



Oregon

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To: ODOT Project Delivery Staff

From: Mike Kimlinger, PE, Interim Chief Engineer

Michael Kimlinger Sep 16 2022 10:14 AM

Subject: Updated for 2023-2024 ADA Technical Services Memo - Alternative Project Delivery Process for Single Function ADA Ramp projects

PURPOSE

The purpose of this guidance is to outline the alternative project delivery process to deliver Americans with Disabilities Act single function curb ramp only projects.

A lawsuit regarding the deficiency of ramps and audible pedestrian signals was brought against ODOT in 2017. A settlement was reached, wherein ODOT agreed to remediate approximately 26,000 curb ramps within 15 years. The total of all the ramp work was split into three reporting periods. ODOT agreed to deliver 30% new or reconstructed curb ramps within the first reporting period, which ends December 31, 2022. A total of 75% of ramps need to be remediated in the second reporting period, which ends December 31, 2027. This guidance will help expedite the delivery of approximately 2,600 ramps **within the second reporting period**.

Both ODOT and Federal Highway Administration acknowledge and accept that these projects have a higher than standard level of risk. The delivery approach outlined here is limited to the process for acquiring and certifying right of way, National Environmental Policy Act clearance, utility relocation work, and some of the phase gate deliverables which are detailed below.

BACKGROUND

ADA curb ramp projects typically consist of minor construction (removal of old ramps, minor excavation, and concrete work) of curb ramps at intersections. It is estimated approximately 50% of the intersections can be constructed without additional right of way, minor utility adjustments, and little to no environmental impacts. The remaining 50% are estimated to require additional work in right of way, utilities, and/or environmental clearances.

To deliver the ADA curb ramps within the required timeframe, a project delivery process has been developed to deliver the single function ADA curb ramp only projects with bid openings in 2023 and 2024. Projects identified in Table 1 will be delivered by creating batches of ready-to-construct ramps for construction. Approximately 50% of ramps will be certified at PS&E and begin construction in the first year. The remaining ramps will then be cleared in batches as the

right of way, utility coordination and environmental work is completed. Once the subsequent batches of ramps are cleared, construction notice to proceed will be provided to the contractor

Region	Key #	Project Name	Batching
1	22431	OR141/OR217 curb ramps	yes
1	22432	US30BY curb ramps	yes
2	22434	US101 curb ramps (Lincoln City/Lincoln Beach)	no
2	22435	OR47/OR8/US30 curb ramps	no
3	22437	US101/OR41/OR540 curb ramps (Coos Bay/North Bend)	no
3	22611	OR540 curb ramps: Coos Bay city limits – Boat Basin Rd	no
3	22438	Jackson County curb ramps, phase 2	no
3	22612	Jackson County curb ramps, phase 2A	no
4	22442	OR126/US20 (Sisters) and US97/US20 (Bend) curb ramps	no
5	22445	Burns & Hines curb ramps	yes
5	22446	Grant County curb ramps	yes
5	22447	Jordan Valley/Ontario/Huntington/Adrian curb ramps	yes

This guidance outlines the overall batching process in multiple different program areas. Each program area may develop guidance to provide additional clarity and procedures needed to meet the intent of the ADA curb ramp project batching. The program areas are:

1. Authorization/delivery/certification;
2. Statewide Transportation Improvement Program requirements;
3. Right of way funding;
4. Right of way acquisition;
5. NEPA and environmental documentation;
6. Utility coordination;
7. Phase gates and Plans Specifications & Estimates acceptance; and
8. Construction.

