

**VIRGINIA DEPARTMENT OF TRANSPORTATION**  
***TRAFFIC ENGINEERING and CIVIL RIGHTS***  
**MEMORANDUM**

<b>GENERAL SUBJECT:</b> Americans with Disabilities Act Compliance		<b>NUMBER:</b> TE-377.0 CR-5
		<b>TO SUPERSEDE:</b> N/A
<b>SPECIFIC SUBJECT:</b> Program for Americans with Disabilities Act Compliance of Department Right-of-Way Assets		<b>DATE:</b> August 6, 2014
		<b>SUNSET DATE:</b> N/A
<b>DIRECTED TO:</b> District Administrators District Civil Rights Managers District Maintenance Managers District Location & Design Engineers District Construction Engineers Regional Operations Directors	<b>APPROVAL:</b>  /original signed/ Raymond J. Khoury, P.E. State Traffic Engineer Approved: August 6, 2014  /original signed/ Sandra D. Norman Civil Rights Division Administrator Approved: August 6, 2014	

**EFFECTIVE DATE**

The requirements established herein are effective as of the issuance date of this memorandum until rescinded or superseded.

**PURPOSE AND NEED**

This memorandum is intended to document a clear program for Agency compliance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA) for the Virginia Department of Transportation's (VDOT) right-of-way (ROW) assets. Specifically, this establishes the immediate focus of the Department as ongoing efforts are made to develop a formal agency ADA Transition Plan that is inclusive of VDOT's ROW assets.

The ADA also impacts VDOT in other areas, such as employment and its workplace facilities. This memorandum does not attempt to address these areas which are covered by other VDOT policy.

The Civil Rights Division has programmatic oversight of ADA compliance and shall be responsible to establish any additional guidance as appropriate.

## **BACKGROUND**

The Americans with Disabilities Act was enacted on January 26, 1990 and became effective on January 26, 1992. This act made it unlawful to discriminate against people with disabilities. Title II of the ADA addresses the programs, activities and services of public entities.

Among Title II's requirements is that the state government ensure that persons with disabilities have access to pedestrian routes in the public right-of-way (ROW). This applies to all public ROW facilities and requires public agencies to develop a program access plan (or Transition Plan) to make these facilities accessible to persons with disabilities.

Development of a complete Transition Plan is a very difficult and expensive undertaking. Further, the Virginia Department of Transportation (VDOT) is responsible for the third largest roadway network maintained by a State DOT, so the size and geographic extent of VDOT's ROW presents a unique challenge to this goal.

In order to address this challenge, VDOT recognizes the need to develop a comprehensive program for ADA compliance. This memorandum will serve to document the immediate focus of the Department as an ongoing effort is made to develop a more comprehensive policy that is inclusive of VDOT's ROW assets.

## **STANDARDS**

The Virginia Department of Transportation (VDOT) is committed to ensuring that persons with disabilities have access to pedestrian facilities located in the VDOT maintained ROW. In order to meet this goal, VDOT recognizes the need to:

1. Assign responsibilities for ADA compliance of ROW assets to specific agency functional groups;
2. Dedicate funding for ADA related ROW improvements; and
3. Plan, deliver and track ADA related ROW improvements.

### **Section 1 – Responsibilities for ADA Compliance**

The primary responsibility for ADA compliance of agency ROW assets is split across the Civil Rights Division, the Engineering Directorate and the District and Regional Operations. More details of these (and other) ADA responsibilities are available through supplemental information published through the Civil Rights and Traffic Engineering Divisions.

### *1.1 – Civil Rights Division Responsibilities*

The Civil Rights Division is primarily responsible for the administration of the ADA program. This responsibility shall be assigned to an agency ADA Coordinator.

The ADA Coordinator shall be familiar with VDOT's operation, trained in the requirements of the ADA and other laws pertaining to discrimination, and will serve as the primary point of communication with local governments, advocacy groups and the public for matters relating to the ADA.

The ADA Coordinator shall also be responsible for compliance progress reporting, Transition Plan development and other tasks related to the administration of an ADA Compliance program, such as the development of an ADA Grievance Procedure and Complaint Management Process.

