



Oregon

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To: ODOT Project Delivery Staff

From: Steve Cooley, PE, PLS
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Subject: 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 27,000 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. This guidance will help expedite the delivery of approximately 2,300 ramps **within the first 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 60% of the intersections can be constructed without additional right of way, minor utility adjustments, and little to no environmental impacts. The remaining 40% 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 2020. Each project will be delivered by creating batches of ready-to-construct ramps for construction. Approximately 60% 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, they will begin construction in the year following bid opening.

Each of the ADA ramp projects will be delivered in two or more batches of constructible ramps.

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

Each of the six projects, listed in Table 1 below, have been previously authorized by the Statewide Investments Management Section (SIMS) and the FHWA for preliminary engineering as a parent project. To deliver the ramps to construction, each of the parent projects will be divided into several child projects. Each child project will be assigned individual key numbers, Federal aid numbers and amended into the ODOT STIP with right of way, utility, and construction phases.

Region	Project Name	Key No.	FAP
1	OR211/OR224/US26/OR8 curb ramps	21488	SA00292
2	OR99W/US101 curb ramps (Corvallis & Florence)	21490	SA00296
3	OR42/US101/OR42S/OR542 curb ramps	21491	SA00317
3	OR99/I-5/OR238/OR62 curb ramps	21492	SA00315
4	Central Oregon curb ramps	21493	SA00302
5	Eastern Oregon curb ramps	21494	SA00293

The child projects will be delivered in batches. The child project's STIP key number will be used on all the submittal packages created to finish design of the ramps associated with that child project. This parent/child project relationship is approved for the projects with 2020 bid openings shown in Table 2.

Table 2 – ADA Curb Ramp Parent & Child Projects				
Region	Parent Key #	Parent Project Name	Child Key #	Child Project Name
1	21488	OR211/OR224/US26/OR8 Curb Ramps		
			22115	OR211/224 Estacada/Molalla Curb Ramps
			22112	US26 Sandy Curb Ramps
			22116	OR8 Cornelius Curb Ramps
2	21490	OR99W/US101 Curb Ramps (Corvallis & Florence)		
			22117	OR99W: SE Chapman Pl to SW McKenzie Ave., Curb Ramps
			22118	US101: Munsel Lake Rd to OR126, Curb Ramps
3	21491	OR42/US101/OR42S/OR542 Curb Ramps		
			22143	OR42/US101/OR42S Curb Ramps
			22126	OR542 Curb Ramps
3	21492	OR99/I-5/OR238/OR62 Curb Ramps		
			22144	OR99/I-5/OR234 Curb Ramps
			22127	OR238/OR62 Curb Ramps
4	21493	Central Oregon Curb Ramps		
			22121	Central Oregon Curb Ramps – Phase 1
			22122	Central Oregon Curb Ramps – Phase 2
			22123	Central Oregon Curb Ramps – Phase 3
5	21494	Eastern Oregon Curb Ramps		
			22124	Union County Curb Ramps
			22125	Malheur County Curb Ramps

Additional single function ADA curb ramp projects delivered to bid opening in 2021 are being considered and may use the batching process with prior approval from FHWA.

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

Each of the parent projects are included in the ODOT STIP and are all currently authorized for PE work. Each child project will be amended into the STIP with a right of way, utility and construction phase. The preliminary engineering, clearance and certification will be completed under the parent project. Each phase will be fully funded based on the best estimate available at the time of the amendment. 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.

Current programmed funding can be shifted between the associated parent and child projects via funding adjustments/amendments without triggering STIP and/or OTC rules between the parent and child key numbers.

- Example: Key number 21492: District 8 ADA ramps have a total project cost of \$5,856,988 in the STIP. Funding can be split out to create the five planned child key numbers and adjusted as long as the total costs between the parent and child key numbers doesn't exceed \$5,856,988. If the funding goes over the total project cost of the original parent key number, the OTC and STIP rules will apply. The same applies if multiple child key numbers' bid results exceed available funding and is not able to be balanced to the total project cost of all projects.

Funding must stay balanced between the parent key number and child key numbers. Funding **cannot** transfer from one parent key number to a separate parent/child set of key numbers without following FHWA and OTC STIP amendment rules. Parent and child keys can be re-baselined after the appropriate FHWA and OTC rules are followed and completed. Not to exceed amounts will be entered into the comments section for the parent key number and the connected child key number.

- Example: K21492 and all subsequent child key numbers will have a comment similar to this, "K21492, K####1, K####2 total combined costs will not exceed \$5,856,988."

3. Right of Way Funding

The ODOT programming coordinator will submit the project key number right of way phase authorization request to SIMS. 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 be purchased in easements (permanent easements, temporary easements.) The use of easements in all right of way purchases will facilitate easier transfer to other agencies after the project. It will also make it easier to allow exceptions to title.
- 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 Hope Derrickson (ADA Program STIP coordinator) know so she can proceed with any necessary STIP amendment. While the amendment is in the

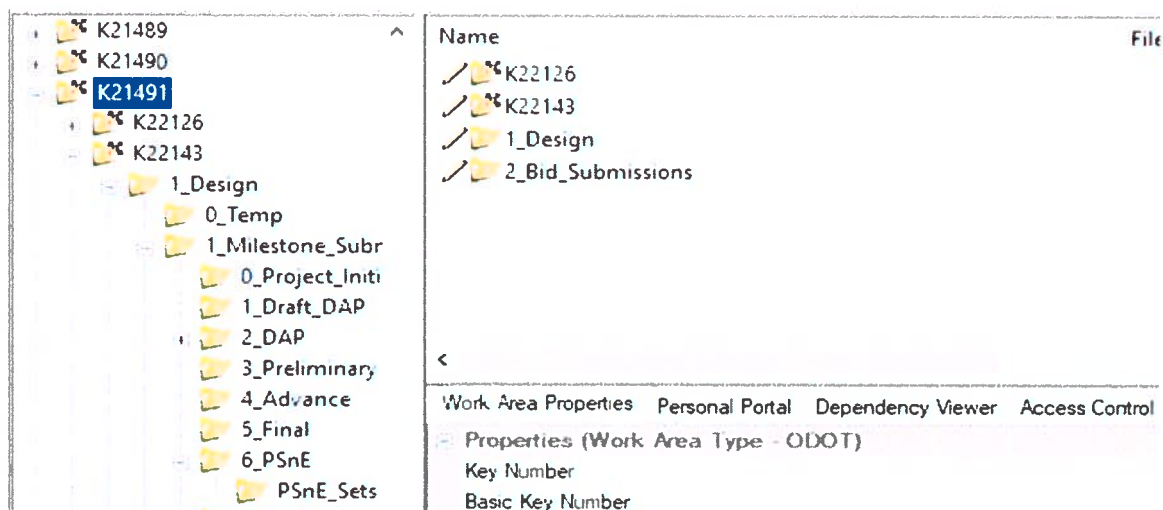
CMR signatures queue, the TPM/RE-CP will obtain all other signatures needed on the CMR. No project phase will be obligated without a fully approved and signed CMR.

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.

The projects covered in this guidance are exempt from the project initiation and DAP phase gates. However, project charters will be completed for parent and child projects for documentation purposes. The ADA Program will work with regions to complete this documentation. Each child project is also required to have a valid MS Project schedule for data reporting. The CMR process will begin when the parent projects are divided into child projects. All projects are required to complete the PS&E phase gate.

The ADA projects will use ProjectWise for document storage. Parent projects are listed in the primary folder structure by Key number. Child projects are nested within the parent project folder as shown below:



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.