1. Authorization/Delivery/Certification

For projects using batching as identified in Table 1:

- The preliminary batch of each project will consist of ramps that can be cleared and certified at PS&E. The preliminary batch will include ramps that can be constructed without additional right of way, without complicated utility coordination and without complex environmental constraints.
- The ramps that are to be constructed in the preliminary batch will be identified in Table 00180.50 (h)(1)-1 of the special provisions. The remaining ramps will be identified in Table 00180.65-1 as no work and include the expected clearance date. Construction on the no work ramps will not begin until notice to proceed has been issued. SIMS and FHWA will authorize the construction for the preliminary batch and each subsequent batch.
- Each project may have several batches to complete the entire project. Creating batches will serve to deliver the entire project efficiently by balancing the need to keep the contractor working and ODOT's need to complete the utility, right of way and NEPA and environmental processes. Prior to the contractor receiving a NTP on a particular batch of ramps listed in Table 00180.65-1, the batch must be approved by SIMS and FHWA for construction. In order to receive approval to authorize construction and to issue a NTP, the batch must have a right of way certification, final/approved NEPA document, and utility agreement (as needed.)
- The request for funding authorization of the right of way and utility phases can be when the necessary information is available. This could occur prior to, simultaneously or shortly after authorization of construction of the preliminary batch. Project NEPA and environmental documentation can cover one batch or several batches. The NEPA and environmental work can begin at any time there is enough project information. Batches following the initial authorization should be kept to a minimum to aid in environmental process efficiency and in keeping with this agreed-upon alternative delivery approach for these ADA ramp projects. All subsequent batches should be submitted under the same project key number as the preliminary batch. Once authorized, the contractor can receive a NTP on the ramps included in each batch.

2. STIP Requirements

The right of way and utility phases should be estimated using a standard multiplier supplied by Right of Way. The multiplier will be applied to the number of files requiring right of way/utility work to determine the full funding needed for the right of way phase.

3. Right of Way Funding

The ODOT programming coordinator will submit the project key number right of way phase authorization request to SIMS.

Standard Acquisition (Non-Batched Projects)

If it is anticipated that all right of way files will be acquired prior to the PS&E date, Regions may opt to not utilize the batching process. If this decision is made, Regions will follow the standard right of way authorization process per the Right of Way Manual.

Although it is not mandatory, it is highly recommended that every project has a preliminary certification completed and submitted to the Programming Coordinator. That way, if additional files that were not anticipated are needed later in the project, Regions will be able to use the batching process.

Note: The decision to use batching must be made prior to right of way authorization. If there is a chance batching may be needed, the preliminary certification should be utilized to avoid issues with the certification process later (i.e., having to do a Cert 3.) A project cannot be switched to batching once it has been authorized, due to FHWA program requirements.

Batching

SIMS will enter the request into FMIS, where FHWA will advanced construct the funding for the entire right of way phase STIP amount in the project key number. SIMS will open a right of way expenditure account.

As right of way descriptions are written and groups of files become ready for acquisition, the regions will submit packets containing:

1. Legal descriptions;
2. Maps;
3. Estimates;
4. Agreements (if applicable); and
5. NEPA documentation and/or Map-21 forms.

It will be the programming coordinator's responsibility to allocate the amount of funding required for each batch of files as they come in and to keep track of the remaining funding available to the project. The programming coordinator will work closely with SIMS and the ADA program manager if additional funding is needed on a specific key number.

4. Right of Way Acquisition

The right of way acquisition process for acquiring files follows the guidance outlined in the ODOT ROW Manual except for a few minor exceptions. These exceptions include:

- Funding/Authorization as outlined above;
- Certification of right of way and batches as generally outlined above. Certification will happen by PS&E and in subsequent batches. Corners or Mid-block crossings that are known to contain enough right of way for the construction of new or altered existing ramps will be certified for construction using an ADA ROW Certification Form, a NEPA document and the 00180.50(h)(1)-1(Work Now) and 00180.65-1(No Work) tables from the special provisions. As files are acquired, additional batch certifications can occur allowing Construction to access additional areas within the project. Each subsequent batch will contain a ROW certification listing the files included in the certification along with a copy of the 00180.65-1 special provisions. A utility

