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U.S. Department
of Transportation
Federal Transit
Administration

Memorandum #13

Subject: INFORMATION: ADA Key Station Guidelines

Date: OCT 30 1992

Robert H. McManus, Associate
From: Administrator for Grants Management

Reply to
Attn. of:

To: Regional Administrators

Thru: Roland J. Mross
Deputy Administrator

The Americans with Disabilities Act of 1990 (ADA), requires that light, rapid and commuter rail key stations be made accessible to persons with disabilities. Key stations must be accessible by July 26, 1993, unless a time extension is provided. The FTA is authorized to provide time extensions where extraordinarily expensive structural changes to, or replacement of, existing facilities are required. Time extensions of up to 20 years may be provided to commuter key stations and up to 30 years for light and rapid rail key stations.

The attached document, "Guidelines for Dealing with Key Station Time Extension Requests", develops a systematic approach for analyzing time extension requests that is summarized as follows:

1. Key station time extension requests not meeting the criteria for time extensions would be denied.
2. Key stations meeting the criteria will qualify for a time extension. If the time extension is for five years or less, the time extension would be granted.
3. Key stations meeting the criteria for time extensions, but requesting a time extension of greater than five years, would require a more intense review and be decided on a case-by-case basis.

The criteria and five year time frame are derived from data presented in studies by EG&G Dynatrend entitled "Costs of Installing Elevators and Raising Platforms in Transit Stations", and "Costs of Non-structural Changes for ADA Compliance at Key Stations", copies of which were provided, under separate cover, to the Regional ADA Managers.

Attachment

**GUIDELINES FOR DEALING WITH
KEY STATION TIME EXTENSION REQUESTS
October 1992**

PURPOSE

The DOT final rule ("49 CFR Parts 27, 37, and 38, Transportation for Individuals With Disabilities") implementing the Americans with Disabilities Act of 1990 (ADA), provides that the Federal Transit Administration (FTA) Administrator may approve, approve with conditions, modify, or disapprove requests for time extensions to the deadline for making key stations accessible. ¹ Criteria for evaluating these requests are needed because of the large number of these requests expected, and the need to assure consistency and conformity with the legislation.

The approach used in developing these criteria was to examine the ADA legislation, its legislative history, historical construction costs and the time required for the performance of specific types of construction work² and to use this information to propose minimum thresholds for approving, or disapproving, requested time extensions.

The guidelines developed provide a three level test of eligibility for a time extension. They are: (1) the accessibility improvements must entail the installation of an elevator or the raising of an entire passenger platform, or (2) structural changes exceeding \$200,000 or (3) a threshold cost if the above two conditions can not be determined. The guideline also proposes a period of time within which an eligible time extension request would be approved and a method for dealing with extended time extension requests.

BACKGROUND

The law requires that light, rapid and commuter rail entities submit key station plans to the FTA by July 26, 1992. These plans must identify the key stations on a system, the modifications necessary to make each station accessible, and a timetable for accomplishing these modifications. DOT's final rule provides criteria for determining key stations. In addition, the regulation requires that the entity consult with people with disabilities in developing these plans and hold a public hearing on the contents of the plan.

Section 227(b)(2)(A) of the ADA requires in part that "... all key stations . . . in rapid rail and light rail systems shall be

¹ Unlike paratransit plans, FTA does not "approve" or "disapprove" the key station plans or station selection. Its only action under the regulation is related to requests for time extensions.

² EG&G Dynatrend study "Costs of Installing Elevators and Raising Platforms in Transit Station" dated August 7, 1992.

made readily accessible . . . as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of the paragraph." A similar provision exists for commuter rail system key stations. Since the provisions became effective on July 26, 1990, ALL KEY STATIONS ARE TO BE ACCESSIBLE BY JULY 26, 1993!

The ADA permits time extensions of up to 20 years for commuter rail stations and up to 30 years for light and rapid rail stations (2/3 of the light and rapid rail stations must be accessible within 20 years). ADA Section 227(b)(2)(B) provides that "The Secretary may extend the 3-year period . . . up to a 30-year period for key stations in a rapid rail or light rail system which stations need EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES TO, OR REPLACEMENT OF, EXISTING FACILITIES." A similar time extension provision exists for commuter rail stations except, ". . . where the raising of the entire passenger platform is the only means available of attaining accessibility . . ." as a criterion for a time extension, ADA Section 242(e)(2)(A)(ii)(II). The Senate Report (S. Rep. 101-116) August 30, 1989, states at page 56: "The phrase 'extraordinarily expensive structural change to or replacement of existing facilities' is intended to create a narrow exemption for the facilities where the only means of creating accessibility would be to raise the entire platform of a station or to install an elevator. The costs to accomplish these structural changes can be extremely costly."

The DOT final rule provides that, with respect to time extensions for light rail and rapid rail systems, "A public entity wishing to apply for an extension of the July 26, 1993, deadline for key station accessibility shall include a request for an extension with its plan submitted to UMTA [FTA] under paragraph [d] of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities [e.g., installation of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost]. Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph [c] of this section." (49 CFR 37.47(e).)

DISCUSSION OF SCHEDULING OR PROJECT DEVELOPMENT PROCESS

Representatives of rail transit properties predicted that most systems would not be accessible by the required date of July 26, 1993. Subsequent information regarding the key station plans submitted and the number of time extensions requested bear out the prediction. Furthermore, of 739 key stations identified in the plans submitted to FTA in July 1992, time extensions for 423 stations have been requested. The primary reasons for the inability of transit entities to meet the accessibility date are

identified as: the project planning and procurement processes that public agencies are required to follow, limited fiscal resources and competing requirements for those resources. The rail properties' project development process to make these key stations accessible includes the following steps:

1. translate the ADA Accessibility Guidelines (ADAAG) into general specifications,
2. identify specific accessibility features to be incorporated into each of the identified key stations,
3. develop a budget cost estimate for performing the work, obtain approval and provide the financial resources,
4. develop final plans, specifications and cost estimates,
5. solicit and evaluate bids to perform the work, and award contracts, and
6. construct and/or install the required accessibility features.

The previously cited report prepared by EG&G Dynatrend presents data from construction projects installing accessibility features. The total elapsed time from the onset of the design process to the completion of construction (steps 4 - 6) varied from 3.2 to 4.3 years, with the average being 3.8 years. This time span does not include the budget preparation/approval process nor the initial procurement of the design consultant (steps 1 - 3), which, in combination, may easily take a 2 year period (consider the FTA budget process and PMO procurement processes which can take 15 months and 6 to 12 months, respectively, to complete). Therefore, without fiscal restraints and without conflicting priorities, the span of time to undertake the installation of accessibility features such as an elevator or to raise an entire passenger platform would be from 5.2 to 6.3 years. An average time period for this work would be approximately 5.8 or six years.

Although a key station can be made accessible within six years, Congress provided up to 20 or 30 years, depending on the type of system, to perform this work. The Senate Report (S. Rep. 101-116, at p. 56) recognizes the economic effect of providing these accessibility features: "The costs to accomplish these structural changes can be extremely costly." It seems that the Congress was aware of the impact of these alterations on the limited fiscal resources of local governments and made provisions to deal with the situation. By providing for the granting of time extensions of up to 30 years, the Congress allowed for the impact of these

costs by stretching them out over an extended period, thereby providing for an orderly budget process. In times of fiscal restraint, when communities are finding tax revenues shrinking and the need to provide services on the increase, it becomes necessary to choose between imperatives to place priorities on the expenditure of funds. This limitation of resources may have a significant impact on ADA accessibility requiring each community to grapple with the difficult choices at hand. The impact of the financial burden placed on a community is difficult to assess and to quantify. Fortunately, the key station plans, including accessibility milestones, are required to be presented to the public at public hearings for scrutiny.

The EG&G Dynatrend report provides data concerning the cost of installing elevators and raising passenger platforms at the Massachusetts Bay Transportation Authority and the Metropolitan Transit Authority, including the New York City Transit Authority, the Metro North Commuter Railroad, and the Long Island Rail Road. Data was compiled related to costs incurred (including design, administration, procurement and installation costs) for installing a total of 73 elevators in 33 rail stations. Fifteen elevator installations fall within the cost range of \$200,000 to \$299,000, a plurality of the 73 elevator installations examined. Elevator installation costs vary widely, from a low of \$204,000 to a high of \$2,396,000. EG&G Dynatrend also evaluated the costs of raising passenger platforms and found that those costs varied from a low of \$117,000 to a high of \$270,000 per car length. As a threshold for dealing with time extension requests, elevator installation costs are more appropriate. All costs were brought to 1991 equivalency and to reflect national (rather than regional) costs by applying appropriate factors found in Means Heavy Construction Cost Data 1991, a standard construction industry reference source.

A second EG&G Dynatrend report, "Costs of Non-Structural Changes for ADA Compliance at Key Stations", examines cost estimates to install non-structural accessibility features required by ADA and the ADA Accessibility Guidelines (ADAAG) issued by the Access Board. The report indicates that the costs associated with non-structural ADA required changes at most of the stations examined fall within the range of \$20,000 to \$29,999, or an average cost of \$25,000. This study used cost estimates of a preliminary nature provided as part of the key station plans prepared in response to the requirements of the ADA. Industry standards accept a range of ten percent (10%), plus or minus, when dealing with final cost estimates supplied just prior to the receipt of bid prices. Costs developed as part of a scoping effort, or to develop a preliminary budget must be considered within a wider range, perhaps as large as twenty percent (20%). This being the case, the probable range of costs for the non-structural ADA installations would be \$20,000 to \$30,000.

All of the costs discussed above include engineering and design, administrative and inspection costs.

FTA'S TIME EXTENSION GUIDELINE

A key station is eligible for a time extension when:

1. An elevator installation is planned or if an entire passenger platform is to be raised, or
2. if the cost of structural changes to the station will equal or exceed a cost of \$200,000, (equal to the cost of installing an elevator) or
3. the sum of the costs of all the ADA required accessibility features in the station exceed a threshold cost equal to the sum of the costs of: a. installing an elevator (\$200,000) plus b. the cost of installing non-structural accessibility features (\$25,000).

Since this latter amount is based on preliminary cost estimates, a variation for the non-structural features of 20% or \$5,000 is acceptable. This results in a threshold cost whose lower limit is \$220,000.

The costs to be considered in this evaluation may include incidental operating costs necessary to expedite the installation as well as architectural/engineering design costs, etc. The FTA will deny all time extension requests not meeting these guidelines.

The FTA will decide the length of time extensions according to local circumstances. FTA would generally approve a time extension request involving extraordinarily expensive costs, provided that the request had been subjected to the local public hearing and consultation process, had been ratified by the Board, where appropriate, and was for five years or less. The five year time period is based on the average six years required to install an elevator or raise an entire passenger platform less the one year remaining until July 26, 1993, when key stations are required to be accessible.

In circumstances where a time extension request meets the requirements of the eligibility criteria, but exceeds the 5-year period, then the entity's entire key station program should be reviewed by FTA to assure that the community is providing available resources to key station accessibility. The FTA's review will consider fiscal circumstances and competing claims on resources in the community in question, and will require evaluation on a case-by-case basis. Technical support for this evaluation is available to the Regional Office through the Project Management Oversight (PMO) Contractor(s). While the use of the

PMO will be available to provide support processing time extension requests, the FTA believes that time extension requests for five years or less will not require PMO support. At this time, the FTA believes that time extension requests in excess of five years will be few in number. The entity's requests however, must meet the limitations imposed by the ADA (no less than 2/3 of the stations to be accessible within 20-years, and the remainder within 30-years for light and rapid rail systems or up to 20-years for commuter rail systems).

SUMMARY

1. Key station time extension requests not meeting the eligibility criteria will be denied. Entities should be advised of this determination as soon as possible.
2. Key stations meeting the eligibility criteria will qualify for time extensions if requested. If the time extension requested is for five years or less the time extension, barring extraordinary circumstances, will be granted. Since the process in dealing with this determination is relatively straightforward, entities will be advised of this determination at the earliest opportunity.
3. Key stations requiring more than five years to comply will be subjected to more intense review and decided on a case-by-case basis with the entity informed as decisions are made. PMO services are available to provide technical support in the evaluation of these time extension requests. The FTA expects that very few stations will be in this category.



U.S. Department
of Transportation
**Federal Transit
Administration**

Memorandum # 20

Subject: INFORMATION: ADA Key Station Guidelines

Date: MAR 29 1993

From: *Hiram J. Walker*
Hiram J. Walker, Deputy Associate
Administrator for Grants Management

Reply to
Attn. of

To: Regional Administrators

This memorandum augments the guidance previously provided for dealing with ADA key station time extension requests.

- A. The guidelines attached to the memo on this subject, dated October 30, 1992, require further expansion and clarification. The guidelines establish three criteria for dealing with the eligibility of key stations for a time extension. Following are the guidance contained on page five of that document with revised guidance on each of the criteria provided in bold text:

FTA'S TIME EXTENSION GUIDELINE

A key station is eligible for a time extension when:

1. An elevator installation is planned or if an entire passenger platform is to be raised, or

Criterion 1. A key station is eligible for a time extension if it is necessary to install an elevator or raise the entire passenger platform to achieve key station accessibility.

2. If the cost of structural changes to the station will equal or exceed a cost of \$200,000, (equal to the cost of installing an elevator) or

Criterion 2. A key station is eligible for a time extension if it is necessary to expend (based on cost estimates) \$200,000 or more, in structural changes to achieve key station accessibility. The \$200,000 threshold is based on the cost of installing an elevator which is presumptively eligible for a time extension.

3. The sum of the costs of all the ADA required accessibility features in the station exceed a threshold cost equal to the sum of the costs of: a. installing an elevator (\$200,000) plus b. the cost of installing non-structural accessibility features (\$25,000).

Criterion 3. If a key station plan does not provide sufficient information on the costs for various accessibility elements to determine the station eligibility under criteria 1 or 2 above, but the estimated cost to achieve key station accessibility exceeds \$225,000, then the regional staff may take steps to determine if the planned scope of work includes structural changes. If structural changes are planned then the key station is eligible for a time extension. In this case, the regional staff is to document the determination that the work involves extraordinarily expensive structural changes to or replacement of existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of a similar magnitude and cost.)

In any case, the cost elements to be considered must involve changes required to provide accessibility and bring the station into compliance with the requirements of the Final Rule.

- B. The letters drafted by the regional office to inform rail systems of the status of their requests for time extensions will need to consider "legal sufficiency". Each letter will be required to:
 - 1. Provide the rationale(s) used to resolve the requested time extensions. The letter is required to stand alone as documentation for the FTA finding and not rely on information available in accompanying memoranda. In the event of legal action concerning the FTA decision, the letter to the time extension applicant must provide the complete support for the decision rendered.
 - 2. Be sufficient in detail so that the time extensions granted each key station, if not specifically itemized, can be determined.
- C. The regional office must provide an indication of the probability of litigation in providing the time extensions recommended. The accompanying memo from the regional office will refer to the probability of legal action regarding the time extension decisions proposed.
- D. Both the memorandum and draft letter shall be reviewed by the respective regional counsels.

