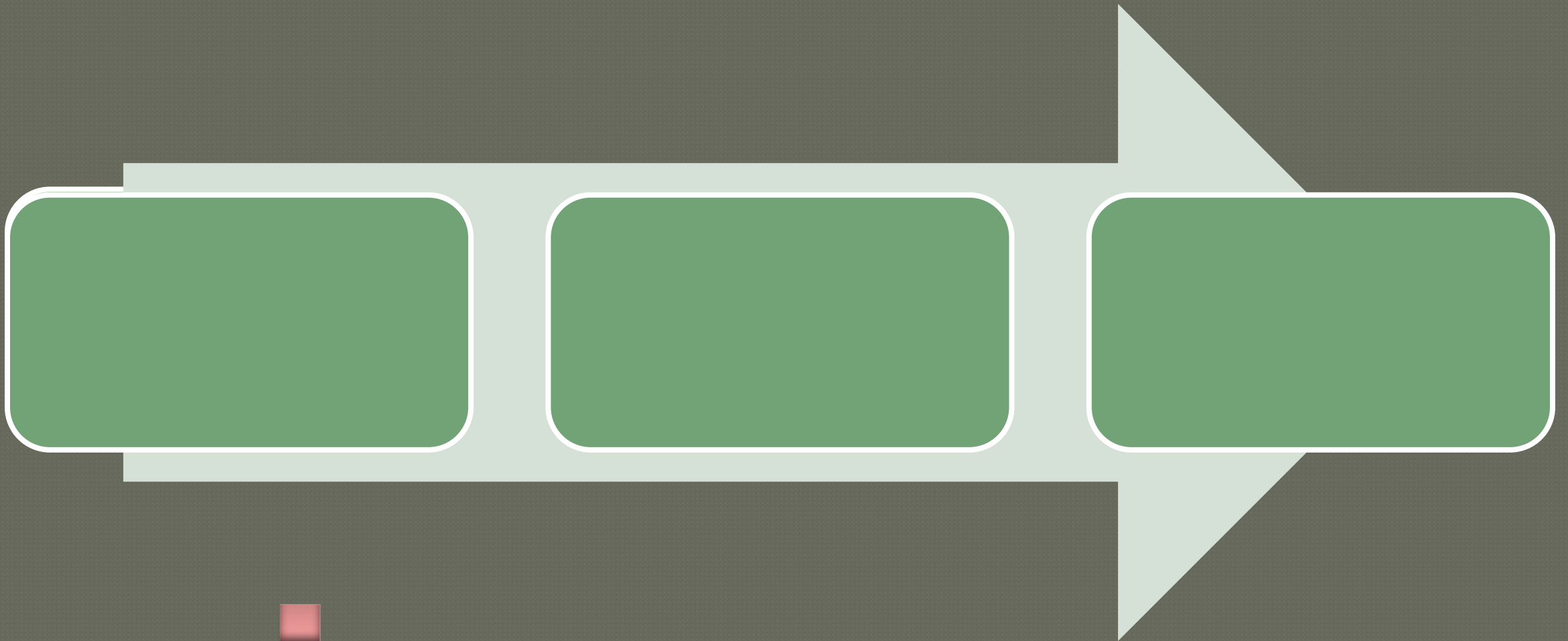
Develop
Transition
Plan



Approval
Publish then
Implement



Steps to Program Access



Steps to Program Access

GBA

GDC

DNR

Steps to Program Access



GBA

PROJECT: PROVIDING ADA ACCESS FOR SENATOR BUTCH MILLER'S OFFICE, STATE CAPITOL

Issue:

- Office was not wheelchair accessible through existing doors
- Historic architecture of the Capitol does not favor cutting of new door openings