- certification and a NEPA document are also required for each additional certification. Each project may contain multiple batches, however, it may be prudent to keep the number of total batches small to facilitate good record keeping. Prioritization of batch clearances will be coordinated with the resident engineer and ADA program.
- Right of Way will generally be purchased in Easements (Permanent Easements, Temporary Easements). This can make it easier to allow exceptions to title. However, there will also be some circumstances where it is more appropriate to acquire the right of way in fee, i.e., in order to maintain consistency with the ownership of the adjacent right of way in the corridor.
 - Increasing region authority to take subject-to from \$10,000 to \$20,000 without normal delegated approval/justification. Clearing of contract purchases and certain leases do not apply to this exception and will follow the current policies outlined in the Right of Way Manual. This applies specifically to leases that contain language regarding parking and signs. If a project impacts these types of leases, the authority granting the ability to take subject-to shall remain at headquarters.

ADA Administrative Determination of Just Compensation forms and processes, General Information Notice/Valuation Inspection Notice, the use of a modified Right of Way Information Tracking System v-file process for temporary easements for construction only and other right of way specific guidance is defined and controlled by Right of Way Bulletin RW 20-1(B). Please refer to Bulletin RW 20-1(B) for further clarification.

5. NEPA and Environmental Documentation

The preliminary batch of each project will consist of ramps that require no additional right of way or complex utility relocations. All work will be completed with the existing road prism and will require minimal environmental clearances. A Programmatic Categorical Exclusion Approval will be prepared for the preliminary batch prior to PS&E.

Subsequent batches of each project that require further environmental clearances will receive a PCE Approval for that batch after PS&E upon completion of environmental clearances. Complete the NEPA and any associated environmental documentation prior to NTP by the agency resident engineer to the construction contractor for construction of those ramps.

Table 00180.50 (h)(1)-1 (Work Now) in the project special provisions will clearly identify which ramps are cleared for the preliminary batch (first year of construction.) The PD-02 exception letter and Table 00180.65-1 will identify which ramps require additional NEPA and environmental clearances prior to NTP for any subsequent batches. Note: The PCE Approval document will list the ramps cleared environmentally and that list should be greater than or equal to the ramps included in Table 00180.50 (h)(1)-1 in the special provisions.

6. Utility Coordination

The utility coordination process is guided by the ODOT Utility Manual. Deviations are being allowed for the projects identified throughout this document. The following is the process for utility coordination:

Letter of initiation can be found on the utilities website.

This communication will be sent with concept plans before the corner is fully designed and act as a way to initiate contact with the utility companies within the project limits. It is not a replacement for 1st Notice which will be issued once design acceptance package plans are available. It will give the utility company a preliminary notice that a project will be coming soon which allows them to begin reviewing their maps.

First notice will be sent once DAP plans are available with details allowing the utility to fully evaluate the project impacts. Per ORS OAR 734-055-0045(2) each utility has 30 days to review and respond. Any utility that has an assumed impact will be placed in the second batch of projects released to the contractor giving them time to relocate if necessary, and any utility who responds with new information stating a conflict will be placed in the second batch. Utilities who confirm they have no impacts or fail to respond with the assumption of no impact will be placed in the preliminary batch of corners released to the contractor.

Relocation time requirement letter, [Form 734-5157](#) will be issued once a relocation plan is approved per ORS OAR 734-055-0045(4). The relocation timing must have work complete before the second batch release. If additional right of way is needed for the relocation of a utility, a waiting period of 30 days from date of payment is required. The ODOT State Utility Liaison should be contacted for the approval to relocate.

If there are reimbursable utilities in the project, the locations will automatically be placed in the second or subsequent batch released to the contractor. Follow the reimbursable process per the ODOT Utility Relocation Guide.

If additional work agreements are needed on the project, these locations may be included into either batch once the agreements are in place pursuant to the Utility Relocation Guide.

Utility certification will be issued with each batch of the project. The preliminary certification will be by PS&E and will include the corners that don't have any utility impact. A list will be given with each certification to indicate which locations are included. Along with the Utility Certification Form, each packet should include locate tickets for the applicable locations, along with first and second notices.