Attached, for your use and information, are copies of the cover memoranda and time extension response letters dealing with the time extension requested by the Washington Metropolitan Area Transit Authority and the National Railroad Passenger Corporation. If you have any questions regarding the key station time extension guidelines please contact Ramon Lopez via E-mail or call (202) 366-1656.

Attachments



U.S. Department
of Transportation

Federal Transit
Administration

Memorandum

Subject: INFORMATION: ADA Guidance No. 9:
FTA Workshop on Key Stations

Date: JUN 15 1992

From: *Bob Stout*
Robert W. Stout, Director
Office of Regional Operations

Reply to
Attn. of:

To: Regional ADA Managers

Attached for your information is a summary report prepared by our ADA contractor of the Federal Transit Administration's (FTA) workshop on key station planning and rail system accessibility which was held on May 28, 1992. The report summarizes the issues raised by the transit operators attending the workshop, and FTA and the Office of the Secretary's (OST) answers to the issues.

The following topics were raised during the workshop:

- o Tactile warning surfaces
- o Extraordinary costs
- o Process, communication, timing
- o Equivalent facilitation
- o Employment areas/primary function areas
- o Local options/variations in design and implementation
- o Station/light rail line; stops/middle of the street
- o Implementation of signage requirements
- o Public process
- o Responsible party for stations

If you have any questions, please contact Ramon Lopez at (202) 366-1656.

Attachment

A Report on the

***FTA WORKSHOP ON KEY STATION
PLANNING AND RAIL SYSTEM
ACCESSIBILITY***

held May 28, 1992

for the

Federal Transit Administration
400 Seventh Street, S.W.
Washington, DC 20590

by EG&G Dynatrend
Transportation Consulting Group

The FTA Key Station Workshop held on May 28, 1992 was an excellent opportunity for operators affected by key station provisions of the ADA legislation to discuss their concerns and to share information. The workshop session benefitted from the attendance of Brian Clymer, Robert Ashby, and Dennis Cannon (ATBCB), who could provide definitive guidance to the operators, where such was possible.

Summary of the Introductory Guidance

Bryan Clymer opened the workshop by stating that the FTA is committed to the ADA, and that the FTA cannot change the statutory dates related to key stations. He stated that "best efforts will be your best defense." Also, FTA approval of extension request will be a first line defense. If an entity is making "best efforts" towards improvements, a court ordered remedy will be to do what they are already doing.

Bob Ashby discussed the selection of key stations. For New York and Philadelphia, this has been determined by prior agreement. Everyone else should go through a public participation process which should be underway now. The selection criteria must be taken into consideration in the plan, but need not all be used.

All changes to key stations must be made by July 26, 1993 unless an extension is given. Extensions will be given on the basis of "extraordinarily expensive structural changes" on a station by station basis where only the cost of compliance is counted. FTA cannot consider a series of stations together in determining "extraordinarily expensive structural changes."

If an extension is granted for a station, this includes the entire station and all accessibility elements. Operators are encouraged to make "non-extraordinarily expensive" changes to stations given extensions by July of 1993, but this is not mandatory.

All changes for key stations not granted an extension must be completed by July 26, 1993. If this is not possible, and an entity goes to court, it will be required to establish a timetable which shows "best efforts." Best efforts will be demonstrated partly by a good public participation process.

John Gaffney stressed the need to address access as a system, rather than individual architectural elements. Consider the pathways which a person with disabilities must take, particularly in intermodal transfers. Good resources for this are 1) Appendix D to the Part 37 of the ADA regulations and 2) the appendix to the ATBCB regulations. Early involvement and a good public participation process will be helpful here.

Anthony Palmere of the MBTA presented accessibility plans for the Boston Greenline. He brought up the question of the different deadlines for the key station approach and the one car per train rule.

Operator Issues

After the introductory panel, the operators divided into four groups. Each group was asked to identify their four most important concerns. The remainder of the workshop consisted of a discussion of these issues and an attempt to develop responses. Attachment A is a summary of the issues and resulting discussion.

Summary of Action Items

1. Tactile Warning Surfaces

This ATBCB requirement was a major concern to operators. They mentioned fear of unproven technology in outdoor applications, and that some disabled consumers found this requirement unsafe. There was a general sense that there should be a petition to ATBCB and that local operators would develop the case for DOT to present at a Board meeting.

2. Other Unproven Technologies

There was a general concern where the required technology has not been qualified and/or proven. The FTA could assist here by distributing information about available technologies, and assist in product testing.

3. Extraordinarily Expensive Structural Changes

DOT/FTA should provide guidance as soon as possible as to what determines extraordinarily expensive structural changes. The guidance could address the issue of accumulating costs of a large number of small changes, consider the size of the capital budget, and cost related items, such as the cost of "fast-tracking" procurement and construction to meet deadlines.

4. Equivalent Facilitation

Broader use of equivalent facilitation may be appropriate as a way to deal with issues such as grandfathering older accessibility standards, or meeting requirements such as variable messaging, fare vending systems, fire rescue areas, platform gaps, PA systems, and signage. Wherever equivalent facilitation requests or findings are made, the FTA should immediately inform the industry.

5. Respond to the Question Regarding Platform Gap Deadlines

Operators asked when the platform gap requirements will apply. Do they apply on July 26, 1993 which is the keystation deadline, or on July 25, 1995 which is the one-car per train rule deadline? The FTA should respond to this question.

6. Functional Accessibility for Key Stations

Operators had a major concern about meeting all ATBCB standards for key stations in one year. They expressed the opinion that the key station provision was to provide some level of "program access" in the short term. As such, DOT/FTA may be able to allow for a lessor, functional access standard. The statutory and regulatory implications of this should be pursued by DOT/FTA.

Attachment A
Summary of Discussion/Charts at the FTA ADA Key Station Workshop

Issues	Raised by Groups	Answer/Approach	Other Relevant Discussion
Tactile warning surfaces: The technology has not been proven or tested, especially in winter conditions. There are concerns regarding safety from users of wheelchairs and 3 wheeled mobility devices. What has been approved under equivalent facilitation? Where are tactile strips required?	1,2,3,4	The requirement for tactile warning strips could be modified by petitioning the Architectural and Transportation Barriers and Compliance Board (ATBCB) through the DOT representative on the ATBCB to change certain standards, or to suspend the rule pending further testing. The industry needs to develop support for their position. (Entities could come to the FTA for an equivalent facilitation finding. Points considered by the ATBCB in setting this standard include 1) appropriate for all types of disability, 2) unique 3) can stop 80% of the people within 2 feet.	Armor-tile and Path Finder are products which have been approved for use.

Issues	Raised by Groups	Answer/Approach	Other Relevant Discussion
Architectural and technological requirements not proven safe or effective, including (in addition to tactile warning surfaces): - Variable messaging - Fare vending/audio - Between car barriers - Fire rescue areas - Platform gaps - Visual PA systems - Signage Do key stations have to meet the full Appendix A standards? Couldn't DOT/ATBCB have adopted a lesser standard that provide for functional accessibility? FTA needs to respond to APTA's written questions.	1,2,3,4	Architectural and technology requirements could be modified by petitioning the Architectural and Transportation Barriers and Compliance Board (ATBCB) through the DOT representative on the ATBCB to change certain standards, or to suspend the rule pending further testing. Entities could come to the FTA for an equivalent facilitation finding. Requirements for fire rescue areas only apply to new construction. For these, properties could request equivalent facilitation using a different computation than static load computation that may more appropriately apply to buildings. A letter of response to APTA questions is forthcoming from FTA.	Note that equivalent facilitation must offer substantially equivalent or greater access to and usability of the facility. Fare collection need not be done with the same fare system, but should not make a person with disabilities wait. For example, Baltimore uses a bus fare box next to a kiosk with a wide door for persons with wheelchairs. Providing for independent use, which does not rely on station personnel, is important.

Issues	Raised by Groups	Answer/Approach	Other Relevant Discussion
Extraordinary costs: Can these be evaluated on a system basis, whereby FTA considers the magnitude of all station costs together? Can a multitude of smaller costs within a single station be combined to document extraordinary costs? What are extraordinary expensive structural changes? The regulatory definition of "extraordinarily expensive" is too narrowly defined. A dollar threshold per station would make sense.	1,2,3,4	Extraordinary costs can only be determined on a station by station basis. DOT/FTA could provide guidance as to what constitutes extra-ordinary costs. This could consider the accretion of small costs required to meet Appendix A requirements, the size of the capital budget, and other cost related items, such as the compression of procurement/construction in order to meet deadlines. In coming in for an extension, put all concerns in terms of "extraordinary costs," including time requirements.	

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Issues	Raised by Groups	Answer/Approach	Other Relevant Discussion
Process, communication, timing (unrealistic timelines for regulatory implementation): Are there any allowable extensions? Milestones can only be developed after critical questions are answered. FTA planning requirements are late and not compatible with the regulations. When will FTA notify entities about extensions? What actions should be taken if the FTA denies an extension? Does the platform modification requirement relate to the July 1993 deadline or the July 1995 deadline? How to resolve "responsible parties"? What is an accessible	1,2,3	No extensions in time can be granted, other than for "extraordinary costs." If the FTA denies an extension, the entity can: 1. Appeal the decision. 2. Seek a legislative solution. 3. Tie real life problems of engineering/construction into extraordinary costs calculations. 4. Define a lessor standard for key stations. 5. Use an equivalent facilitation approach.	

Issues	Raised by Groups	Answer/Approach	Other Relevant Discussion
Equivalent facilitation: The need for a broader interpretation which allows for functional accessibility. Including: Grandfathering other standards Performance-based specifications Guideline applicability	2	More widespread use of equivalent facilitation may be appropriate as a way to answer these concerns. Sharing of information on equivalent facilitation requests and actions may also be helpful.	General discussion that performance based specifications were included where ATBCB felt they were appropriate, but these have also been problematic in the past.
Designation by DOT of "employment areas" as "primary function areas" may trigger extensive modifications.	3	[out of time]	Discussion after the workshop: Reference to employment areas as primary function areas is not in the body of the regulations, but in the Preamble and Appendix D. Could this be changed through guidance and interpretation?
Local options: Allowing variations in design and implementation that are consistent with legislative intent based upon: System uniformity Functional accessibility Community consensus Funding tradeoffs/priorities	2	[out of time]	

Issues	Raised by Groups	Answer/Approach	Other Relevant Discussion
What defines a station on a light rail line, and how do we treat stops in the middle of the street?	4	[out of time]	Refer to FTA consideration of issue raised by SF Muni PCC car situation.
How do we implement signage requirements? Do all signs have to meet ADAAG? What substitute methods can be used?	4	Equivalent facilitation. Sharing of information on equivalent facilitation requests	
What is an adequate public process?	4	[out of time]	See B. Clymer "Dear Colleague" letter.
What if parties cannot agree on the designation of the responsible party for particular stations?	1	Notify FTA. Assistance with applying the statutory/regulatory allocation scheme could be provided.	

January 8, 1993 Draft

ADA COMPLEMENTARY PARATRANSIT PLAN 1993 UPDATE REVIEW WORKSHEET

Section 1. General Information (from tracking system)

Vencode:

Cost Center:

Name:

City:

State:

Zip:

Phone:

Fax:

Contact Person:

Sec 15 ID:

UZA Info:

Pop:

Update Received: / /

Plan Type:

Plan Number (Joint Only):

Is this an update of a plan:

___ in compliance without comment (COMPLETE SECTIONS 3-9 OF THIS WORKSHEET)

___ in compliance with comment (COMPLETE SECTIONS 2-9 OF THIS WORKSHEET)

Does this update contain an undue financial burden waiver request ___ YES ___ NO

IF YES, COMPLETE "SUPPLEMENT B" AND ATTACH IT TO THIS WORKSHEET

January 8, 1993 Draft

3.1 List below all milestones that were to be achieved prior to 1/26/93, indicate if they were achieved and, if not, note the revised timetable from the update for achieving each. Also indicate achievements not originally proposed that have been accomplished. Use supplemental pages as necessary.

Additional 1992 Accomplishments:

3

ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET

January 8, 1993 Draft

- 3.2 If all milestones have not been met, does the update contain an explanation for the slippage?

____ YES ____ NO ____ N/A

Briefly describe the major reasons given for this slippage: _____

- 3.3 Indicate below the status of compliance of this entity with the eligibility requirements and the six regulatory service criteria. Enter under the appropriate year an "A" if compliance has been achieved, "P" if compliance was originally proposed in that year, and an "R" if the originally proposed date of compliance has been revised.

Compliance Item	1992	1993	1994	1995	1996
Eligibility Process					
Service Area					
Response Time					
Fares					
Days and Hours					
Trip Purpose					
Capacity Constraints					

ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET

January 8, 1993 Draft

Section 4. Demand Estimate

Have the demand tables been completed as requested and does the update contain a revised estimate of demand?

Note: The October 14, 1992 update guidance letter requested 1992 actual information and estimates for 1993 - 1997 for the following items:

- Number of ADA Paratransit Trips/year
- Number of Total Paratransit Trips/year
- Number of ADA Paratransit Trips Denied
- Number of Paratransit Vehicles by Year

___ **Additional information/clarification is needed to complete this section.**

Date received: _____

___ **Information submitted is adequate for regulatory compliance [see §37.139(d)(1) and (j)].**

___ **Information submitted is adequate for regulatory compliance but the conditions listed below must be addressed by the next annual update.**

___ **Information submitted is not adequate for regulatory compliance. Revisions required are listed below.**

Conditions/Required Revisions: _____

Section 5. Budget

For "state plans", are the necessary anticipated financial and capital resources identified in the update accurately estimated according to state comments?

___ YES ___ NO ___ N/A

Have the budget tables been completed as requested and does the update contain actual paratransit costs for 1991 and revised budget information for 1992 - 1997?

Note: The October 14, 1992 update guidance letter requested the following budget information:

- | | |
|--|--------------------------------------|
| • ADA Paratransit Capital Expenses | • Total System Capital Expenses |
| • ADA Paratransit Operating Expenses | • Total System Operating Expenses |
| • Total Paratransit Capital Expenses | • Total System Revenue |
| • Total Paratransit Operating Expenses | • Estimated Budget Surplus/(Deficit) |

___ *Additional information/clarification is needed to complete this section.*

Date received: _____

___ *Information submitted is adequate for regulatory compliance [see §37.139(d)(6) and (j)].*

___ *Information submitted is adequate for regulatory compliance but the conditions listed below must be resolved by the next annual update.*

___ *Information submitted is not adequate for regulatory compliance. Revisions required are listed below.*

Conditions/Required Revisions: _____

ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET

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Section 6. Public Participation

Did the entity document adequate public participation in the development of the update?