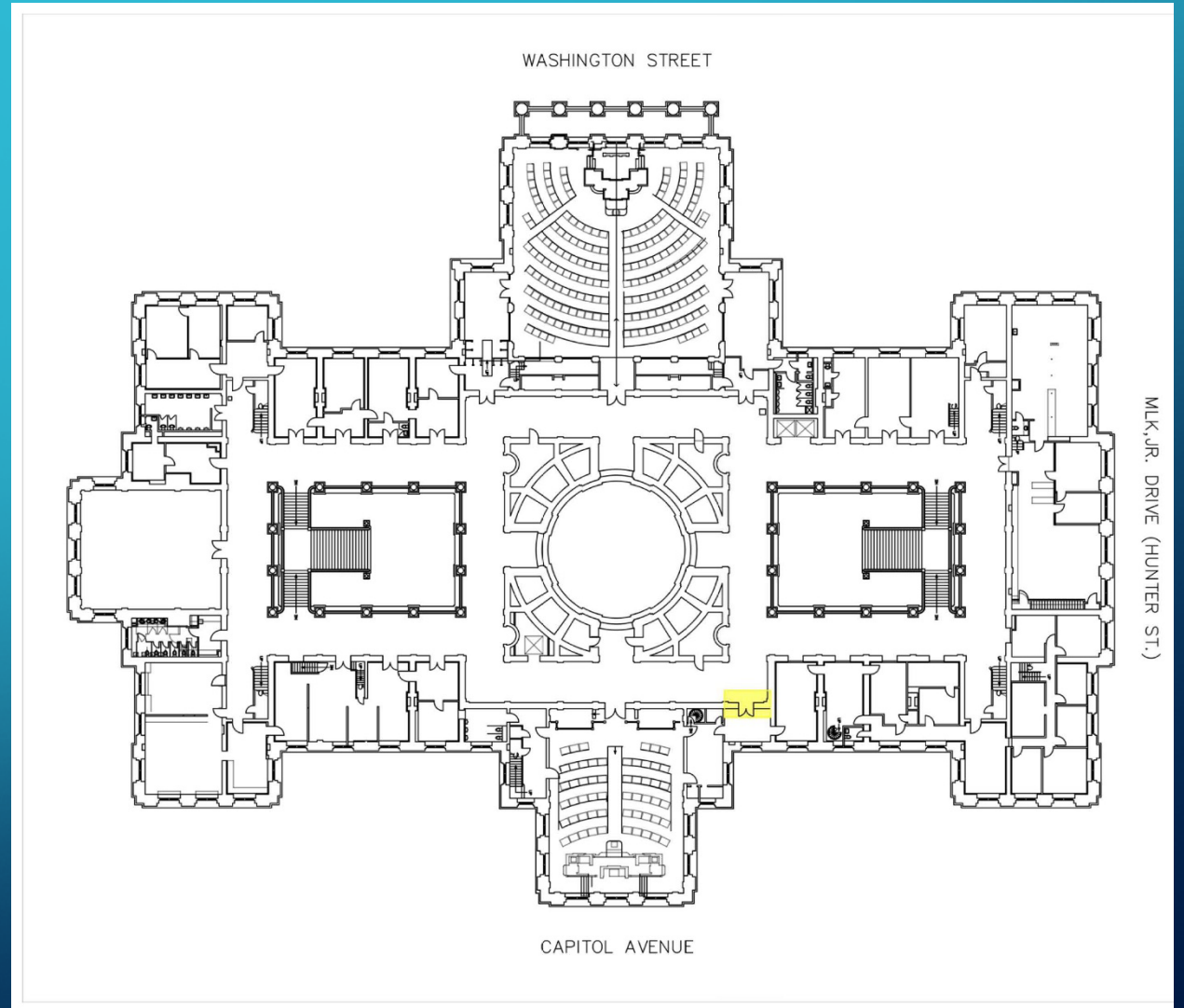
GBA CAD RENOVATIONS TEAM



PROJECT: PROVIDING ADA ACCESS FOR SENATOR BUTCH MILLER'S OFFICE STATE CAPITOL

Goals:

- To preserve historic aesthetic of the capitol while still providing access.
- Resolve issue of exiting nearby conference room from Senator Miller's office