7. Phase gates and PS&E Acceptance

The Statewide Project Delivery Branch (SPDB) through the ADA Program, has made changes to the change management request (CMR) signature process, ADA PD-02 Exception Letter, and ADA PS&E Checklist.

Each CMR should be completed in the CMR database by the TPM/RE-CP and approved by their area manager and the ADA Program manager. Once these approvals have been received, it is the responsibility of the TPM/RE-CP to let Gabi Garcia (ADA Program STIP coordinator) and Michelle Gauthier (PCO Pre-Letting Specialist) know so she can proceed with any necessary STIP amendment. While the amendment is in the CMR signatures queue, the TPM/RE-CP will obtain all other signatures needed on the CMR. No project phase will be obligated without a fully approved and signed CMR.

To address outstanding project environmental, right of way and utility permit/clearances, at the PS&E phase gate, an [ADA PD-02 Exception Letter](#) has been created and the [PS&E Checklist](#) has been modified to capture necessary information for the curb ramps and prevent any unnecessary delays. The two modified forms are posted on the Project Delivery Portal under Forms section.

Special provision language for 00180 has also been created to document which ramps are in the preliminary batch ready for construction and which ramps need additional clearance before beginning construction work. Ramps with outstanding issues must be clearly identified on the project plans at PS&E.

8. Construction

Work typically completed prior to PS&E will continue after bid opening, but prior to construction of ramps not cleared in the preliminary batch. The following are additional responsibilities to standard project delivery:

ODOT Project Teams (ADA Projects): Responsible for completing clearances and certifying ramps listed in 00180.65-1 after PS&E submittal.

Any ramps that cannot be cleared for ROW/utilities/environmental during the contract schedule will either need to be pulled from the contract by contract change order or time extension be granted. The project team will need to work with the agency project manager (RE/RE-CP) regarding ramps that fall into this category.

ODOT Right of Way Project Manager: Responsible for completing clearances and certifying ramps listed in 00180.65-1 after PS&E submittal. Prioritization of batch clearances will be coordinated with the resident engineer and ADA program.

ODOT Region Environmental Coordinator (REC): Responsible for completing and obtaining all environmental clearances and certifying ramps listed in Table 00180.50 (h)(1)-1 for batch 1 prior to PS&E submittal and in Table 00180.65-1 for subsequent batches after PS&E submittal. Coordinate with other environmental disciplines and internal and external partners as required to receive environmental clearances and permits.

Project Design Lead (TPM/RE-CP): Responsible for monitoring and assuring clearance and certification are completed for ramps listed in 00180.65-1 after PS&E submittal. The project lead will also coordinate release of subsequent batches of ramps with the project manager.

Project Controls Office: Responsible to ensure that all standard PD-02 exceptions get resolved prior to advertising the project. The Project Controls Office is not responsible to ensure that the subsequent batches of clearance are completed after bid opening.

Project Manager (RE/RE-CP): Responsible to ensure that clearance and certification is provided for ramps listed in 00180.65-1 prior to issuing notice to proceed for construction of those ramps. The RE/RE-CP should also review the sequencing, batching and contractibility of the project to help inform prioritization of future batches.

Any ramps that cannot be cleared for ROW/utilities/environmental during the contract schedule will need to be pulled from the contract by contract change order or granted a time extension.

ADA Program: Responsible for assisting regions in tracking ramp batches and editing guidance as needed if/when new issues or challenges become known.

DEFINITIONS

ADA: Americans with Disabilities Act.

ADA Ramps: The term ADA Ramps, as used in this technical bulletin, are those projects which require ADA ramps be either constructed or reconstructed in order to comply with state and federal guidelines.

Curb Ramps:

- (1) Newly constructed or altered streets, roads and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.
- (2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads or highways.

Certifying Ramps: The term certifying ramps, as used in this guidance, refers to ensuring that the ramps listed in Table 00180.50 (h)(1)-1 for batch 1 prior to PS&E submittal and in Table 00180.65-1 for subsequent batches after PS&E submittal are cleared for right of way, utilities, and environmental prior to proceeding to construction.