Note: Information that should be included to satisfy §37.137 of the regulations includes:

- Evidence of outreach to identify those affected and invite their participation/comment.
- Evidence of consultation with persons with disabilities.
- Evidence of a public comment period.
- Availability of the update in accessible formats.
- Documentation that a public hearing was held; adequate notice was given, comments on the proposed implementation timetable were invited.
- Summary of significant issues raised in the public comment period, a response to each, and a discussion of how the issues were resolved.
- Evidence of an ongoing mechanism for participation by persons with disabilities.

_____ *Additional information/clarification is needed to complete this section.*

Date received: _____

_____ *Information submitted is adequate for regulatory compliance [see §37.137 and §37.139(j)].*

_____ *Information submitted is adequate for regulatory compliance but the conditions listed below must be addressed by the next annual update.*

_____ *Information submitted is not adequate for regulatory compliance. Revisions required are listed below.*

Conditions/Required Revisions: _____

Section 7. Other Issues

- 7.1 Are significant changes in fixed route service that affect compliance with the complementary paratransit requirements indicated in the update?

___ YES ___ NO

- 7.2 Are changes in the approach to providing complementary paratransit service indicated in the update?

___ YES ___ NO

- 7.3 Does the update contain new information about or changes to the originally proposed eligibility determination process?

___ YES ___ NO

Summary Information:

___ *Additional information/clarification is needed to complete this section.*

Date received: _____

___ *No significant changes or revisions to the plan have been made.*

___ *Significant changes and/or revisions are indicated. COMPLETE UPDATE REVIEW FORM "SUPPLEMENT A" AND ATTACH IT TO THIS WORKSHEET.*

ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET

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Section 8. Endorsements or Certifications

8.1 Has the updated been submitted by a person authorized to act on behalf of the entity?

Initial Review:

Final Review:

___ YES ___ NO

___ YES ___ NO

8.2 If applicable, has the entity submitted an MPO certification of compliance with joint planning requirements?

Initial Review:

Final Review:

___ YES ___ NO ___ N/A

___ YES ___ NO

Summary Information:

___ *Additional information/clarification is needed to complete this section.*

Date received: _____

___ *Information submitted is adequate for regulatory compliance [see §37.139(h) and (j)].*

___ *Information submitted is not adequate for regulatory compliance. Endorsements/certifications needed are listed below.*

Endorsements/Certifications Needed: _____

ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET

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Section 9. State Planning Considerations/Recommended FTA Action

If applicable, have state comments been provided?

____ YES ____ NO ____ N/A

If YES, do they indicate that the plan is reasonable? ____ YES ____ NO

If YES, do they indicate that the update is consistent
with statewide planning activities? ____ YES ____ NO

____ Additional information/clarification has been requested from the State.

Date received: _____

Recommended FTA Action:

____ *Update is adequate to meet regulatory requirements and should be found in compliance without conditions.*

____ *Update is adequate to meet regulatory requirements and should be found in compliance with conditions noted in the "Summary Information" sections above.*

____ *Update does not meet regulatory requirements and should be disapproved. Revisions required are noted in the "Summary Information" sections above.*

REVIEWERS:

(Signature)

(Date)

(Signature)

(Date)

(Signature)

(Date)

(Signature)

(Date)

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ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET SUPPLEMENT A

COMPLETE QUESTIONS A.1 THROUGH A.5 BELOW IF A "YES" IS INDICATED FOR EITHER QUESTIONS 7.1 OR 7.2 OF THE UPDATE REVIEW WORKSHEET (INDICATING THAT THERE HAVE BEEN SIGNIFICANT CHANGES TO THE FIXED ROUTE SYSTEM OR THE APPROACH TO PROVIDING COMPLEMENTARY PARATRANSIT SERVICE)

A.1 If changes in service have been made to the fixed route system, does the update contain an adequate description of the new:

		Initial Review			Final Review		
a.	Service area?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
b.	Route structure?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
c.	Days and hours of service?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
d.	Fare structure?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
e.	Fleet accessibility information?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A

A.2 If new paratransit services are being "included" to assist in providing complementary paratransit service, does the update contain an adequate description of these other paratransit services in each of the following areas:

		Initial Review			Final Review		
a.	Service area?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
b.	Response time?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
c.	Fares?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
d.	Trip purposes?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
e.	Hours and days of service?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
f.	Capacity constraints?	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A

UPDATE REVIEW WORKSHEET SUPPLEMENT A

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A.3 Has the entity provided an adequate description of how the proposed paratransit service will meet each of the six service criteria below given the changes noted?

		Initial Review			Final Review		
a.	Service area	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
b.	Response time	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
c.	Fares	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
d.	Trip purposes	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
e.	Hours and days of service	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A
f.	Capacity constraints	☐ YES	☐ NO	☐ N/A	☐ YES	☐ NO	☐ N/A

A.4 Has the entity provided an adequate description of the changes that will be made to the originally proposed complementary paratransit system to ensure compliance with the six service criteria?

Initial Review:

☐ YES ☐ NO ☐ N/A

Final Review:

☐ YES ☐ NO ☐ N/A

A.5 Is a revised timetable for implementation provided which incorporates these new changes and which contains measurable milestones and a date of full compliance ?

Initial Review:

☐ YES ☐ NO ☐ N/A

Final Review:

☐ YES ☐ NO ☐ N/A

COMPLETE QUESTIONS A.6 THROUGH A.12 BELOW IF A "YES" HAS BEEN INDICATED FOR QUESTION 7.3 OF THE PLAN UPDATE REVIEW WORKSHEET (INDICATING NEW INFORMATION ABOUT OR CHANGES TO THE ELIGIBILITY DETERMINATION PROCESS)

A.6 Has the entity described the availability of eligibility application materials and information in accessible formats?

Initial Review:

☐ YES ☐ NO

Final Review:

☐ YES ☐ NO

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- YES NO

- YES NO

- YES NO

- YES NO

- YES NO

- YES NO

 YES NO N/A

UPDATE REVIEW WORKSHEET SUPPLEMENT A

January 8, 1993 Draft

Summary Information:

___ ***Additional information/clarification is needed to complete this section.***

Date received: _____

___ ***Information submitted is adequate for regulatory compliance [see §37.139].***

___ ***Information submitted is adequate for regulatory compliance but the conditions listed below must be addressed by the next annual update.***

___ ***Information submitted is not adequate for regulatory compliance. Revisions required are listed below.***

Conditions/Required Revisions: _____

ATTACH THIS SUPPLEMENTAL FORM TO THE REVIEW WORKSHEET

January 8, 1993 Draft

**ADA COMPLEMENTARY PARATRANSIT PLAN UPDATE REVIEW WORKSHEET
SUPPLEMENT B**

THIS SUPPLEMENTAL FORM IS TO BE COMPLETED IF THE ADA PARATRANSIT PLAN UPDATE CONTAINS A REQUEST FOR AN UNDUE FINANCIAL BURDEN WAIVER. ONCE COMPLETED IT SHOULD BE ATTACHED TO THE UPDATE REVIEW WORKSHEET.

B.1 Does the undue financial burden waiver request include information that allows factors 1-6 and 10 in §37.155 to be considered. Indicate below, by checking all that apply, which factors are addressed in the request.

- ☐ the effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles;
- ☐ the average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered ADA paratransit eligible persons, on a per capita basis;
- ☐ reductions in other services, including other special services;
- ☐ increases in fares;
- ☐ the resources available to implement complementary paratransit service over the period covered by the plan;
- ☐ the percentage of budget needed to implement the plan, both as a percentage of operating budget and a percentage of entire budget;
- ☐ unique circumstances in the entity's area that affect the ability of the entity to provide paratransit, that contradict the need to provide paratransit, or in some other respect create a circumstance considered exceptional by the entity.

B.2 Does information in the original plan and/or the update indicate that factors 7-9 in §37.155 should be considered in the review of the undue financial burden waiver request (check all that apply)?

- ☐ the current level of accessible service, both fixed route and paratransit;
- ☐ cooperation/coordination among area transportation providers;
- ☐ evidence of increased efficiencies, that have been or could be realized, that would benefit the level and quality of available resources for complementary paratransit service;

UPDATE REVIEW WORKSHEET SUPPLEMENT B

January 8, 1993 Draft

Explain: _____

B.3 As required in §37.155(b) of the regulations, is the calculation of the undue financial burden based only on an actual record of or statistically valid estimate of those trips that are ADA eligible?

_____ YES _____ NO

B.4 Are budget expenses limited to only those costs attributable to the provision of ADA-required paratransit service and only those funds spent or to be spent by the entity or entities responsible for providing ADA paratransit service?

_____ YES _____ NO

B.5 Does the undue financial burden waiver request contain a description of the additional paratransit service that will be provided to achieve full compliance with the requirement for complementary paratransit in the event the waiver is not granted?

_____ YES _____ NO

Is a timetable for implementing these additional services included?

_____ YES _____ NO

B.6 As required by §37.137(b)(5) of the regulations, were comments on the waiver request requested as part of the public hearing?

_____ YES _____ NO

UPDATE REVIEW WORKSHEET SUPPLEMENT B

January 8, 1993 Draft

Summary Information:

- ___ *The undue financial burden waiver request appears to contain adequate information for consideration.*
- ___ *The undue financial burden waiver request does not contain all required information necessary for consideration. The additional information/clarifications listed below have been requested.*

Date received: _____

ATTACH THIS SUPPLEMENTAL FORM TO THE UPDATE REVIEW WORKSHEET

VOLUNTARY COMPLIANCE AGREEMENT BETWEEN

**THE FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION**

AND

THE BAY AREA RAPID TRANSIT DISTRICT

This matter was initiated by a finding of reasonable cause to believe there is a failure to comply with Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12131 - 12134, by the Federal Transit Administration (FTA), Department of Transportation (DOT), Office of Civil Rights (TCR), against the Bay Area Rapid Transit District (BART). The finding alleges that the BART has failed to meet the following requirements of the DOT's ADA implementing regulations:

Entities providing public transportation by means of light, rapid, or commuter rail must make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs (49 CFR 37.47 and 37.51). Unless the entity receives a time extension granted by the FTA, the public entity must achieve accessibility of key stations as soon as practicable, but in no case later than July 26, 1993 (49 CFR 37.47(c) and 37.51(c)).

The FTA is authorized under 49 CFR Part 27 to investigate fully allegations of noncompliance to determine, if there is reasonable cause to believe there is a failure to comply with Title II of the ADA and the DOT's implementing regulation, issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the FTA has the following options: referring the matter to the Attorney General, who is authorized under 42 U.S.C. Section 12133 to bring a civil action enforcing Title II of the ADA; investigating any state or local legal proceeding that may apply in this situation; or referring the matter to the Secretary of DOT for a formal hearing to terminate FTA funding under 49 CFR 27.125-27.127.

In consideration of the terms of this Agreement and the Compliance Plan to be approved consistent with this Agreement as set forth below, the Administrator agrees to refrain from undertaking further investigation, referring the matter to the DOT Secretary's Office for formal hearing, or from referring the matter to DOJ for follow-up as a possible civil suit in this matter.

The parties to this agreement are the U.S. DOT FTA, and the BART. To avoid the burdens and expenses of a possible hearing on the record, or possible litigation, the parties hereby agree as follows:

- A. The ADA applies to the BART because it is a public entity as defined in 42 U.S.C. Section 12131.
- B. The BART is a recipient of funds made available under the Federal Transit Act, as amended (49 U.S.C. app. 1601 et seq.)
- C. The FTA has denied the BART time extensions to bring nineteen (19) key stations into compliance. The FTA has determined that reasonable cause exists to believe that the BART is in noncompliance with the key station provisions of the ADA.
- D. Title II of the ADA prohibits discrimination against qualified individuals with disabilities on the basis of disability, in the services, programs, or activities of a public entity such as the BART.
- E. Title II of the ADA mandates compliance with DOT implementing regulations, including the provisions on key station accessibility (49 CFR 37.47, 37.51 and Appendix A to Part 37).
- F. The BART agrees to comply with the Compliance Plan, incorporated by reference in this Agreement, including a timetable to correct the deficiencies. The FTA agrees that the plan, when completed, will correct the stated deficiencies. The plan includes the following elements:
 - 1. Identification of the name, job title, and telephone number of the person responsible for monitoring the BART's implementation of its compliance plan.
 - 2. Specific actions or steps the BART will take to come into compliance.
 - (a) Actions are specific and measurable.
 - (b) The time period within which the BART will come into compliance is clearly specified.
 - 3. Demonstration of good faith efforts to comply in the least amount of time practicable, based on the BART's circumstances and including efforts to mitigate non-complying situations.

4. Signature of the official representative of the BART, who has the authority to bind the BART.
- G. Breach of this Agreement is cause for the FTA to begin formal non-compliance proceedings.
- H. If at any time the BART desires to modify any portion of this Agreement, including the Compliance Plan, because of changed conditions making performance impossible or impractical or for any other reason, it shall promptly notify the FTA in writing, setting forth the facts and circumstances thought to justify modification and the substance of the proposed modification. Failure to do so is noncompliance with the Agreement. Until there is written agreement by the FTA to the proposed modification, the proposed modification shall not take effect.
- I. Within 30 days following the completion of the steps set out in the Compliance Plan, incorporated by reference in this Agreement, the BART will submit a final report to the FTA.
- J. The FTA will continue to monitor the BART for a minimum of two years to ensure continued compliance with this Agreement and the Compliance Plan developed under this Agreement. In addition, the FTA may initiate a compliance review at any time. If it determines that this Agreement or the Compliance Plan or any requirement thereof has been violated, it may immediately refer the action to the Secretary's Office for hearing or to the Department of Justice or State court to institute a civil action.
- K. Failure by the FTA to enforce this entire Agreement, the Compliance Plan, or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of the FTA's right to enforce other deadlines and provisions of this Agreement or the Compliance Plan.
- L. This document is a public agreement. A copy of this document or any information contained in it may be made available to any person by the BART or the FTA on request.
- M. The effective date of this Agreement is the date of the last signature below.

This Agreement does not purport to remedy any other potential violations of the ADA or any other Federal law. This Agreement does not affect the BART's continuing responsibility to comply with all aspects of the ADA.

For the Bay Area Rapid
Transit District:

Richard A. White
Richard A. White
General Manager

Date: JULY 21, 1994

For the Federal Transit
Administration:

Susan E. Schruth
Susan E. Schruth
Acting Director
Office of Civil Rights

Date: July 26, 1994

Approved as to form:

S.G. Wakeman
S.G. Wakeman
General Counsel

Date: July 19, 1994

THE BAY AREA RAPID TRANSIT DISTRICT

ADA COMPLIANCE PLAN

This Compliance Plan, incorporated by reference in the Voluntary Compliance Agreement between the FTA and the BART, describes the BART's plan to bring 19 key stations into compliance with the requirements of the Americans with Disabilities Act of 1990 (ADA) (49 CFR Part 37, including Appendix A). Described below are the actions necessary to achieve key station compliance and the timeframe for doing so. The BART represents that once these steps have been accomplished, the BART will be in full compliance with the ADA (49 CFR Part 37, including Appendix A).