### *1.2 – Engineering Directorate Responsibilities*

The Engineering Directorate shall be responsible for all engineering specifications, standards, and guidance relating to the ADA. This includes:

- Standard and Specification development;
- ADA project development guidance;
- Funding distribution for improvement projects; and
- Provision of technical expertise to District and Regional project developers.

### *1.3 – District and Regional Operations Responsibilities*

The District and Regional Operations forces are responsible for the delivery of VDOT's construction, maintenance and operational projects. As such, they shall be responsible to plan, develop, deliver and track ADA improvements to meet the Department's ADA compliance objectives.

## Section 2 – Funding for ADA Improvements

Beyond traditional construction and maintenance funds, which may be (and often are) used for ADA related improvements, VDOT shall establish funding dedicated specifically to priority ADA curb ramp improvements on maintenance and operational projects. The availability of this new funding is intended to supplement investments in ADA improvements currently made with traditional construction and maintenance funds.

### *2.1 – Use of Dedicated ADA Improvement Funds*

The dedicated ADA improvement funds are expected to be used to address priority curb ramp improvements within maintenance and operational projects. However, at the discretion of the District, other documented ADA priorities may be addressed through these funds.

Each year, these funds will be placed on district specific, on-call curb ramp improvement contracts. Each district will be expected to assess proposed and existing curb ramp installations as well as local accessibility concerns documented by the agency ADA coordinator and utilize this contract to address top priority curb ramp improvements.

### *2.2 – Distribution of ADA Improvement Funds*

To begin the investment in ADA curb ramp improvements associated with maintenance and operational projects, VDOT will dedicate approximately \$6.9M in Fiscal Year 2015. These funds shall be distributed directly to District on-call curb ramp improvement contracts as recommended by the Traffic Engineering Division and agreed upon by agency management. Once established and funded, District Maintenance will manage the on-call curb ramp improvement contracts and funds.

## Section 3 – Planning and Delivering ADA Improvements

As outlined above, District and Regional forces are responsible for the planning and delivery of the Department's construction, maintenance and operational projects, including ADA improvement projects.

### *3.1 – New or Reconstruction Projects*

When delivering new or reconstruction projects, VDOT shall meet or exceed all ADA specifications and standards.

### *3.2 – Maintenance or Operational Projects*

The ADA recognizes that when delivering maintenance or operational projects, it would be cost prohibitive to ensure that all ADA features within the project limits are up to current standards. As such, VDOT has developed a technical memorandum (**TE-376.0**) which outlines minimum requirements for the assessment and improvement of accessibility features when delivering these types of projects.

District and Regional forces shall implement these requirements for all maintenance and operational projects planned for advertisement on or after September 1<sup>st</sup>, 2014.

## Section 4 – Tracking ADA Improvements

A critical component of agency compliance with the requirements of the ADA is the identification and removal of existing barriers to pedestrian access within VDOT's ROW. Tracking and reporting this information is necessary to demonstrate agency compliance with the requirements of the ADA.

## *4.1 – Tracking Requirements*

District or Regional forces responsible for the delivery of ADA assessments or improvements shall document the assessment locations and details as well as the location, type and quantity of improvements they delivery.

### 4.1.1 – Tracking Requirements for New or Reconstruction Projects

For new or reconstruction projects, it is expected that all facilities within the project limits shall meet current ADA standards. As a result, it will not be necessary to track ADA installations or improvements delivered through these types of projects.

### 4.1.2 – Maintenance or Operational Projects

As outlined in **TE-376.0**, all ADA assessments and improvements associated with maintenance or operational projects shall be tracked.

### 4.1.3 – Other Projects

Every effort should be made to track ADA assessments and/or improvements that are delivered through projects other than traditional Construction, Maintenance or Operational projects, such as Land Use Permitting or Development projects.

## *4.2 – Tracking System*

At this time, there is no central repository or system where ADA improvements can be tracked. Until such a system is available, the District and/or Region shall make an effort to document the location, type and quantities of any ADA improvements made in association with reconstruction, maintenance and operational projects.

Any tracking system or methodology should be vetted through the Central Office Traffic Engineering and Civil Rights Divisions in order to ensure it will meet the minimum requirements to be useful in demonstrating agency progress towards ADA compliance goals.

## **REFERENCE**

- Americans with Disabilities Act of 1990
- TE-376.0: Americans with Disabilities Act Requirements of Maintenance and Operational Projects

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