

TRANSITION PLANS FOR THE AMERICANS WITH DISABILITIES ACT

Municipalities are often confronted with confusing situations related to the application of the Americans with Disabilities Act (ADA). When it does apply, how it applies, and how it affects transportation projects, the municipality, and property owners can be judged differently depending upon the details of the situation. There is also the concern of risk exposure for lawsuits if mistakes are made. Finally, the resource utilization aspects from financial, planning, and maintenance aspects can be worrisome.

The best way to approach potential problems like these is to have a plan—an ADA Transition Plan for Pedestrian Facilities in the Public Right-of-Way. Proper planning can preclude problems. A good transition plan will set forth a program for accessibility improvement of pedestrian facilities throughout a municipality, as well as set processes and guidelines for:

- Establishing the responsibilities for property owners and municipalities for upgrade of sidewalks and ramps.
- Developing an overall plan with priorities to coordinate the upgrade and installation of curb ramps.
- Creating a complaint process to resolve issues as they arise.

Is Our Municipality Required to Have a Transition Plan?

ADA Transitions Plans are required for public entities that have 50 or more employees. 28 CFR, Section 35.150, Existing Facilities, Subpart d:

(d) Transition plan.

(1.) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

What is Required in the Transition Plan?

The requirements for the Transition Plan are also within 28 CFR, Section 35.150, Existing Facilities, Subpart d:

(2.) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3.) The plan shall, at a minimum—

- (i) Identify physical obstacles in the public entity’s facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- (ii) Describe in detail the methods that will be used to make the facilities accessible;
- (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition plan; and
- (iv) Indicate the official responsible for implementation of the plan.

What are the Benefits of a Transition Plan?

There are many benefits that go beyond meeting the ADA requirement for a transition plan. LTAP recommends that municipalities with pedestrian facilities have a Transition Plan for Pedestrian Facilities in the Public Right-of-Way, regardless of the number of employees. The transition plan offers the following advantages and benefits:

- It is a plan, which allows a municipality to address ADA over a period of time and establish reasonable priorities and finance.
- It is a process that involves the public, folks with accessibility needs, and the municipality—and helps to build understanding, partnerships, and consensus through the process.
- It can address potential problem areas with official policies and procedures.
- It is valuable in meeting the ADA requirements and allows coordination of the effort with paving projects, PennDOT, and others.
- It is useful in deflecting potential problems and lawsuits—before they happen.

How Do We Prepare A Transition Plan?

There are some new guidance documents available to assist municipalities in developing a transition plan. The plans can be developed by the municipality itself or by hiring consultants to develop the plan. The Local Road Research Board (LRRB) has developed a guide for developing an ADA transition plan. The guide can be accessed at www.lrrb.org/resources/applications. The guide contains instructions, resources, and a template for creating a transition plan. The template is a Word document where municipalities can fill-in-the-blank for many portions of the transition plan creation (see figure below):

The image shows a screenshot of a document titled "Self-Evaluation Overview". The text in the document is: "The Agency Name is required, under Title II of the Americans with Disabilities Act (ADA) and 28CFR35.105, to perform a self-evaluation of its current transportation infrastructure policies, practices, and programs. This self-evaluation will identify what policies and practices impact accessibility and examine how the City/County implements these policies. The goal of the self-evaluation is to verify that, in implementing the City/County's policies and practices, the department is providing accessibility and not adversely affecting the full participation of individuals with disabilities." There are three callout boxes with arrows pointing to specific parts of the text: one pointing to "The Agency Name", one pointing to "City/County", and one pointing to "The template saves time by using a fill-in-the-blank approach." The callout box for the template approach is a separate box above the main text.

Self-Evaluation

Overview

The Agency Name is required, under Title II of the Americans with Disabilities Act (ADA) and 28CFR35.105, to perform a self-evaluation of its current transportation infrastructure policies, practices, and programs. This self-evaluation will identify what policies and practices impact accessibility and examine how the City/County implements these policies. The goal of the self-evaluation is to verify that, in implementing the City/County's policies and practices, the department is providing accessibility and not adversely affecting the full participation of individuals with disabilities.

The template saves time by using a fill-in-the-blank approach.

While the resource guide is a good basis for getting started and creating a plan, each municipality will need to customize the plan for its own unique needs, circumstances, and policies. Depending on a municipality’s size, resources, and pedestrian facilities, a detailed plan that includes inventories and assessments may not be required. The main requirement of the transition plan is a program to provide for and improve pedestrian facility accessibility. For example, an approach that proposes improving curb ramps as streets are resurfaced each year could meet the minimum requirements for a plan.

The main components of a transition plan include:

- An inventory of existing pedestrian facilities (ramps, sidewalks, crosswalks, trails, etc.)
- An assessment of those existing facilities and which are non-compliant
- A program for upgrading the noncompliant facilities over time.

Other components essential to a good plan include:

- Defining the responsibility of private property owners for sidewalk maintenance and upgrades, including curb ramps.
- A public outreach process to gather input from residents and accessibility needs.
- Developing a grievance/complaint process.

INTRODUCTION: HOW TO USE THIS DOCUMENT

ADA TRANSITION PLAN FOR PUBLIC RIGHTS OF WAY

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This document provides step-by-step guidance on ADA Transition Plans for Public Rights of Way. Throughout the document, you will find different ways to navigate.