Ike Nnaji, ADA Compliance Officer, the BART Planning Department, is responsible for monitoring the BART's implementation of the terms of the Compliance Plan. He can be reached at (510) 464-6173.

The 19 key stations are: 19th Street; Coliseum; Lake Merritt; McArthur in Oakland; Embarcadero; Montgomery; Powell; Civic Center; 24th/Mission; Balboa Park in San Francisco; Bayfair; Berkeley; Concord; Daly City; El Cerrito Del Norte in El Cerrito; Richmond; Fremont; Walnut Creek; and Hayward.

The actions that will be taken at each station, and the timeframe for doing so, are as follows (numbers in parentheses refer to section of 49 CFR Appendix A, specifying accessibility feature):

19th Street:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.
4. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Coliseum:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Lake Merritt:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by July 31, 1994.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.
4. Route Signs (10.3.1(6)) by July 31, 1994.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

McArthur in Oakland:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.

6. Accessible Route (10.3.2(1)) by July 31, 1995.

7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Embarcadero:

1. Text Telephones (10.3.1(12)) by July 31, 1994.

2. Entrance Signs (10.3.1(4)) by April 30, 1995.

3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.

4. Route Signs (10.3.1(6)) by April 30, 1995.

5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.

6. Accessible Route (10.3.2(1)) by July 31, 1995.

7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Montgomery:

1. Text Telephones (10.3.1(12)) by July 31, 1994.

2. Entrance Signs (10.3.1(4)) by April 30, 1995.

3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.

4. Route Signs (10.3.1(6)) by April 30, 1995.

5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.

6. Accessible Route (10.3.2(1)) by July 31, 1995.

7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Powell:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by July 31, 1994.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.
4. Route Signs (10.3.1(6)) by July 31, 1994.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Civic Center:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.
4. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

24th/Mission:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.

4. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Balboa Park in San Francisco:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.
4. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Bayfair:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by July 31, 1994.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Berkeley:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Station and Platform Signs (10.3.1(5)) by August 31, 1994.
4. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Concord:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Daly City:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.

5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

El Cerrito Del Norte in El Cerrito:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by July 31, 1994.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Richmond:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Fremont:

1. Text Telephones (10.3.1(12)) by July 31, 1994.

2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Walnut Creek:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by April 30, 1995.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Hayward:

1. Text Telephones (10.3.1(12)) by July 31, 1994.
2. Entrance Signs (10.3.1(4)) by April 30, 1995.
3. Route Signs (10.3.1(6)) by July 31, 1994.
5. Automatic Fare Vending Machine (10.3.1(7)) by July 31, 1998.
6. Accessible Route (10.3.2(1)) by July 31, 1995.
7. Fare Collection (10.3.2(3)) by July 31, 1998.

The BART also represents that all other elements needed to bring this station into compliance have been completed and meet 49 CFR Part 37, including Appendix A.

Dorothy W. Dwyer - Deputy GM
Richard A. White
General Manager

Date: July 21, 1994

Approved as to form:

S. G. Wakeman
S. G. Wakeman
General Counsel

Date: July 19, 1994

**FEDERAL TRANSIT ADMINISTRATION
OFFICE OF CIVIL RIGHTS**

Informal Compliance Process

AMERICANS WITH DISABILITIES ACT OF 1990

Complementary Paratransit Service

Key Station Accessibility

July 1, 1993

This handout explains the methodology the Federal Transit Administration (FTA) will use to ensure compliance with the Americans With Disabilities Act of 1990 (ADA) requirements relating to complementary paratransit and key station accessibility.

The process is triggered when the FTA determines that it has reasonable cause to believe the grantee is probably not in compliance with a paratransit or key station provision of the ADA.

The process outlined is part of a more general effort by the FTA to ensure compliance with various civil rights program responsibilities through informal means.

Should efforts to reach voluntary compliance fail, the FTA will decide what action to take next, based on options available to it under the ADA regulations.

I. BACKGROUND

The ADA and DOT implementing regulations (49 CFR Parts 27, 37, and 38) impose significant requirements on providers of transportation service, and these requirements vary, depending on the legal status of the entity, the size of the entity, and the type of service the entity provides. Requirements can be broken down roughly into three types: vehicles, facilities, and services.

The specific provisions under discussion for this paper concern the public entity's responsibilities for providing paratransit service which is complementary to its fixed route service and the requirements to have key stations accessible by July 26, 1993.

Part 27 of the DOT regulations contain the enforcement provisions of the ADA and apply only to recipients of federal funds. This paper is thus limited to applicants or recipients of FTA funds. The same or similar procedures may apply to other recipients of DOT funds.

II. COMPLIANCE PROVISIONS OF 49 CFR PART 27, Subpart C

Part 27 describes FTA's responsibilities in ensuring compliance with section 504 of the Rehabilitation Act of 1973 (the still-applicable ADA predecessor) and the ADA. If the agency has reason to believe there is a problem, it needs to investigate the situation. For purposes of this paper, this step has been completed in most cases through the agency working with the grantee in one of the two program areas under discussion.

Part 27, Subpart C also requires that the agency, once it has reason to believe that there is probable noncompliance, to attempt to secure compliance through informal means, which is the process described in detail in Part III of this paper, below.

If informal means are unsuccessful, under Part 27 the agency has the following next steps available to it:

- (1) Referral to the Department of Justice, with the recommendation that DOJ bring appropriate proceedings;
- (2) Investigation of any state or local legal proceeding that may apply in the situation; or
- (3) Recommendation of suspension or termination of, or refusal to grant or to continue Federal financial assistance to the recipient. This recommendation is made to the Secretary's Office of Civil Rights and the regulation calls for the opportunity of a hearing before an administrative law judge before the Department takes action.

III. OUTLINE OF INFORMAL COMPLIANCE PROCESS

Step 1: The Office of Grants Management forwards to the Office of Civil Rights a memorandum, dealing with a particular grantee and a particular fact situation related to paratransit plans or key stations.

Step 2: The Office of Civil Rights reviews the recommendation by TGM. If there is reasonable cause to believe that there is probable non-compliance, TCR will initiate action to bring the grantee into compliance.

Step 3: The FTA will assign staff drawn from the Office of Civil Rights, the Regional Office and the Office of Chief Counsel to negotiate with the grantee and monitor the case pending final resolution.

Step 4: The Director of Civil Rights sends a letter to the recipient, indicating that the agency has reasonable cause to believe there is a failure to comply with the ADA. The letter will describe generally the process involved in this phase of compliance and the options available to the recipient in response to the letter. (See Attachment I.) The letter also will lay out the specific provision of the ADA for which FTA has determined the grantee to be in probable non-compliance with, and possible consequences for, the grantee if informal compliance efforts fail. The letter will also indicate the FTA contact for the process.

Step 5: The grantee responds to letter and negotiates with FTA. The grantee must respond to initial letter within 30 days, with effort demonstrated to comply, with a letter of intent, plan, or whatever option is chosen in the letter.

Step 6: FTA reviews grantee submission and makes recommendations within 30 calendar days from the date of receipt of the grantee response to TCR on how to proceed. TCR-1 will prepare a decision notice addressed to the grantee within 45 days of original receipt wherever possible.

Step 7: In cases where the grantee is negotiating a voluntary compliance agreement, FTA will agree to sign, once it determines its responsibilities under the ADA and the requirements of the ADA have been met.

Step 8: If applicable, the grantee submits quarterly progress reports on its compliance efforts. If for any reason the recipient cannot comply, it must provide adequate notice to the agency within the timeframe of the agreement.

Step 9: Once the compliance plan has been implemented, the Director of Civil Rights sends letter to grantee, indicating that

the terms of the agreement have been met and officially closing the case.

Step 10: Assigned staff will continue to monitor the grantee for a minimum of two years to ensure continued compliance.

Attachments

ATTACHMENT I

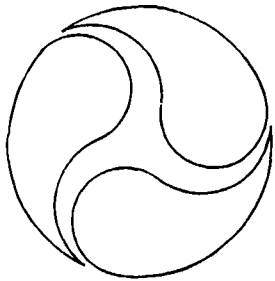
Options available to a grantee, once it receives a letter from the FTA that the agency has reasonable cause to believe there is probable noncompliance with a provision or provisions of the ADA:

- (1) The grantee may object to agency's finding and demonstrate how the recipient is in compliance with specified provision of the ADA. (This would obviate the need to proceed with the process.)
- (2) May acknowledge noncompliance condition and demonstrate good faith and commitment to be in full compliance within 30-days. (If to the satisfaction of the agency, this would obviate the need to proceed further with the process.)
- (3) May negotiate a voluntary compliance agreement with the agency within 30-days, which would state a plan for grantee coming into compliance. (See Attachment II)
- (4) May not respond to letter. (Agency will proceed with enforcement action after 30-days if we have not heard from grantee.)

ATTACHMENT II

Elements of a Voluntary Compliance Agreement

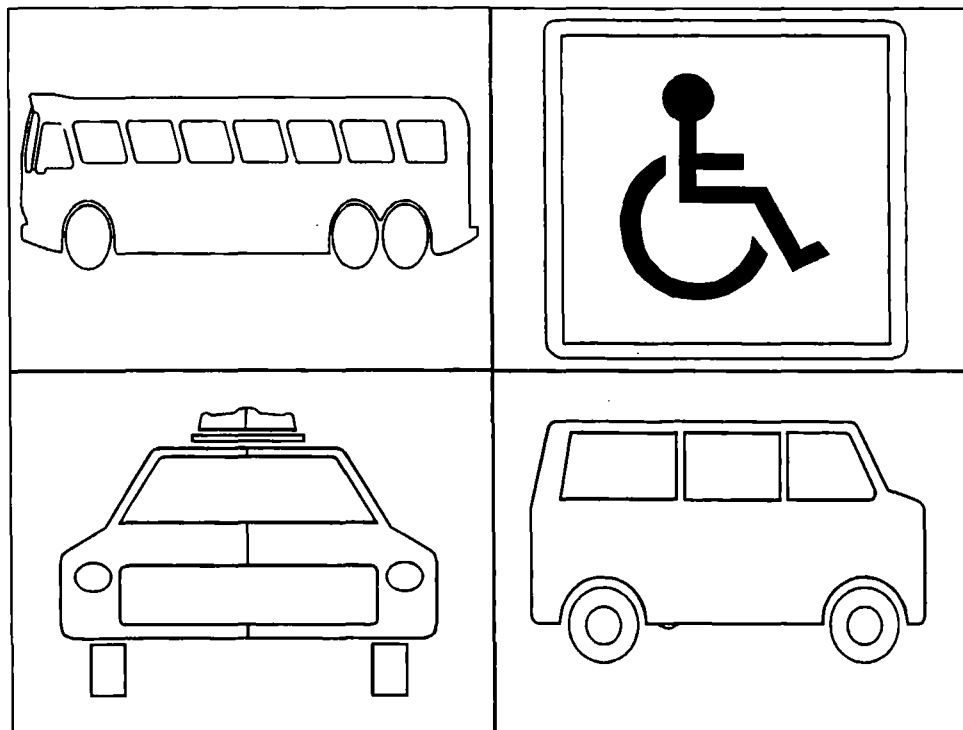
1. Identification of the entity and the FTA.
2. Applicability of the ADA to the entity.
3. Non-complying situation being addressed.
4. The name and job title of the person responsible for monitoring the entity's implementation of its compliance plan.
5. Identification of a plan to come into compliance, including specific actions the entity will take to come into compliance.
 - (a) Actions must be specific and measurable.
 - (b) The time period within which entity will come into compliance must be clearly specified.
 - (c) Demonstration of good faith efforts to comply in the least amount of time practicable, based on grantee's circumstances and including efforts to mitigate noncomplying situation.
 - (d) Signature of the official representative of the entity, who has authority to bind the entity.
6. Affirmation that the entity will submit to FTA quarterly reports, beginning 90 days after the date of the letter approving the compliance plan.
7. Acknowledgement that breach of agreement is cause for the agency to begin formal non-compliance proceedings.
8. Statement that, if necessary, the entity will notify the agency as soon as compliance is determined to be in possible jeopardy, with enough notice to the agency to allow for possible renegotiation of the terms.
9. Signature of the official representative of the entity, who has the authority to bind the entity.



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**Federal
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Administration**

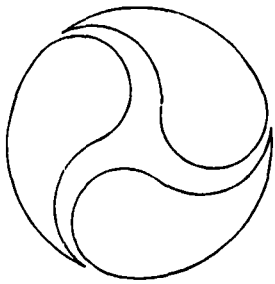
ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE



February 1992

Prepared by: Lawrence J. Harman
Russell H. Thatcher
EG&G Dynatrend Inc.

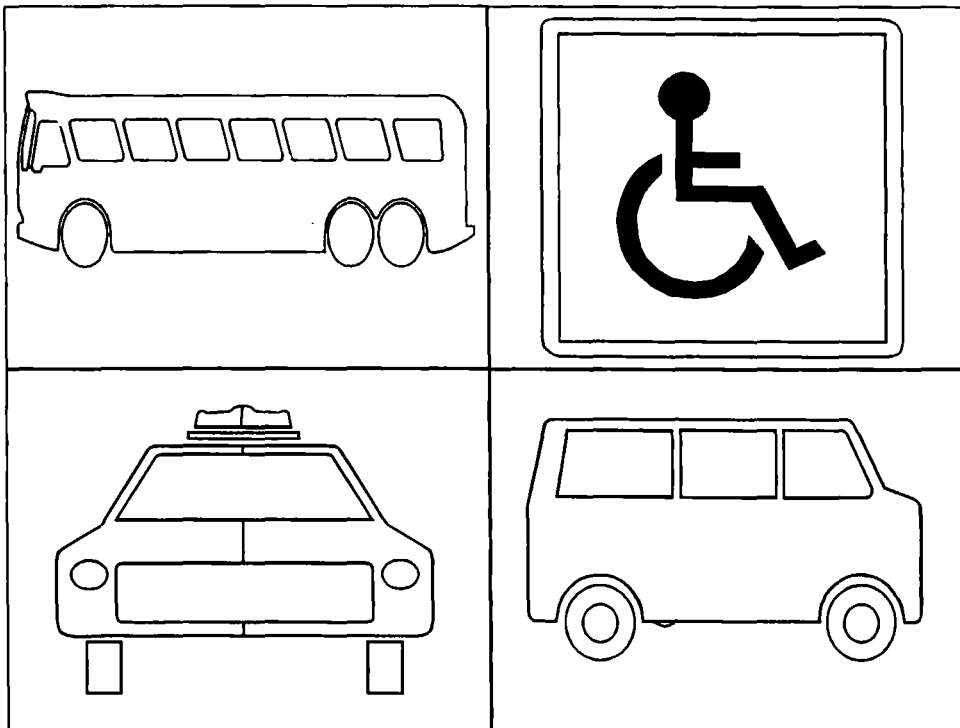
Prepared for: Volpe National Transportation Systems Center



U.S. Department
of Transportation

Federal
Transit
Administration

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE



February 1992

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ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

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ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

PART I. INTRODUCTION

The Americans with Disabilities Act of 1990 (the ADA) provides a comprehensive framework for ending discrimination against persons with disabilities. The goals of the ADA are to assure that persons with disabilities have equality of opportunity, a chance to fully participate in society, are able to live independently, and can be economically self-sufficient. (For a full discussion of the ADA law see Chapter 1 of the *ADA Paratransit Handbook* [UMTA-MA-06-0206-91-1.] While the focus of the ADA law is primarily access to fixed route services, it also recognizes that some persons with disabilities are not able to use fixed route services, even if these services are accessible.