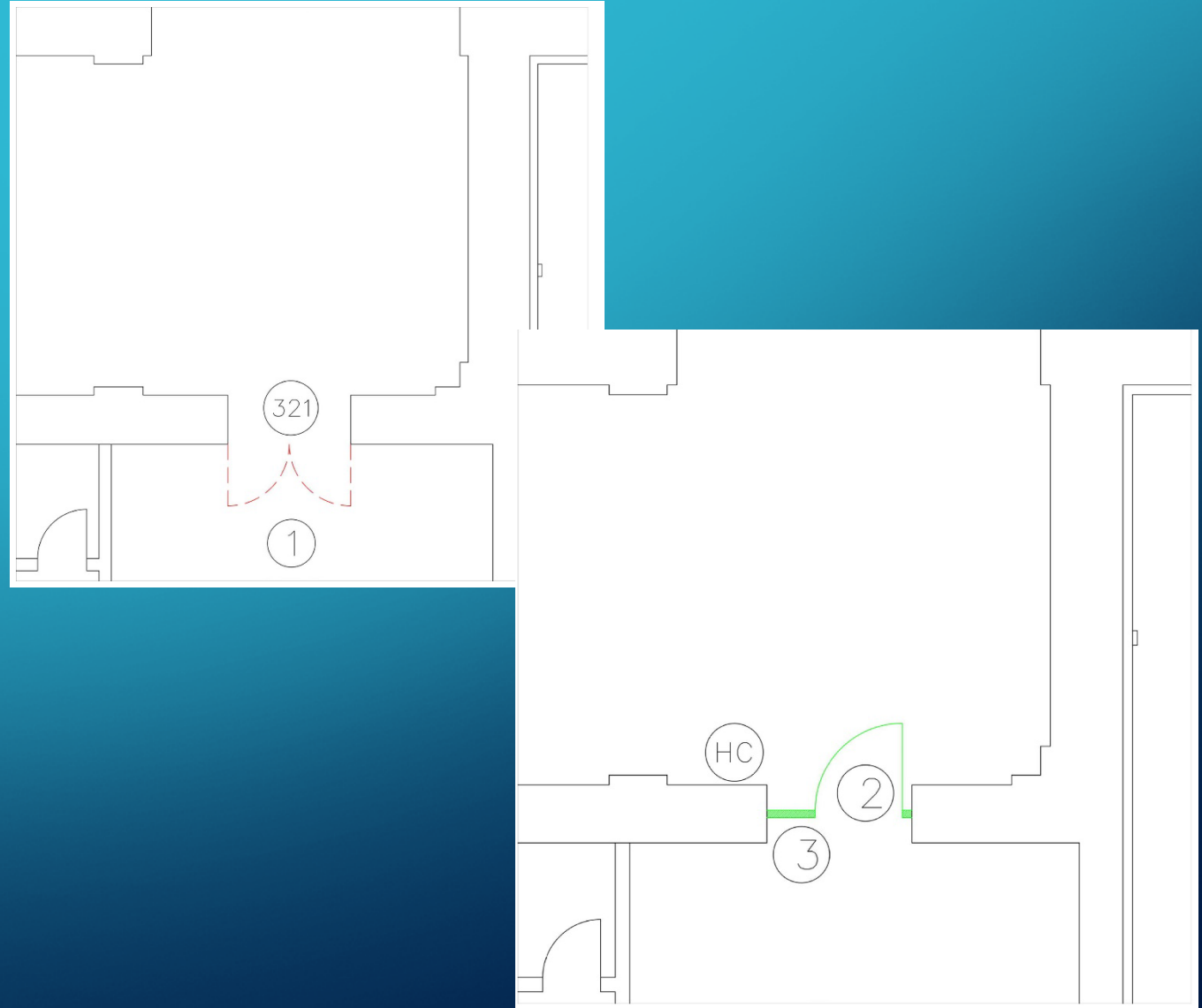


GBA CAD RENOVATIONS TEAM

PROJECT: PROVIDING ADA ACCESS FOR SENATOR BUTCH MILLER'S OFFICE STATE CAPITOL

Solutions:

- Create a custom 3' door matching historic doors at the capitol, with operator button swinging out. This new door blends seamlessly
- Opening closed off capitol doors to conference room to provide another exit



Steps to Program Access

GBA



...more in the works for
the future on Capitol Hill

Steps to Program Access

GDC

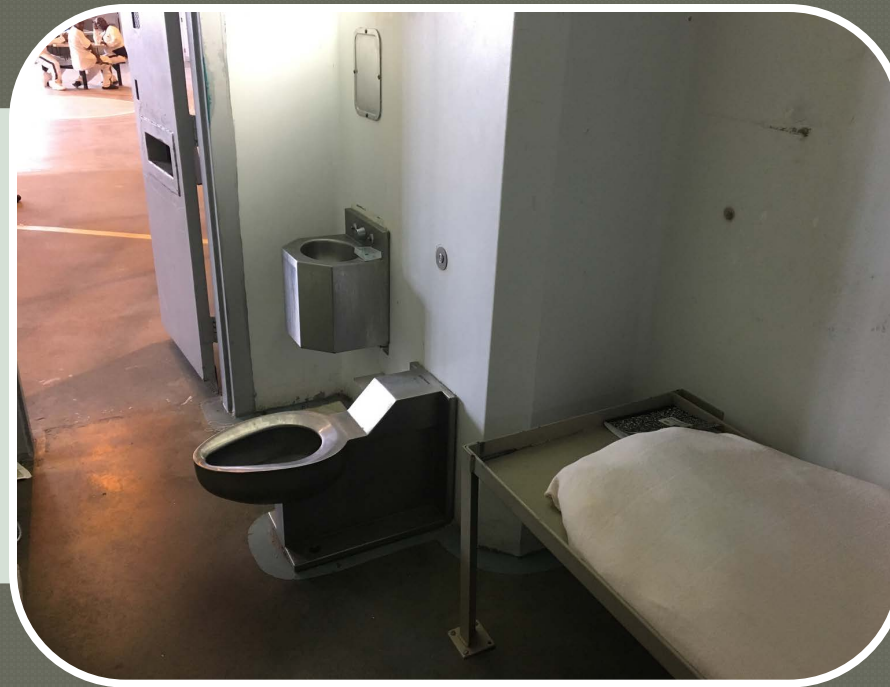
The Georgia Department of Corrections manages more than sixty correctional facilities. These include prisons, along with support and reentry facilities for over 50,000 offenders.

A majority of the prisons were designed and constructed prior to the implementation of the Americans with Disabilities Act.



