DOJ ADA Title II Web Accessibility Rule

Document Exceptions

Third Party Documents and Documents Linked from Your Website

Not every document created or hosted by another organization is subject to the DOJ Title II web accessibility final rule requirements. The DOJ's final rule distinguishes between independent third-party documents and documents that a government entity provides or makes available as part of its services, programs, or activities.

Document provided by a third party on behalf of the government entity

If a third party creates, hosts, or provides a document through a contractual, licensing, or other arrangement, the document may be subject to DOJ Title II web accessibility final rule requirements.

Examples in which the document must be accessible include:

- A vendor creates and hosts a PDF application residents use to apply for a county service.
- A contractor provides documents in an online system the city uses to provide a service.
- A vendor creates public documents and makes them available on behalf of the county.

Documents created independently by a third party

If a third party creates or posts a document on its own (not on behalf of the government entity), the document may qualify for the independent third party content exception. This exception does not apply when the third party is acting under a contract, license, or other arrangement with the government entity.

> **Example of exception for third party independent documents:** A city allows residents to submit documents through an online public comment system. A resident independently uploads a PDF as part of their comment. A resident's PDF is considered independent third party content and would not need to meet the DOJ final rule's requirements.

Links to documents on other organizations' websites

The final rule specifically addresses third party content that is linked from a government entity's website, although it does not create a separate exception for "linked documents."

If the government entity simply links to an independent third party document, the third party document is not required to meet the DOJ final rule's requirements. However, if the government entity provides the document through a contractual, licensing, or other arrangement with a third party (for example, through a vendor contracted to provide a government service), the document must be accessible under the final rule.

Example where the document is not required to be accessible: A county's resource page links to a PDF published by a university. The county did not create the PDF, does not have an arrangement with the university to provide it, and is simply recommending it as a resource. The county is not responsible for the accessibility of the document being linked to on the university website.

Example where the document is required to be accessible: A city links to a PDF hosted by a vendor that the city has contracted with to provide an application for a city service. The PDF is required to be accessible under the final rule even though the vendor hosts it because the city is providing the service through an arrangement with the vendor.

Exceptions

A document may qualify for more than one exception. If at least one exception applies, that document does not have to meet the DOJ Title II web accessibility final rule requirements. A person with a disability may still request information from an excepted document in an accessible format. The public entity must consider its existing Title II obligations, including its obligation to provide effective communication and equal access to its services, programs, and activities.

Archived web content

A document may qualify for this exception if **all** of the following apply:

- It was created before the entity's compliance date. It can be added to the website's archive after the compliance date.
- It is kept only for reference, research, or recordkeeping.
- It is stored in a designated archive area of the website and clearly identified as an archive.
- It has not been changed or modified since it was placed in the website's archive section.

Example of exception: A county created a PDF report in 2023 and kept it on its website. After the county's compliance date, the county moved the report to a designated archive area. The county did not change or update the report when it moved it, and it has not changed or updated it since. If the report is kept exclusively for reference, research, or recordkeeping, it may qualify for the archived web content exception if all other criteria is met.

Example of exception not applying: A PDF document that includes a current map of a county park that is based on data collected after the county was required to comply with this rule would probably not fall under the exception even if the document is posted in the "archive" section of the county's website. The PDF provides current information about the park so the exception would probably not apply because the information in the document is currently being used and is not being kept only for reference, research, or recordkeeping.

Pre-existing conventional electronic document

A document may qualify for this exception if **all** of the following apply:

- It is a PDF, word processing document, presentation (PowerPoint), or spreadsheet file.
- It was available on the website or mobile app before the public entity's compliance date.
- It is not currently used to apply for, gain access to, or participate in the public entity's services, programs, or activities.
- It has not been changed or revised since the compliance date.

Example of exception: This exception would apply to a PDF flyer for a Thanksgiving Day parade posted on a town's website in 2018, or a Microsoft Word version of a sample ballot for a school board election posted on a school district's website in 2014.

Example of exception not applying: A state posted a PDF version of a business license application on its website in 2020. Members of the public still use that PDF to apply for a business license after the date the state has to comply with the rule so the exception would not apply to the application.

Moving a pre-existing document to a different location on the website, migrating it to a new content management system (website), or copying it to a new website is not considered a document update or revision if changes are not made to it.

Example: A city moves its website to a new content management system. An older PDF that qualified as a pre-existing document is copied to the new website without changing its content. The PDF is not considered updated just because it was moved. If it previously met the pre-existing conventional document exception, it would still meet it after the move.

Individualized, password-protected or otherwise secured document

A document may qualify for this exception if **all** of the following apply:

- It is a PDF, word processing document, presentation (PowerPoint), or spreadsheet file.
- It is about a specific individual, their property, or their account.
- It is password-protected or otherwise secured.

Example of exception: A PDF version of a water bill for a person's home that is available in that person's secure account on a city's website would probably fall under the exception.

Example of exception not applying: If the water company posts a PDF document on a password-protected website about an upcoming rate increase for all customers, the exception would not apply because the document is not about one customer's account.

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