Section 223 of the ADA requires "complementary paratransit service" for those persons whose needs cannot be met by these fixed route services. Accordingly, the U.S. Department of Transportation and the Federal Transit Administration (FTA) issued regulations which provide that a paratransit plan must be prepared by those public entities which provide fixed route services covered by the regulation.



The ADA regulations relating to transportation services (Title 49, Code of Federal Regulations, Part 37) and accessibility specifications for transportation vehicles (49 CFR Part 38), as published in the *Federal Register* on September 6, 1991, are found in their entirety in Appendix A of the *ADA Paratransit Handbook*.

The purpose of this document is to assist the regional offices of FTA as they review the complementary paratransit plans submitted by public entities throughout the United States. This *ADA Paratransit Review Guide* is a complementary document to the *ADA Paratransit Handbook* (UMTA-MA-06-0206-91-1). The *Handbook* contains a full discussion of the approaches and issues involved in implementing the complementary paratransit service requirements of the Act, as well as a full set of appendices. The user of the *Review Guide* should be thoroughly familiar with the regulation and the *Handbook* before attempting to use the *Review Guide* in an actual plan review. References to the *Handbook* will be made throughout the *Review Guide*.

The initial ADA Complementary Paratransit Plan review process will be conducted at the FTA Regional Offices. At the outset, an initial screening of plans will take place because some entities may have submitted plans even though they were not required to do so, or they may have sent them to the wrong place (e.g. the states instead of to FTA). They may also be sorted into groups requiring different levels of compliance review. It is the objective of the *Review Guide* to provide a step-by-step approach to this review process.

Part II of this *Review Guide* follows the general format of the requirements for complementary paratransit plans stated in the Regulations (Sec. 37.139 Plan Contents). Each section is considered a "review item" similar to the review item in FTA's triennial review process. The sections of the plan (below) correspond to the numbers on the tabs to the right of the *Review Guide*.

- Section 1. General Information**
- Section 2. Description of Fixed Route System**
- Section 3. Description of Existing Paratransit Services**
- Section 4. Description of Proposed Complementary Paratransit Services**
- Section 5. Description of Eligibility Determination Process**
- Section 6. Description of Public Participation Process**
- Section 7. Efforts to Coordinate with Other Public Entities**
- Section 8. Endorsements and Certifications**
- Section 9. Overall Plan Consistency**

The "basic requirement" of the regulations is stated for each review item. Criteria indicating compliance or non-compliance are then presented. "Reviewer notes" provide additional sources of information or guidance on the issues raised in each section.

A separate *Review Worksheet* is to be completed for each paratransit plan that is reviewed. At the end of each section of this *Review Guide*, a copy of the portion of the worksheet that applies to that section is provided. The *Worksheet* completed for each plan will be the official FTA record of the review of the plan.

The numbering used on the *Worksheet* is organized to correspond to the sections and subsections of the *Review Guide*. Each section of the *Worksheet* asks a series of questions to determine if the plan includes each of the specific elements required and adequately responds to each of the regulatory criteria. Space is then provided at the end of each section for a determination of responsiveness and for a summary of findings related to that section. The section can be found to be "consistent with the regulatory requirements". Or, it may be determined that additional information is needed to make a determination of responsiveness. Finally, space is available for additional comments and findings.

Part III of this *Review Guide* provides guidance on reviewing requests for undue financial burden waivers. The factors that are to be considered are listed and the type of information that is likely to be included in a request is discussed. A separate worksheet will be used to review waiver requests.

The icons which are used in the document, in order of appearance, are explained below.



This icon indicates a reference to information or discussion that is found in the *ADA Paratransit Handbook*, published by the Federal Transit Administration in September 1991 (reference UMTA-MA-06-0206-91-1).



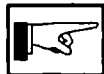
This icon indicates the basic requirement of the regulations for each section of the plan. The citation from the ADA regulations will be stated as well as a statement of the objective of this section of the plan. The objective will be in printed in bold italics.



This icon indicates the section containing criteria for compliance derived from the ADA regulations. These criteria form the legal basis for the plan review and are numbered identically in the *ADA Paratransit Plan Review Worksheet*.



This icon indicates the section for reviewer notes. It provides the reviewer with approaches to the plan review process, helpful insights, and technical guidance.



This icon directs the reader to go to another section of the *Review Guide* or another section of the ADA complementary paratransit plan under review.

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

PART II. PLAN REVIEW

REVIEW ITEM: *Section 1. General Information*



BASIC REQUIREMENT

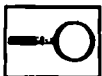
The entity or entities submitting the plan must provide specific identification and contact information. (Sec. 37.139(a)) *The objective is to initiate the plan review process and establish communication mechanisms during the review and implementation process.* A critical FTA management step at this point, if it has not already been accomplished, is to screen out the plans that were submitted but not required and to track plans which have specific compliance requirements.



CRITERIA FOR COMPLIANCE

Each plan must include the following general information:

- 1.1 Name of entity or entities.
- 1.2 Address
- 1.3 Name of Contact Person
- 1.4 Telephone number
- 1.5 Fax number, if available.



REVIEWER NOTES

The critical judgments involved in the compliance review for the general information section relate to 1) the nature of the entity

or entities and their relationship to private contractors, if any, and 2) the eligibility for joint planning process.

- **The nature of the submitting entity.**

The ADA treats public entities differently than private entities. If a public body is providing fixed route public transportation, it is required to provide ADA complementary paratransit service and, therefore, to submit a plan. If it is a public entity operating only demand responsive service, or if it is a private body, it does not have a complementary paratransit service obligation and should not be submitting a plan.

A public entity is a State or local government, any department, agency, special purpose district, or any other instrumentality of a State or States or local government, the National Railroad Passenger Corporation (AMTRAK), or any commuter authority under the Rail Passenger Services Act.



For a discussion of key definitions on this point, particularly "public entity" and "designated public transportation" see the *ADA Paratransit Handbook*, pages 1-6 and 1-7.

If the public entity contracts with a private entity to operate the fixed route service, the public entity still has to file an ADA complementary paratransit plan, as the private entity "stands in the shoes" of the public body. On the other hand, if the public body simply passes a public subsidy through to a private entity providing public transportation, then a complementary paratransit service obligation generally does not exist.

This would screen out many public transportation regulatory agencies, and public financing agencies passing through capital and operating subsidies to essentially private transportation providers. It includes public transit authorities who do not operate themselves, but contract with private companies for transit operations (e.g. Massachusetts' regional transit authority (RTA) enabling legislation prohibits RTA operations but they are the public entity providing designated public transportation for ADA purposes).



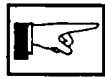
For further discussion on direct and contracted operation see *ADA Paratransit Handbook*, page 2-2.

- **Plans requiring state review.**

If the public entity submitting the plan is a Section 18 grantee or a small Section 9 grantee that is managed by the state, they must submit their plan to the appropriate state agency by January 26, 1992. **Each state will then provide comments to FTA along with the plan by April 1, 1992.** At that time, each plan will follow the same review process.

- **The "joint planning" option.**

Public entities responsible for filing an individual plan may file a joint plan if their service areas **overlap** or are **contiguous** to each other. If two or more entities elect this option, the regulations do not require that a complete plan be submitted until July 26, 1992. If the plan is not completed on January 26, 1992, each entity must provide: (1) a general statement declaring its intention to provide coordinated service along with as many elements of the plan as possible; (2) a certification that the entity is committed to providing ADA paratransit service as part of a coordinated plan; and, (3) a **certification that it will maintain current levels of paratransit service during the plan preparation period.**



If a partially completed joint plan is being reviewed, verify that the entities have contiguous or overlapping service areas and that the required statement and certifications have been received. Suspend the review process until a completed plan is received.



IF AN INDIVIDUAL PLAN OR COMPLETE JOINT PLAN IS BEING REVIEWED, GO ON TO REVIEW SECTION 2, ON PAGE 8.

APPLICABLE SECTION OF WORKSHEET:

Section 1. General Information

1.1 Name of entity or entities:

1.2 Address:

1.3 Name of contact person:

1.4 Telephone number:

1.5 Fax number, if available:

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 2. Description of Existing Fixed Route Service*



BASIC REQUIREMENT

The entity must provide specific information about the existing fixed route system as of January 26, 1992 (and subsequent years as annual updates to the plan). **The objective of this section is to establish the basis for comparison with the proposed complementary paratransit service.**



CRITERIA FOR COMPLIANCE

The plan, as a minimum, **must** contain (Section 37.139(b)):

- 2.1 A description of the service area, route structure, days and hours of service, fare structure, and population served.
- 2.2 The total number of vehicles (bus, van, rail) operated in fixed route service (including contract service) and the percentage of accessible vehicles and percentage of routes accessible to and useable by persons with disabilities.
- 2.3 Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.



REVIEWER NOTES

- **Identification of applicable fixed route services.**

The identification of the fixed route services that are the basis for developing the ADA complementary paratransit service is an important step in the review process. First, it is important to note that *for ADA purposes there are only two types of service: fixed route* (generally operating along a fixed route with a fixed schedule for the general public on a regular and continuing basis) and *demand-responsive* (everything that is not fixed

route). In addition to the traditional "dial-a-ride" service, route deviation services and vanpool programs may be considered demand-responsive. Complementary paratransit service is only required if the submitting public entity operates fixed route service. Commuter rail and bus service is exempt from the ADA complementary paratransit provisions.



The regulations define commuter bus service as being predominantly in one direction during peak periods, having limited stops, using multi-ride tickets, and having routes of extended length, usually between a central business district (or other employment center) and outlying suburbs. Systems with limited route structures, limited stops, and a coordinated relationship to another mode of transportation also are defined as commuter bus services. (*ADA Paratransit Handbook*, p. 2-1)

Examples of commuter bus service which may not be associated with the traditional definition are:

- fixed route bus service operated by public airports
- fixed route service operated by public universities
- supplemental bus service to intercity rail service
- dedicated bus service serving commuter rail systems

- **"Commuter bus" versus peak hour commuter service.**

Some plans may attempt to treat peak hour general public fixed route services as commuter bus services and, thereby, limit the hours during which complementary paratransit service is required. Most general public fixed route services in the United States have prominent peak hours of service to accommodate the work trip. The regulations did not intend to allow routes to be "split" and to designate peak hours on these routes as "commuter bus" service. To be considered commuter bus service, other differences would have to exist. In keeping with the definition, the service would have to have limited stops, a limited route structure, or otherwise be distinguishable from the off-peak service.

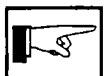
- **Adequacy of the information.**

Although not required by the regulations, the following questions are helpful when reviewing baseline fixed route information:

- Are the route locations and route identifiers clearly indicated on a map drawn to scale (as a means to identify ADA complementary paratransit corridors)?
- Are commuter routes, and other services NOT subject to complementary paratransit requirements clearly indicated?
- Is the latest total population of the service area indicated? In most cases, 1990 Census information should be available. If older information is used, an effort should be made to project the current population. In no case should data older than the 1980 Census be used.
- Does the information on days and hours of service present information on headways and day of the week characteristics of service in the schedule?
- Is the fare structure described in enough detail (*e.g.* base fare, zone fares)? [Note: if ADA paratransit fares noted in Section 4 are greater than twice the base fares, are premium fares and other variations identified?]
- If the fixed route system is a combination of rail and bus service, is there adequate information about the accessibility of both types of services (including the accessibility of stations as well as vehicles). Bus services in these instances often feed into rail stations.

- **Relationship between fixed route access and paratransit demand.**

It is also important in the review of this section to determine how accessible the fixed route service is at present and to note any significant improvements in accessibility during the five year complementary paratransit service implementation period. The accessibility of the fixed route system will affect paratransit demand and eligibility determination. The sections of the plan which estimate demand and describe the eligibility criteria should be consistent with the description of existing fixed route services. It should be noted that an accessible vehicle is one that meets Part 38 specifications.



GO ON TO REVIEW SECTION 3, ON PAGE 13.

APPLICABLE SECTION OF WORKSHEET:

Section 2. Description of Existing Fixed Route Service

2.1 Is there an adequate description of:

Service area? ☐ YES ☐ NO

Route structure? ☐ YES ☐ NO

Days and hours of service? ☐ YES ☐ NO

Fare structure? ☐ YES ☐ NO

Population served? ☐ YES ☐ NO

2.2 Does the plan describe the total number of vehicles in fixed route service; the percentage of accessible vehicles; and the percentage of routes accessible to and useable by persons with disabilities?

☐ YES ☐ NO

2.3 Does the plan include any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service?

☐ YES ☐ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

☐ YES ☐ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 3. Existing Paratransit Services*



BASIC REQUIREMENT

Section 37.139(c) of the regulations requires the submitting entity to provide a description of paratransit services which they currently operate. This includes paratransit services operated directly as well as services provided under contract to the public entity. A description of paratransit services provided by other entities also must be provided if these services are to be used, in whole or in part, to meet the complementary paratransit service requirements (these are referred to below as "included" services).

In addition, Section 37.137(a) of the regulations requires the submitting entity to conduct a survey of providers of paratransit or other special transportation for ADA paratransit eligible individuals within the service area.

The objective of this section is to set the baseline for further analysis of the adequacy of the paratransit system to fulfill ADA complementary paratransit service requirements and to identify opportunities for coordination with other paratransit or special transportation providers in the area.

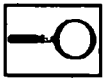


CRITERIA FOR COMPLIANCE

3.1 Each plan must include a description of presently operated services and "included" services. This description must provide information related to each of the six service criteria (Section 37.131) listed below:

- (a) service area;
- (b) response time;
- (c) fares;
- (d) restrictions on trip purpose;
- (e) hours and days of service;
- (f) capacity constraints.