- [Navigate to each section with links \(above\)](#)
- [Navigate from page to page with Back/Next buttons \(right\)](#)
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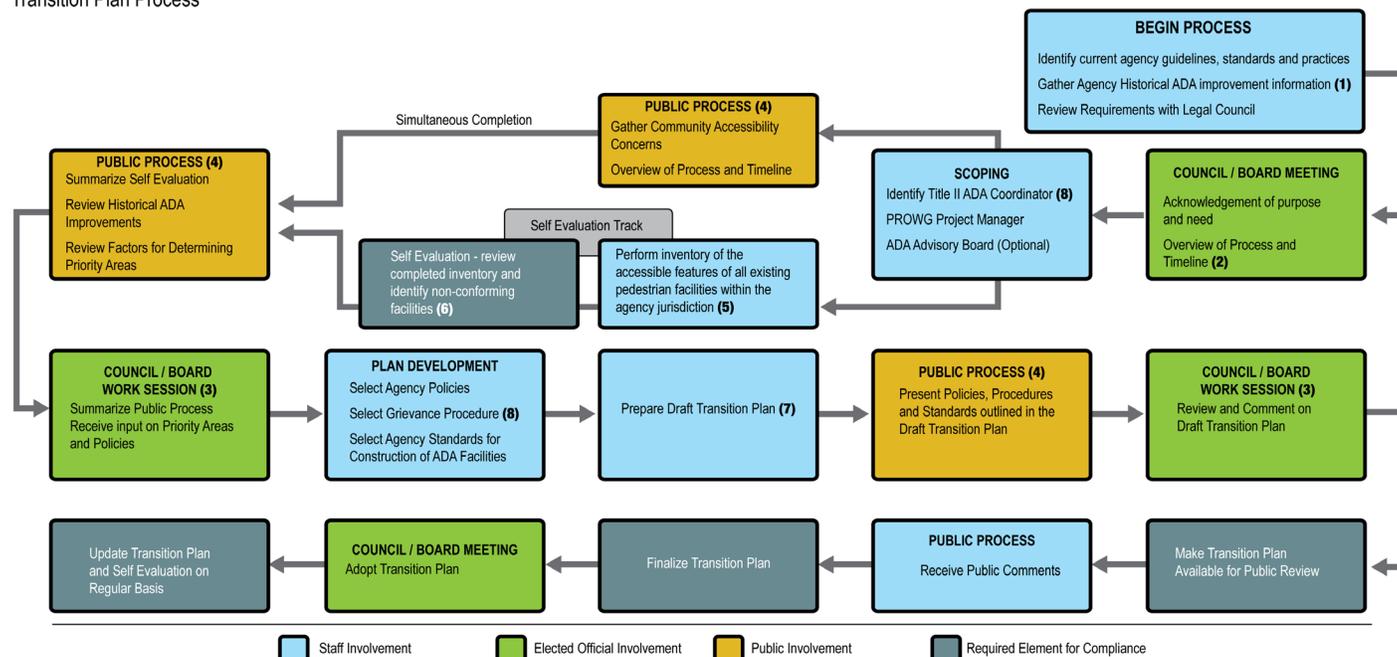
The process for developing the plan is shown in Figure 1. Although this process chart may appear complex at first, it follows a basic planning process for development of the transition plan. Starting in the upper right of the figure, it goes through the basic steps of having organizational meetings, a public outreach process, data collection /assessment, and formation of the policies and the plan itself.

To support the process, the LRRB has developed spreadsheets for documenting the inventory (PennDOT has forms available, too), conducting the assessment, and developing a program. LTAP also has an ADA class, titled ADA Requirements for Municipal Transportation Facilities.

ADA Transition Plan Resources

- Local Roads Research Board, ADA Transition Plan for Public Rights of Way Guide, <http://www.lrrb.org/resources/applications>
- PennDOT Publication 13M, Chapter 6 <ftp://ftp.dot.state.pa.us/public/Bureaus/design/PUB13M/Chapters/TOC-2.pdf>
- PennDOT Publication 72M, Roadway Construction Standards for Curb Ramps and Sidewalks, RC-67M <ftp://ftp.dot.state.pa.us/public/Bureaus/design/PUB72M/TOC-INDEX-INITIAL.pdf>
- Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (July 2011) <http://access-board.gov/prowac/nprm.pdf>
- Accessible Public Rights-of-Way Design Guide (2007): <http://access-board.gov/prowac/alterations/guide.pdf>
- US Access Board: <http://access-board.gov>
- FHWA Pedestrian Information Center: <http://walkinginfo.org>

A Process of Complying with ADA Title II for Facilities Within the Public Right of Way Transition Plan Process



1. Review information as to how projects constructed since January 26, 1992 included ADA elements. This includes Mill and Overlay projects.
2. This Council/Board packet and presentation should include an overview of the ADA Title II requirements and a summary of the existing agency policies. See Attachment 1 for ADA Fact Information.
3. Intermediate Council/Board involvement is not a requirement. These meetings represent only one possible scenario.
4. Title II of the ADA requires targeted outreach to the disabled community. This can be accomplished in many different ways and can be customized by each individual agency. The public process identified in the guide map represents one possible scenario.
5. Example checklists and a data dictionary are available for use. See Attachment 2 for General Inventory Information.
6. Example Self Evaluations are available for review. See Attachment 3 for general information.
7. A model transition plan has been created for use as a starting template and is found in section 2 of this document.
8. A Title II coordinator and grievance procedure are needed for all of the agencies facilities, programs and services. These elements are required for more public accessibility areas beyond public rights of way that this document is developed for. Consistency between all areas should be reviewed.

Figure 1: ADA Transition Plan Process