Steps to Program Access

GDC



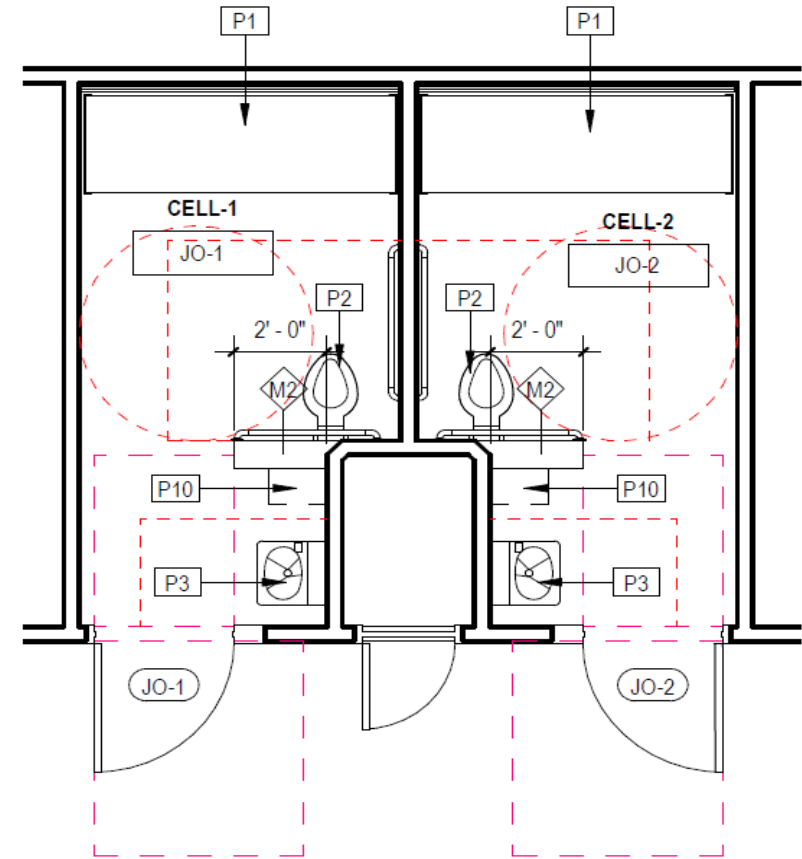
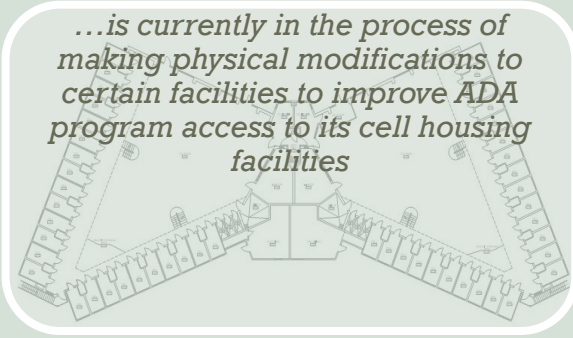
Housing Offenders presents numerous challenges to providing accessibility within the limits of operating safe and secure facilities.

Safety and security of the public *(including staff and offenders)* is the primary mission of the organization.

Steps to Program Access

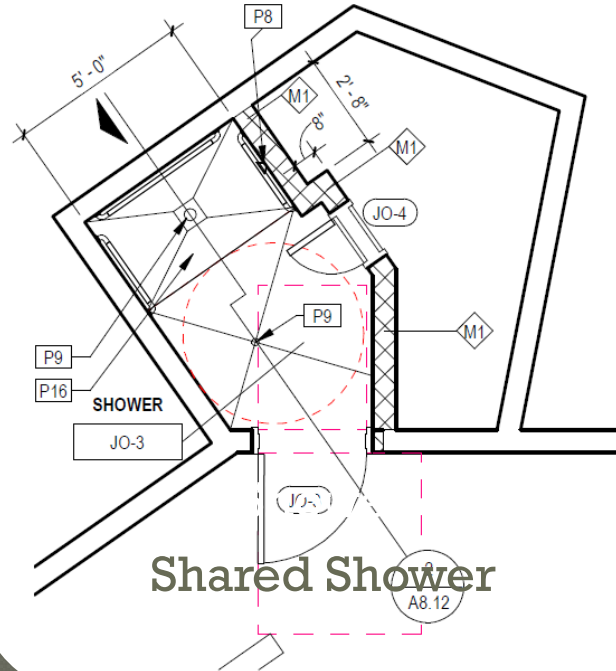
GDC

...is currently in the process of making physical modifications to certain facilities to improve ADA program access to its cell housing facilities



Steps to Program Access

GDC



Steps to Program Access

GDC



In addition to improving a few cells in a few facilities to provide accessible offender cell housing, they are preparing for a statewide ADA transition plan.

GDC is currently in the process of an extensive staff training program to improve awareness of and appropriate access to all programs for all offenders.

They have a focused ADA Coordinator with management support who is implementing a number of operational procedures and policies to assist staff in appropriately addressing offender access issues.

Steps to Program Access

GDC



Continued forward movement with the combination of these facilities and operational improvements will significantly improve GDC's compliance with their Americans with Disabilities Act obligations and reduce future liabilities as they help to provide a safe Georgia.

Steps to Program Access

DNR



...parking facilities. Through an extensive agency wide facilities evaluation a detail they found, was that over time nature takes its toll on compliance details of accessible parking spaces and as appropriate are providing new parking spaces with concrete, rather than gravel or asphalt surfacing solutions.