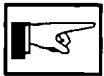
- 3.2 The eligibility requirements of presently operated and "included" services also must be described. This description must indicate how the eligibility requirements of these services compare to ADA paratransit eligibility requirements.
- 3.3 In preparing the plan, the submitting entity must survey the area to be covered by the plan to identify any person or entity (public or private) which provides a paratransit or other special transportation service for ADA paratransit eligible individuals.



REVIEWER NOTES

- **Identifying "included" services.**

The reviewer should make sure that all paratransit services that will be part of the proposed complementary paratransit service are described. One way to do this is to:



GO TO the section of the plan that describes the proposed complementary paratransit service. Identify the existing services that are being used to meet the complementary paratransit service requirements. Any services that are part of the proposed complementary paratransit program must be described in detail.

An example of an "included" service would be a paratransit program that is not under contract to the submitting entity but is being relied upon to meet certain requirements such as evening or weekend hours or service in a particular area.

- **Adequacy of the information.**

Information provided on services operated by the submitting entity or "included" in the plan should be sufficient to allow the reviewer to compare existing paratransit efforts to the existing fixed route system and to determine if regulatory requirements are now being met. For each of the six service criteria, ask the following questions:

Service Area. What is the service area of each operated or "included" paratransit program? Is information about the service area presented in a way that allows comparison to the fixed route service area given in Section 2?

Response Time. Is the procedure for requesting and scheduling a trip described? Does it indicate how much advance notice is required? How far in advance can trip requests be placed? Is there a "window" of time before and after the requested pick-up time

within which trips are scheduled?

Fares. Is there adequate information on fare structure: by client classification, geographic area/zone, and program/trip purposes?

Trip Purposes. Is there adequate information on limitations of service according to trip purposes? For example, are there existing scheduling priorities for medical trips, nutrition trips (to congregate meal sites), work trips (e.g. to sheltered workshops)?

Hours and Days of Service. Is there sufficient baseline information on the available hours and days of service to make a comparison between fixed route and paratransit services (e.g. 7 am to 7 pm weekdays, no weekend service)?

Capacity Constraints. Is there adequate information to determine if the paratransit service is limited by its operational capacity? Evidence of capacity constraints are as follows: waiting lists, number of trips denied, trip request "caps" by person or trip, distribution caps on subsidy vouchers, number of missed trips, number of late trips, number of excessively long trips (compared to the fixed route system). Has the submitting entity established standards to define what constitutes a late trip or an excessively long trip?

The reviewer should also pay particular attention to the description of capacity constraints. If there are no (or few) capacity constraints claimed, the reviewer should consider the following:

- a. the present number of trips per eligible individual or, if unavailable, the number of trips per the total population.
- b. the amount of other paratransit service in the area.

If few other paratransit services exist, and less than 2,000 one-way passenger trips per 50,000 total population are presently being provided, a claim of few capacity constraints should be questioned. Paratransit demand may be unintentionally suppressed as a result of limited marketing, restrictive eligibility procedures, or other such aspects of the service.



For a discussion of paratransit demand, see Chapter 7, "Developing Your Plan for Complementary Paratransit Service", pp 7-21 to 7-29, of the *ADA Paratransit Handbook*.

- **Survey of existing paratransit services.**

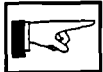
The regulations stipulate that the ADA paratransit planning process include a survey of existing paratransit providers. The intent of the regulations is to provide an informal data collection activity to furnish an understanding, in general terms, of what paratransit resources are available in the community. Evidence of this survey should be included in the plan. Recent inventory efforts by regional or local planning agencies may be cited. The survey does not, however, need to be based on a written questionnaire. The survey may be a very informal, telephone-based inquiry.

The survey information need not be as detailed as the data provided about the submitting entity's own paratransit service or other "included" paratransit services. Basic information, such as the following, should be included:

- name of the entity providing the service
- service area (communities served)
- type of population served (client category)
- general description of the service (i.e., brokerage, user-side subsidy, etc.)
- total number of vehicles and the number of accessible vehicles used to provide the service

- **Eligibility information.**

A complete description of existing eligibility requirements would include the criteria used to determine eligibility, the process used (including a description of any appeal procedures), the visitor policy, the companion policy, and the attendant policy. It may also indicate how information about the service is provided to the public.



GO ON TO REVIEW SECTION 4, ON PAGE 19.

APPLICABLE SECTION OF WORKSHEET:

Section 3. Description of Existing Paratransit Service

3.1 Does the plan contain adequate descriptions of paratransit services operated by the entity and those "included" in the complementary paratransit plan according to the six service criteria below:

- a. Service area? ☐ YES ☐ NO
- b. Response time? ☐ YES ☐ NO
- c. Fares? ☐ YES ☐ NO
- d. Trip purposes? ☐ YES ☐ NO
- e. Hours and days of service? ☐ YES ☐ NO
- f. Capacity constraints? ☐ YES ☐ NO

3.2 Does the plan adequately describe the eligibility requirements of presently operated and "included" services, and does it indicate how the eligibility requirements compare to ADA paratransit eligibility requirements?

☐ YES ☐ NO

3.3 In preparing the plan, did the entity survey the area to be covered by the plan to identify any person or entity (public or private) which provides a paratransit or other special transportation service for ADA paratransit eligible individuals?

☐ YES ☐ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

☐ YES ☐ NO

If NO:

Additional information needed to complete review:_____

Comments:_____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 4. Description of Proposed Complementary Paratransit Service*



BASIC REQUIREMENT

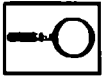
The submitting entity must describe their plan to provide **comparable** paratransit. *The objective of this portion of the plan is to demonstrate that there is or will be a paratransit service to complement the fixed route service for those eligible under ADA, and that the service is comparable to the fixed route system, according to specific criteria.*



CRITERIA FOR COMPLIANCE

The regulations (Sec 37.139(d)) require that the plan specifically include the following components:

- 4.1 An estimate of demand for complementary paratransit services and a brief description of the methodology employed.
- 4.2 An analysis of differences between the paratransit services currently provided (Section 3 above) and what is required under ADA.
- 4.3 A brief description of planned modifications to the existing fixed route and paratransit systems and the new paratransit service to comply with the ADA paratransit service criteria.
- 4.4 A description of the planned comparable paratransit service as it relates to each of the six service criteria.
- 4.5 If implementation of the plan will take more than one year, a timetable for implementing comparable paratransit service with a specific date indicating when the planned service will be in full compliance must be provided. The timetable must include milestones that can be measured yearly for implementing phases of the plan.
- 4.6 A five year budget for comparable paratransit, including capital and operating expenditures.



REVIEWER NOTES

- **Demand Estimation.**

The plan must provide an estimate of demand for ADA eligible persons. In order to develop a five year capital and operating budget, the estimates should be for a five year period. The demand estimates should reflect planned modifications to the transit system over the implementation period.



Chapter 7 of the *ADA Paratransit Handbook*, "Developing Your Plan for Complementary Paratransit Service", provides several approaches to demand estimation for the ADA paratransit planning process. Note: "Step 4: Collect and Develop Population Information", pp. 7-10 to 7-15. The regulations do not specify any particular method for estimating demand.

Plans using one of the approaches in the handbook will have used a methodology acceptable to FTA. Several approaches are possible. Some plans may contain detailed surveys of the local population and of existing paratransit riders. Other plans may simply utilize existing paratransit service records to project future demand. Entities with no existing paratransit service may rely on estimates based on national population estimates and information from peer systems. A combination of these approaches is also possible.

Given the time that entities have to prepare initial plans, detailed surveys of the population may not have been possible. Initial demand estimates, in many cases, are likely to be based on general population information, service records, and assumptions. Accurate estimates of demand by ADA paratransit eligible persons is also difficult at this stage because the population has only recently been defined. As plans are implemented and service data collected, more accurate demand estimates should be expected in annual plan updates.

If demand estimates are based entirely on existing paratransit service records, the reviewer should check to see if there are capacity constraints that would cause latent demand to not be counted. If capacity constraints do exist, an attempt should be made by the entity to measure this latent demand. Accurate records of trip denials, missed trips and other constraints may be used. A comparison of ridership or trip-making rates with other similar systems could also be used. Supplementing service information with national population and demand information would also be helpful.

- **Analysis of Differences.**

The entity must provide a comparative analysis summarizing the difference between the current paratransit service and the required complementary paratransit service according to the six service criteria in text or tabular form. A table is provided as part of the *Worksheet*, at the end of this section, which can be used by the reviewer to independently determine these differences.

- **Planned Modifications to Existing Service.**

The entity must provide a description of the changes that will be made to existing services during the implementation period. Changes to both the fixed route system and the existing paratransit system are possible. Changes to the fixed route system that make it more useable by persons with disabilities decrease the need for paratransit services.

Modifications which an entity can make to the fixed route system include:

- developing an "On-call" or "Call-A-Lift-Bus" program,
- developing travel training programs,
- developing "service routes" using paratransit ridership information,
- implementing route deviation service where feasible, and
- restructuring routes, hours, and days of service.

Examples of paratransit modifications which may be found include:

- contraction or expansion of the service area,
- changes in advance notice requirements, the availability of reservation services, or other aspects of scheduling,
- changes in fare policies,
- expanded days and hours of service,
- changes in trip purpose policies,
- increases in capital and operating resources to meet the demand for service,
- changes in service design to provide for more efficient and effective service

delivery,

- coordination with other paratransit providers in the area.

- **Compliance with the Six Service Criteria.**

The entity must describe how the modifications previously identified will meet the six ADA complementary paratransit service criteria. The basic requirements for each service criteria are provided below:

Table 4-1: Service Criteria Requirements

Service Criteria	Regulatory Requirements
<i>Service Area</i>	<i>For bus services, all area within a "core service area" plus corridors centered on fixed routes, extending a minimum of 3/4 mi to a maximum of 1.5 mi on either side of route. For rail services, circles around stations with a minimum radius of 3/4 mi to a maximum of 1.5 mi.</i>
<i>Response Time</i>	<i>"Next day" service, as a minimum. Requests permitted at least 14 days in advance.</i>
<i>Fares</i>	<i>No more than twice the base fixed route fare for a comparable trip. Same fare for companions. No fare for personal care attendants.</i>
<i>Trip Purposes</i>	<i>There can be no restrictions or priorities based on trip purpose.</i>
<i>Hours and Days of Service</i>	<i>Complementary paratransit service must operate during the same hours and days as fixed route services.</i>
<i>Capacity Constraints</i>	<i>There can be no capacity constraints.</i>

The focus of the reviewer should be to verify that the conditions exist for compliance in the proposed time period. It is likely that verification of compliance with the criteria concerning fares, trip purposes, and days and hours will be straightforward. Of the six service criteria, particular attention should, however, be given to: 1) service area; 2) response time; and, 3) capacity constraints. The reviewer should also go to Sections 2 (existing fixed route) and 3 (existing paratransit) and review the current services before determining compliance in these areas.

Service area. Check the ADA paratransit service area, noting the core area and corridor width minimum and maximum distances. If there is a geographically-confined fixed route system which has a small service area, ADA paratransit demand may be low.

Response time. The trip reservation policies must be "next day" service for ADA eligible clients. The scheduling office is required to take reservations at least during administrative office hours and have some mechanism for taking reservations for next day service on days when the administrative office is closed. Reservations shall be taken up to 14 days in advance.

There are minimal requirements regarding acceptable time windows (1 hr.) for passenger pick-ups that may be included in plans for response time. While this is basically an operational compliance issue, more stringent operating procedures may be adopted at this time as a part of the planning process.

Capacity constraints. The submitting entity should indicate whether waiting lists or trip caps are used. Determining if other types of capacity constraints exist - such as excessive numbers of trip denials, late trips, missed trips or long trips - will be more difficult. Present service records should be presented, if they exist, to support any claims made in the plan. Service standards, which define what constitutes a late trip, excessively long trip, and a missed trip will also be needed to assess the level of capacity constraints in the future.

- **A timetable and measurable milestones.**

A timetable for implementing comparable paratransit service is required. Milestones for implementing phases of the plan shall be clearly indicated, as well as, a specific date indicating when the planned service will be completely operational. In no case shall full implementation be completed later than January 26, 1997.

The timetable and milestones should indicate that changes are being made as soon as possible. Unless operational or financial limitations are noted, there should not be long periods of time with no or little progress toward compliance.



Table 7.7 in the *ADA Paratransit Handbook* presents an example of a milestone table leading to full compliance (p. 7-20).

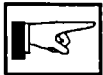
- **A capital and operating budget.**

A budget for comparable paratransit service, including capital and operating expenses over five years is required of each entity. An example of a possible budget format is

provided on the following page.

Note that while the regulations explicitly require five year capital and operating expenditures, a budget implicitly includes revenues. Revenue information is included in the presentation above. Also, if a broader paratransit service for non-ADA clients is planned, these costs and revenues should be disaggregated.

The budget should be consistent with demand estimates and with the implementation timetable and milestones provided. If implementation is proposed in more than one year, it should also indicate a level of effort that demonstrates that full compliance is being pursued as soon as possible.



GO ON TO REVIEW SECTION 5, ON PAGE 29.

Table 4-2: Example of Budget Items

	1992	1993	1994	1995	1996
<u>REVENUE</u>					
<u>Capital:</u>					
Federal					
State					
Local					
Private Sector and Other					
<u>Admin & Operating:</u>					
Farebox					
Agency Contracts					
Federal					
State					
Local					
Private Sector and Other					
TOTAL REVENUE					
<u>EXPENSES</u>					
<u>Capital</u>					
Vehicle Cost					
(# of veh.)					
Other Costs					
(Description)					
SUBTOTAL					
ADA Costs					
Non-ADA Costs					
<u>Admin & Operating:</u>					
In-House					
Purchased					
SUBTOTAL					
ADA Costs					
Non-ADA Costs					
TOTAL COST/YEAR					
ADA Costs					
Non-ADA Costs					

Current versus Required Service

Service Criteria	Current Service	ADA Requirements	Differences
Service Area			
Response Time			
Fares			
Trip Purposes			
Hours and Days			
Capacity Constraints			

APPLICABLE SECTION OF WORKSHEET:

Section 4. Description of Proposed Complementary Paratransit Service

- 4.1 Does the plan provide an estimate of demand for comparable paratransit service by ADA eligible individuals?**

_____ YES _____ NO

Does the plan provide an adequate description of the demand estimation methodology?

_____ YES _____ NO

- 4.2 Has the entity provided an adequate comparison of the difference between the current paratransit service and the required paratransit service according to the six service criteria?**

_____ YES _____ NO

- 4.3 Has the entity provided an adequate description of the changes that will be made to the existing paratransit system and/or the existing fixed-route system during the implementation period?**

_____ YES _____ NO

- 4.4 Has the entity provided an adequate description of how the proposed paratransit service will meet each of the six service criteria?**

_____ YES _____ NO

- 4.5 Has the entity provided a timetable for implementation with a specific date indicating when the planned service will be in full compliance?**

_____ YES _____ NO

Does the timetable show milestones?

