



U.S. Department  
of Transportation  
Federal Highway  
Administration

# Memorandum

Subject: **INFORMATION:** ADA Transition  
Plans

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From: Irene Rico   
Associate Administrator

In Reply Refer To:  
HCR-40

To: Division Administrators  
Civil Rights Specialist

**THIS MEMORANDUM SUPERSEDES THE OFFICE OF CIVIL RIGHTS' (HCR) NOVEMBER 12, 2015 MEMORANDUM IN ITS ENTIRETY.**

**PURPOSE:** To explain new process for review of submitted ADA transition plans (TPs). The TP review process is being delegated to Division Administrators in the 14 States that do not have either a self-certified TP or a TP that was found to meet the regulatory minimum attributes by the FHWA TP Review Team.

**BACKGROUND:** Over the last three years, FHWA has worked to ensure that every State, along with the District of Columbia and Puerto Rico, has an ADA Transition Plan (TP) that meets the minimum attributes provided in the Department of Justice's ADA Title II regulations, found at 28 CFR 35.150(d). In November of 2015, HCR issued guidance laying out the process for reviews of submitted TPs by an FHWA national review team. To date, 38 States (including DC) have a transition plan in place. Of these, 14 TPs have been vetted by the Team and found to have met the minimum regulatory attributes, and 24 TPs are self-certified plans. Over the course of the last year, that number has held steady at 38.

**STATUS:** The 38 jurisdictions that already have TPs in place, including the 24 self-certified States, can implement those TPs while continuing to update and improve them. Of the 14 remaining jurisdictions, only two have not yet submitted any plan. The other 12 have submitted plans that have not yet been deemed to meet the minimum attributes. Those 12 States can continue to update and improve those TPs before submitting them to the Division Offices in their States for review. The Resource Center is available to assist any of the 50 jurisdictions with submitted plans in updating and improving their TPs. The two jurisdictions that have not yet submitted TPs will be offered individual TA visits to assist them with getting plans in place so they can be submitted to the Division Offices in those States for review.

**BENEFITS:** FHWA's efforts over the last three years to assist States in developing and improving their TPs have been successful, but the process has sometimes been cumbersome. By delegating the remaining TP review to DAs and continuing plan

improvement efforts, we can continue to work collaboratively with States in a more productive way than under the current process. FHWA can maintain positive working relationships with the States through a more streamlined process that leverages the Division Offices' working relationships with the State DOTs. The DAs have local knowledge and relationships in their States to ease collaboration efforts to better implement TPs.

**MINIMUM REQUIREMENTS:**

The U.S. Department of Justice's (DOJ's) ADA Title II regulations at 28 CFR 35.150(d) set forth a list of minimum transition plan requirements as follows:

1. Identification of the official responsible for implementation of the transition plan (See 28 CFR 35.150(d)(3)(iv));
2. An inventory of barriers (i.e., identification of physical obstacles) (See 28 CFR 35.150(d)(3)(i) & 28 CFR 35.105(a));
3. A prioritized schedule of when barriers will be eliminated and deficiencies corrected (See 28 CFR 35.150(d)(2) & 28 CFR 35.150(d)(3)(iii)); and
4. A description of the methods that will be used to make facilities accessible (See 28 CFR 35.150(d)(3)(ii)).

More details about each requirement are available in the attached tools, "State DOT Transition Plan Attributes Review Guide" (Review Guide) and "Transition Plan Review Tool" (Tool). These tools are provided to assist Division Administrators in their review of TPs in States that do not have either a self-certified TP or a TP that was found to meet the regulatory minimum attributes by the FHWA TP Review Team. If you believe that the State's TP does not meet the minimum attributes, you should work with the State DOT to address the identified deficiencies. When the deficiencies, if any, are sufficiently addressed, the Division Administrator will notify the State DOT. HCR and the Resource Center are available to provide technical assistance upon request.

**LOCAL PUBLIC AGENCIES (LPAs):** LPAs are required to conduct self-evaluations of the accessibility of pedestrian facilities in their public rights-of-way and to correct deficiencies by making necessary modifications. In addition, LPAs with fifty or more employees are required to have a TP. FHWA will not review TPs from LPAs as a matter of course. When FHWA investigates a complaint filed against an LPA, FHWA will review the LPA's compliance with the self-evaluation and TP requirements as part of its investigation. While FHWA review of an LPA's TP is not required, a Division Office may assist LPAs with TPs and/or review LPA TPs if it wishes to do so.

**POINTS OF CONTACT:** If you have any questions related to this memorandum, please contact Sharon Field at [sharon.field@dot.gov](mailto:sharon.field@dot.gov) or Patrick Gomez at [patrick.gomez@dot.gov](mailto:patrick.gomez@dot.gov)