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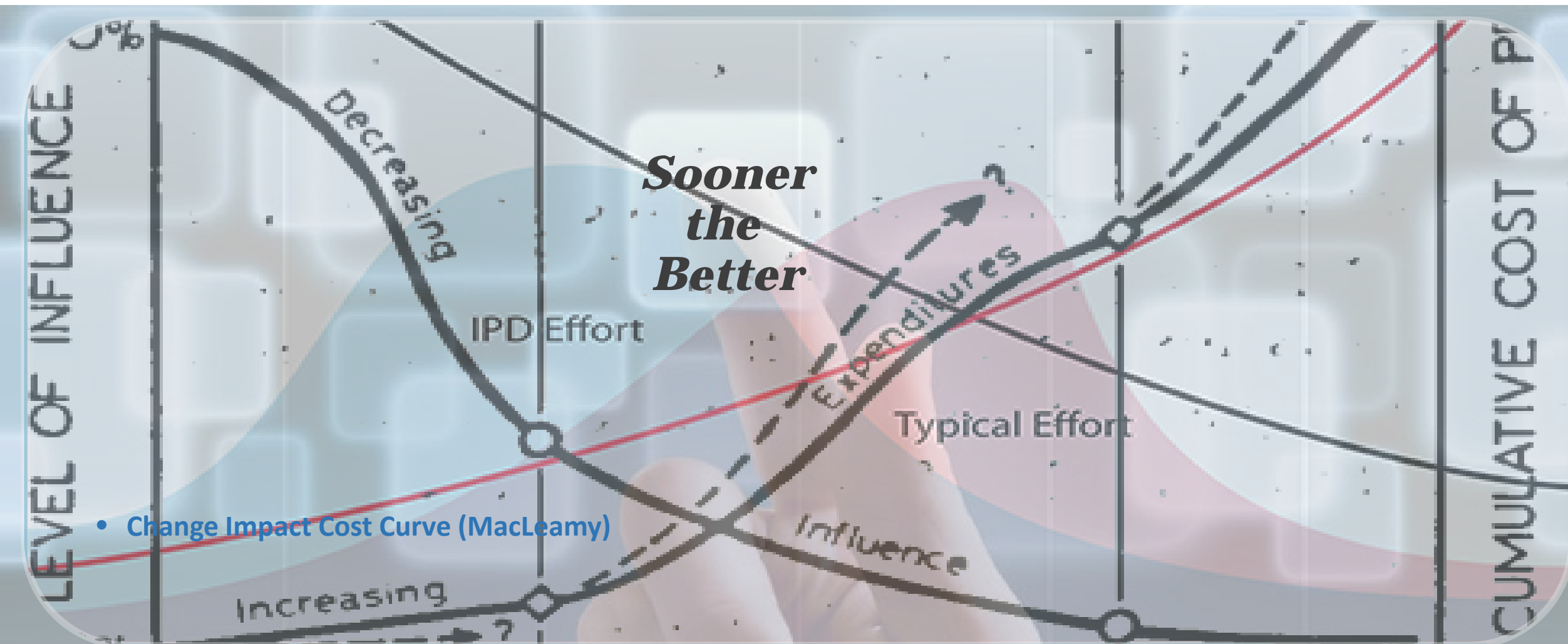
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Questions ?



Other References on Accessibility in Georgia

- Georgia State Fire Marshal - State Enforcement Assistance **404-656-2064**
 - www.oci.ga.gov
- US Department of Justice - Federal Enforcement Assistance **800-514-0301**
 - www.ADA.gov
- US Access Board - Technical Assistance **800-872-2253**
 - www.access-board.gov
- ADA National Network - Technical Assistance **800-949-4232**
 - www.adata.org
- New England ADA Center - Checklists
 - www.adachecklist.org
- Evan Terry Associates - Accessible Toilet Room Guide
 - www.corada.com

Your Touch Points for Accessibility

Thank You!

from

ADA Coordinator's

Office

ada.georgia.gov

404-657-7313



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Please complete your survey form and place at the back of the room in a stack. Thank You!