_____ YES _____ NO

4.6 Has the entity provided a budget for comparable paratransit service, including capital and operating expenses over five years?

_____ YES _____ NO

Is the budget consistent with demand estimates, the timetable and milestones provided?

_____ YES _____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

_____ YES _____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 5. Description of Eligibility Determination Process*



BASIC REQUIREMENT

The submitting entity must provide a description of the process used to certify individuals with disabilities as ADA paratransit eligible. (Section 37.139(e)) This section of the plan, in addition to the description of the application and certification processes, must also include the appeals process and visitors policy. *The objective of this section is to ensure that the determination process will strictly limit ADA paratransit eligibility to individuals specified in the regulations in a process that is open and fairly administered.*



CRITERIA FOR COMPLIANCE

The plan, as a minimum, must contain the following:

A description of the application and certification process including evidence of the following features of that process;

- 5.1 the availability of information about the process and application materials in accessible formats,
- 5.2 the process for determining eligibility according to the provisions of the regulations and notifying individuals of those determinations,
- 5.3 the entity's system and timetable for processing applications and allowing presumptive eligibility,
- 5.4 the documentation given to eligible individuals,
- 5.5 a description of the administrative appeals process for individuals denied eligibility, and
- 5.6 a policy for visitors that is consistent with the regulations.



REVIEWER NOTES



Chapter 4, "Determining ADA Paratransit Eligibility" in the *ADA Paratransit Handbook* provides a thorough discussion of the ADA eligibility issues. Section 2 covers the three categories of ADA paratransit eligibility. Section 3 applies eligibility to trip requests. Section 4 addresses certification of eligible individuals. Section 5 discusses appealing the determination of non-eligibility. Section 6 discusses presumptive and reciprocal eligibility. Section 7 discusses guests traveling with an eligible rider.

- **Availability of eligibility request forms.**

This subsection of the plan must describe the forms and information material that will be made available to the public. For example, a general information packet describing the service, the criteria for ADA paratransit eligibility, and the necessary forms for requesting certification should be available on request. The general service and eligibility information must also be available in accessible formats. **Many transit agencies allow certification forms to be completed by a third party on behalf of an impaired person in lieu of producing forms in braille or on tape.**

- **Eligibility determination process.**

The ADA regulations require that each entity shall strictly limit ADA paratransit eligibility to the individuals specified in Section 37.123(e). In this subsection of the plan, the reviewer should find a copy of the document which provides the entity information on the specifics of the disability that brings about ADA paratransit eligibility. [It may also provide verification requirements.]

The plan should outline the processing of requests for certification of eligibility:

- Who in the organization will review the requests?
- What criteria will be used (should be in conformance with Section 37.123(e))?
- How long will it take to process requests? [Note. The regulations require initial determinations to be made within 21 days of a complete request, thereafter the individual will be presumed eligible until a determination is made.]
- Will the applicant be notified in writing, of the decision on their eligibility request?

- If the person is refused certification, are they notified in writing of the specific reasons for the decision and provided with information on the appeal process?

- **Documentation provided to ADA eligible persons.**

A description of the type of documentation of eligibility should be provided. It could be a simple letter or an identification card. It must include the following, as a minimum:

- the name of the eligible individual,
- the name of the transit provider,
- any conditions or limitations on eligibility, including an indication if the person travels with a personal care attendant.
- an expiration date (if applicable),
- the telephone number of the ADA paratransit coordinator

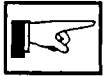
- **Appeals process.**

This section must indicate how appeals will be handled. It should specifically indicate who (title and/or name) would hear the appeals. (It should be someone other than the person who made the original decision.) The regulations state that appeals may be required to be filed within 60 days after notification of denial of a request for certification. The regulations also require that a decision on an appeal be made within 30 days. **Presumptive eligibility** will be granted if a decision is not made within 30 days.

The appeals process must include an opportunity to be heard and to present information and arguments. The process must also include written notification of the decision and the reasons for it. If the process includes suspension of eligibility for a reasonable period of time, it must follow Section 37.125(h).

- **Visitor policy.**

The plan must state a visitor policy that is in compliance with the regulations. This would include reciprocity with ADA eligibility certification of other jurisdictions and presumptive eligibility for 21 days, if the person has not been certified. [Those claiming presumptive eligibility may be required to provide proof that they are from another transit district. If eligibility is based on a hidden disability, documentation may also be required.]



GO ON TO REVIEW SECTION 6, ON PAGE 34.

APPLICABLE SECTION OF WORKSHEET:

Section 5. Description of Eligibility Determination Process

5.1 Has the entity described the availability of eligibility application materials and information in accessible formats?

☐ YES ☐ NO

5.2 Has the entity described an adequate eligibility determination process, including the method of notifying individuals about determinations?

☐ YES ☐ NO

5.3 Has the entity described a system and a timetable for processing applications and allowing presumptive eligibility that are consistent with the regulations?

☐ YES ☐ NO

5.4 Has the entity described the documentation that will be provided to ADA eligible persons?

☐ YES ☐ NO

5.5 Has the entity described an adequate administrative appeals process?

☐ YES ☐ NO

If included, does the separation of functions policy comply with the regulations?

☐ YES ☐ NO

5.6 Has the entity described a visitor policy that is consistent with the regulations?

☐ YES ☐ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 6. Description of Public Participation Process*



BASIC REQUIREMENT

The submitting entity must describe the public participation process employed in developing the plan (Sec. 37.139(f)). *The objective of this requirement is to provide documentation of the effort to develop the plan in consultation with persons with disabilities.*



CRITERIA FOR COMPLIANCE

Compliance with the regulations requires the following:

- 6.1 notice of opportunity for public comment,
- 6.2 dates of completed public hearing(s),
- 6.3 availability of plan in accessible formats,
- 6.4 outreach efforts,
- 6.5 consultation with persons with disabilities,
- 6.6 a summary of significant issues raised during public comment period, responses (by entity) to significant comments, and discussion of how issues were resolved.
- 6.7 An ongoing mechanism for participation by persons with disabilities.



REVIEWER NOTES

- Opportunities for public comment on draft plan.

The plan should indicate when the draft plan was completed and specifically indicate how

public comment was invited. This may include copies of newspaper notices, copies of letters sent those on outreach mailing lists, releases sent to radio and television stations, articles, or other notices, or descriptions of these actions.

- **Public hearing and special public hearing requirement.**

The plan must indicate when the required public hearing was held and any additional hearings held as a part of plan development. Copies of notices or other efforts to announce the hearings should be included in the plan. Documentation should include evidence of efforts to make meetings accessible to persons with visual and hearing impairments, as well as persons who use wheelchairs.

This section of the plan must have a summary of significant issues or comments raised at the public hearing and responses to each. **Special attention should be given to this part of the plan. If the public entity's responses to issues raised during the public hearing are not adequate, the reviewer should ask for a more thorough response.**

- **Outreach efforts.**

The regulations require that outreach efforts be made to identify those who will be affected by the plan, to make them aware that a plan is being prepared, and to invite them to participate and/or comment. The plan should indicate what efforts were made to identify organizations and individuals. It should describe how the mailing list was developed to announce meetings and hearings and to invite public comment. It may indicate the number of agencies and individuals on this list. It should indicate what other media were used to notify persons about the planning process. It should specifically describe efforts made to utilize media to reach those with hearing or vision impairments.

- **Consultation with individuals with disabilities.**

This section must describe what process was used to consult with persons with disabilities. This could be formal advisory committee meetings, a series of *ad hoc* committee meetings which were open to the public and advertised using mailing lists and media announcements, or *ad hoc* meetings of organizations and individuals selected to provide cross-disability representation. A list of the dates of these meetings should be included. A description of efforts to make these meetings communication and information accessible should be noted in the plan.

- **Ongoing public participation.**

Section 37.137(c) of the regulations requires that a process be established to provide for ongoing input by persons with disabilities in the development and assessment of

complementary paratransit services. The mechanism proposed to provide for this input may be specified in the initial plan, although it is not identified as one of the required elements of a plan in Section 37.139.

As noted above, consultation with persons with disabilities can take place in many ways. It could include a formal advisory committee, an ad hoc committee, representation of persons with disabilities on a broader advisory committee, or periodic public meetings.



GO ON TO REVIEW SECTION 7, ON PAGE 38.

APPLICABLE SECTION OF WORKSHEET:

Section 6. Description of Public Participation Process

- 6.1 Has the entity provided adequate notice of the opportunity for public comment?
_____ YES _____ NO
- 6.2 Has the entity indicated the date(s) of completed public hearings?
_____ YES _____ NO
- 6.3 Has the entity made the plan available in accessible formats?
_____ YES _____ NO
- 6.4 Has the entity described adequate outreach efforts to identify those who will be affected by the plan, to make them aware that a plan is being prepared, and to invite them to participate and/or comment?
_____ YES _____ NO
- 6.5 Has the entity described the process used to consult with persons with disabilities?
_____ YES _____ NO

6.6 Has the entity provided a summary of significant issues raised in the public comment period, a response to each, and a discussion of how the issues were resolved?

_____ YES _____ NO

6.7 Has the entity described an adequate, ongoing mechanism for participation by individuals with disabilities?

_____ YES _____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

_____ YES _____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 7. Coordination with Other Public Entities*



BASIC REQUIREMENT

The submitting entity is required to document efforts to coordinate service with other entities subject to the complementary paratransit requirements which have overlapping or contiguous service areas or jurisdictions (Section 37.139(g)). *The objective is to encourage coordination of efforts of public entities with overlapping or contiguous service areas, thereby reducing duplicative services and enhancing regional transportation.*



CRITERIA FOR COMPLIANCE

The plan must contain a description of efforts made to coordinate services with other entities subject to the complementary paratransit requirements which have overlapping or contiguous service areas or jurisdictions.

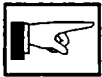


REVIEWER NOTES

- The submitting entity should first identify all other public entities with overlapping or contiguous service areas which are also subject to the complementary paratransit service requirements (i.e., they also operate non-commuter fixed route services open to the general public). If other public entities meeting these requirements exist, the plan should contain:
 - a description of efforts to coordinate paratransit service plans and operations, and
 - if coordination is not planned, an explanation of the decision to operate separate paratransit services.

Examples of coordination efforts that would eliminate duplication and facilitate regional travel include:

- developing purchase of service agreements that permit one entity to provide a single coordinated service,
- developing extraterritorial agreements to allow for travel between jurisdictions and service areas,
- identifying locations where transfers between paratransit services and fixed route services can be made,
- establishing lines of communication between scheduling offices to eliminate the need for an individual to contact both services, and
- standardizing fare policies or establishing a "through fare" system.



GO ON TO REVIEW SECTION 8, ON PAGE 41.

APPLICABLE SECTION OF WORKSHEET:

Section 7. Coordination with Other Public Entities

- 7.1** Has the entity documented efforts to coordinate service with other entities subject to the complementary paratransit requirements which have overlapping or contiguous service areas or jurisdictions?

____ YES ____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review: _____

Comments:_____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 8. Endorsements and Certifications*



BASIC REQUIREMENT

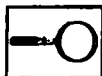
The submitting entity must provide endorsements or certifications of the plan by the Board of Directors, the Metropolitan Planning Organization (MPO), if applicable, as well as endorsements by other entities if their services are "included" in the plan, or if they are a part of a "joint plan" (Section 37.139(h)). *The objective is to provide appropriate authorization for the plan.*



CRITERIA FOR COMPLIANCE

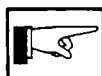
The regulations require several certifications and resolutions which must be included in the plan:

- 8.1 All plans must contain the following two documents:
 - a. a resolution by the board of directors or chief executive authorizing the plan, and
 - b. a certification that the required survey of existing paratransit services was completed.
- 8.2 Plans filed by agencies who will be operating service in an urbanized area must contain an "MPO Certification of Paratransit Plan".
- 8.3 Plans filed by agencies which have included paratransit services provided by other entities in the plan must provide an "Included Service Certification". This certification must indicate that:
 - ADA paratransit eligible individuals have access to the service;
 - the service is provided in the manner represented; and,
 - efforts will be made to coordinate the provision of paratransit service by other providers.



REVIEWER NOTES

[None.]



GO ON TO REVIEW SECTION 9, ON PAGE 44.

APPLICABLE SECTION OF WORKSHEET:

Section 8. Endorsements or Certifications

8.1.a Has the entity submitted a resolution by the board of directors or chief executive authorizing the plan as submitted, or if more than one entity is submitting the plan, is there an authorizing resolution from each board?

____ YES ____ NO

8.1.b Has the entity submitted a certification that a survey of existing paratransit service was conducted?

____ YES ____ NO

8.2 Has the entity submitted an MPO certification of compliance with joint planning requirements?

____ YES ____ NO ____ NA

8.3 If applicable, has the entity submitted a certification regarding "other" paratransit services included in the plan?

____ YES ____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review:_____

Comments:_____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

REVIEW ITEM: *Section 9. Overall Planning Considerations*



BASIC REQUIREMENT

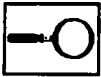
The FTA reviewer must consider six features as a part of the complementary plan review (Sec. 37.147). There are multiple objectives to this requirement which establish the timeliness of the plan, the responsiveness of individual sections, the overall responsiveness of the plan, compliance with public participation requirements, and coordination with certain public entities. By and large, these steps are simply documentation of findings from the individual sections. **The review of the plan in its entirety, however, provides an important opportunity to measure internal plan consistency and evaluate the overall intent of the entity to provide comparable paratransit service.**



CRITERIA FOR COMPLIANCE

The regulations require the FTA reviewer to consider the following six items, as a minimum.

- 9.1 Whether the plan was filed on time.
- 9.2 Comments submitted by the state, if applicable.
- 9.3 Whether the plan contains responsive elements for each component required under Section 37.139 (Sections 1 - 9 of the Plan).
- 9.4 Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service.
- 9.5 Whether the entity complied with the public participation efforts as required.
- 9.6 The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.



REVIEWER NOTES

This section provides the reviewer with the opportunity to view the plan as something more than the sum of its parts -- to evaluate whether, when taken as a whole, the entity is making a good faith effort to respond to the regulations through the complementary paratransit planning process. Using this detached perspective, it is possible to overcome minor flaws found in the individual sections when the entire plan is responsive and in compliance. On the other hand, if the individual sections have met minimum standards, but the plan itself is not internally consistent or logically developed, the plan can be deemed non-compliant when viewed as a whole.

The six criteria, above, provide the reviewer with the approach to deciding if the plan, in its entirety, provides for paratransit service comparable to the entity's fixed route service. The decision on overall responsiveness should be based on the *planning process* and *plan substance*.

- **State comments.**

Section 18 applicants and small Section 9 programs that are managed by the state will be submitted to FTA with comments. Some of the state functions are clerical. Others are substantial and add considerable value to the FTA review.

- In the latter instance, the states can provide important subjective judgment based on their management of the Section 18 program for the past dozen years. The state is asked if the plan appears "reasonable". They are in a better position than FTA to make this subjective evaluation based on their knowledge of the local service, the management capability, and the financial resources of the submitting entity.
- The state, through the management of the annual program of projects in the Section 18 program, is uniquely able to provide information on local "circumstances" which would impact on the entity's ability to carry out the plan (Section 37.145 (d)(3)). In these instances, particularly in states which provide state transit assistance, they will have significant input on the accuracy of the plan's financial projections (Section 37.145 (d)(5)). States which provide comments in these areas will assist the reviewer in responsiveness on plan substance.

- **Responsiveness of plan elements.**

Sections 1 - 7 of this Guide evaluate the required plan contents as separate items. Aside from this section by section review, reviewers should consider whether the individual sections of the plan are consistent. For example:

- Are the eligibility and demand sections consistent with the description of fixed route accessibility? Entities should not limit eligibility/demand of Category 2 riders unless there is evidence that the fixed route system is truly accessible.
 - Are the demand projections and cost estimates compatible?
 - Do the planned changes/milestones match with demand and cost estimates? If service area is to be expanded or trip purpose restrictions eliminated, is this taken into account in the demand and cost projections?
- **Modal comparability of the plan in its entirety.**

The regulations provide a logical sequence of planning: 1) establishing the fixed route service as the basis of comparison, 2) describing the existing paratransit system, 3) comparing the fixed route system with the existing paratransit system to determine discrepancies according to six service criteria, and 4) establishing a straightforward plan with measurable milestones to bring the paratransit system to a comparable status with the fixed route system within the five year timeframe. If the essence of this descriptive and analytical effort is accurate and correct, be it sophisticated or crude in its planning methods, the plan is substantively in compliance when viewed in its entirety.

In addition to determining if the six service criteria are met, reviewers should make sure that the overall paratransit system design provides a level of mobility that is comparable to the fixed route system. There may be aspects of system design which fall outside of a strict review of the six service criteria. For example, if the paratransit service area is segmented and transfers are required, is comparable travel time maintained? If feeder service is to be utilized, is the overall level of service comparable? Reviewers should be sensitive to these and other overall system design issues.

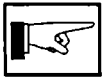
- **Public participation compliance.**

The clearest indicator of responsiveness to the planning process requirements is the "good faith effort" the entity makes in establishing a public participation process at the initiation of the plan development, through the plan drafting process, and regularly through the implementation period. It is less important that disabled individuals respond in large numbers. It is most important that an effective, on-going, and structured outreach program is established by the submitting entity as part of the ADA complementary planning process. The more extensive and effective the public participation process, the more confident FTA can be in the responsiveness of the planning process at the local level.

- **Public entity coordination.**

In large metropolitan areas, where there may be several public entities providing fixed

route transportation covered by the ADA in the same area or adjacent regions, efforts to coordinate are required. If an undue financial burden waiver is requested, coordination in this instance could be required.



IF AN UNDUE BURDEN WAIVER IS REQUESTED, GO ON TO REVIEW PART III, ON PAGE 49.

IF NOT, COMPLETE THE SUMMARY DOCUMENTATION ON THE WORKSHEET.

APPLICABLE SECTION OF WORKSHEET:

Section 9. Overall Planning Considerations

9.1 Was the plan filed on time?

____ YES ____ NO

9.2 Are state comments included, if applicable?

____ YES ____ NO

9.3 Does the plan contain responsive elements for each component?

____ YES ____ NO

9.4 Does the plan, when viewed in its entirety, provide for paratransit service comparable to the entity's fixed route service?

____ YES ____ NO

9.5 Has the entity complied with the public participation efforts as required?

____ YES ____ NO

9.6 If applicable, were adequate efforts made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions?

____ YES ____ NO

Is the plan responsive to items 9.1 through 9.6 (above)?

____ YES ____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

WAIVER

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW GUIDE

PART III. Undue Financial Burden Waiver Request.



BASIC REQUIREMENT

The submitting entity must provide sufficient information for the FTA Administrator to determine that the financial circumstances exist to justify a waiver from compliance with one or more of the six criteria required of complementary paratransit services. *The objective is to provide the entity with some temporary relief from compliance with the complementary paratransit requirements of ADA when the implementation of the law would provide an extraordinary negative financial impact.* (Sec. 37.151) The waivers only apply to the six service criteria contained in Sec. 37.131 of the regulations. All other provisions of the regulations, including the eligibility requirements and the equipment and service standards, must be met.



CRITERIA FOR COMPLIANCE

Requests for undue financial burden waivers must include, at a minimum:

- III.1 Sufficient information for FTA to consider the factors identified in Section 37.155 of the regulations (see Reviewer Notes below);
- III.2 A description of additional paratransit services that would be provided in the event that the waiver request is denied; and,
- III.3 A timetable for implementation of these additional services.



REVIEWER NOTES



See "Appendix F: Information Regarding Undue Financial Burden Waiver Requests" in the *Handbook* for questions and answers on undue financial burden issues.

- **Conditions for considering a waiver request.**

- A waiver request can only be considered after all the public participation requirements have been met, including the opportunity for citizens to express views on the waiver request and which service criteria may be delayed in implementation.
- A waiver request can be made in the initial paratransit plan submittal if 1) the entity believes it cannot attain compliance with the six service criteria by the five-year implementation deadline (January 26, 1997) or, 2) it cannot make measured progress toward compliance within any year of the implementation period *without incurring an undue financial burden*.
- A waiver can also be requested when an annual plan update is submitted *if circumstances have changed* since the initial plan (or the latest update) was prepared and it is no longer possible to comply by January 26, 1997, or to make measured progress in any year before 1997.
- Waivers can only *apply to the six service criteria* (service area, response time, fares, trip purposes, hours and days of service, and capacity constraints).



See Chapter 5, Section 1, of the *Handbook* to review the six service criteria.

- **Factors in considering a waiver request.**

While the regulations do not specify the exact information that the entity must submit for a waiver request, they do put the entity on notice that the FTA Administrator will take certain factors into account in making a decision to grant an undue burden. The factors listed in Section 37.155 of the regulations are as follows:

Factor #1. The effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles.

The entity should determine the maximum amount of funding that can be made available for complementary paratransit service improvements throughout the implementation period. Then it should determine the difference between this figure and the amount that is required to fully implement the regulations. The request should include a calculation that indicates how many service miles of fixed route service would have to be eliminated to make up this difference.

Factor #2. The average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered ADA paratransit eligible persons, on a per capita basis.

The entity should divide the total number of trips provided by the fixed route system by the total population of the service area. Then, it should divide the estimated number of trips that will be provided on the complementary paratransit service by the estimated number of ADA paratransit eligible individuals in the service area. Are the number of trips/person to be provided on the complementary paratransit service equal to, or greater than, the number provided on the fixed route system? Are the calculations based on the same geographic area?

[Note that the regulations call for using "registered" ADA population for this calculation. At the time of the initial plan submission there may not be many ADA eligible persons registered, therefore the estimated ADA population may be a more meaningful comparison. Also, the transit trips per capita (of the general population) are not numerous outside of the larger metropolitan areas where transit is more competitive with the automobile. In auto-oriented areas, this comparison may produce a very small number of trips provided on the paratransit system. Therefore, other factors may be given appropriately more weight.]

Factor #3. Reductions in other services, including other special services.

As in Factor #1, there should be an estimate of the difference between the amount that can be spent and the amount required for full compliance. The entity should determine how much other paratransit service would have to be eliminated to make up this difference.

[Note: Be sure that the required cuts in fixed route and paratransit services are not double counted. In all likelihood, there will be some level of cuts in each type of service.]

Factor #4. Increases in fares.

The entity should estimate the fixed route or other service fare increases that would be required to fund the difference between the level of paratransit that is affordable and the level that is required to meet ADA compliance. The entity should consider if other revenue sources exist for transit financing within the state.

Factor #5. The resources available to implement complementary paratransit service over the period covered by the plan.

The entity should describe how funding for existing fixed route and paratransit service

has been provided. It should include a history of recent budget issues. It should provide information about any limitations that the existing funding source is experiencing. It should contain a description of efforts made to obtain the necessary funding to achieve full compliance.

Factor #6. The percentage of the budget needed to implement the plan, both as a percentage of the operating budget and a percentage of the entire budget.

The entity should estimate the total budget that would be needed to provide full complementary paratransit services. For comparison purposes, the operating cost and the total transportation budget for the entity should be provided. Calculate the percent of total budget and operating budget that would have to be dedicated to provide the required service in each year. Calculate the year-to-year percentage increases in the paratransit budget to reach compliance.

[Note: There will be a considerable difference in calculations involving rural and urban areas. The percent of paratransit service to total budget in smaller metropolitan areas may be larger than the percentage of paratransit service in larger metropolitan areas with heavy rail transit. Similarly, the percentage increase from year-to-year depends on where you are starting from at the local level. If the entity has to build an entire paratransit service to comply with the complementary paratransit requirements of ADA, the initial percentage figures will appear larger.]

Factor #7. The current level of accessible service, both fixed route and paratransit.

The current level of accessible service must be considered. If no paratransit service exists and complementary paratransit service must be developed from scratch, this would be a factor. Similarly, if a fairly new fleet of inaccessible buses is being used and the service will not be fully accessible for years, this is also a factor that must be considered.

Factor #8. Cooperation and coordination among area transportation providers.

Be sure that alternative operating models and coordination possibilities have been fully explored. Check the survey of other systems required as part of the description of existing services (Section 3 above). Are there other large providers that have not been included?



See Chapter 6 of the *Handbook* for a discussion of alternative operating models and ways to coordinate.

Factor #9. Evidence of increased efficiencies, that have been or could be effectuated, that would benefit the level and quality of available resources for complementary paratransit services.

Be sure that all options for the most efficient and economical fixed route and paratransit service have been explored (see Factors #3 and #8 above). Are there less costly alternatives possible? Compare unit costs of service to similar systems.

Factor #10. Unique circumstances in the entity's area that affect the ability of the entity to provide paratransit, that affect the ability to provide paratransit, or in some other respect create a circumstance considered exceptional by the entity.

A unique circumstance should be a one-of-a-kind occurrence arising from a local phenomenon that is unlikely to be found elsewhere. For example, a particularly dire local economic situation or a much higher percentage of persons with disabilities living in an area (thereby creating an extraordinary demand for services).

- **Costs that can be included in waiver requests.**

The regulations clearly limit the costs that can be included in any decision on undue financial burden. (Section 37.155(b)(1)-(b)(3))

- Only those costs attributable to the provision of ADA-required service can be included. Costs associated with service to persons who are not ADA paratransit eligible cannot be part of the waiver request. Similarly, costs associated with service to ADA paratransit eligible individuals which exceed the service criteria cannot be included.
- Only funds spent providing required complementary paratransit services can be included.
- Funds to which the entity would be legally entitled, but which, as a matter of state or local funding arrangements, are provided to another entity and used by that entity to provide paratransit service which is part of a coordinated system of paratransit may also be counted.
- If the recordkeeping system that is used cannot distinguish between trips mandated by the ADA and other trips on a trip-by-trip basis, a statistically valid methodology must be used to develop the data and information about the methodology must be submitted.



See Appendix F of *Handbook*, pp F-3 - F-4, for a discussion on sampling techniques based on Section 15 procedures.

- **Services to be provided if a waiver request is granted.**

The regulations explain that waivers can be granted by the FTA Administrator and will: (1) be determined on a case-by-case basis; (2) be for a limited and specified time; and, (3) require some level of complementary paratransit service to ADA eligible persons. If a waiver is granted, the Administrator will direct the public entity to take one of three courses of action (Sec. 37.153(c)(1)-(3)):

- Provide complementary paratransit service to the extent it can do so without incurring an undue financial burden.
- Provide "basic" complementary paratransit service in corridors along "key routes" during "core service hours", even if doing so would cause the entity to incur an undue financial burden.
- If "basic" complementary paratransit service as described above cannot be provided without incurring an undue financial burden, require coordination with other available providers of demand responsive service in the service area to "maximize" the service to ADA paratransit eligible individuals.

- **Overall issues in considering requests for undue financial burden waiver requests.**

The development of the ADA and subsequent regulations considered the financial circumstances of public transit systems and attempted to avoid the potential for undue financial burden in complying with the regulations. A public entity has many options to contain the costs of ADA compliance, particularly:

- implementing a call-a-lift-bus program and travel training to narrow the population eligible for complementary paratransit service;
- coordinating with existing paratransit services, including user-side subsidies to taxis and human service agencies for some category 1 & 3 ADA eligible persons;
- employing innovative service models in low demand areas, e.g. route deviation, and/or brokerage systems to find the "lowest cost - most appropriate" service;

- dropping all paratransit service except that conforming to the "corridor" definition drawn from the fixed route configuration; and
- reducing or eliminating service provided to persons who are not ADA paratransit eligible.

After considering the 10 factors above, and determining if the entity has used the devices above to narrow their exposure to compliance costs, as provided in the regulations, make the following determinations:

- Is the unit cost for ADA complementary paratransit service in line with similar services in their area? (Check Section 4 for proposed costs.)
- Have they explored opportunities for coordination? (Check Section 3 and 4.)
- Look at the broader paratransit and fixed route service. Have there been or are there proposed substantial cuts in both services in order to meet ADA compliance?
- Is the area in a severe economic decline? (Are other services being cut because of the lack of public revenues, e.g. school closings, layoff of teachers, police, fire, and transit personnel?)
- What is the prognosis for a economic recovery? What is the bond rating for the public entity (an indication of financial health)?

The answers to the first four questions above should substantiate the need for, or reasons to deny, a waiver request based on undue financial burden. They should also help to determine what level of service should be provided while the waiver is in effect. The answer to the last question should help determine the appropriate period of time the waiver should remain in effect.

All waiver requests will be considered on a case-by-case basis by FTA Headquarters. The Regional Office review teams should analyze the waiver request and forward the plan along with a summary of the analysis to Headquarters. The analysis should include:

- an opinion on the merit of the waiver request;
- a recommendation on what level of service should be required (see the options available to the Administrator listed on page 55); and
- a recommendation on the period of time for which the waiver should be granted.

If the plan does not contain adequate information about the time needed for full compliance or

the level of service that can be provided in the interim, the reviewer should request this information before forwarding the plan to Headquarters.

WORKSHEET

**APPENDIX A -
ADA COMPLEMENTARY PARATRANSIT PLAN
REVIEW WORKSHEET**

Vencode: _ _ _ _ Cost Center: _ _ _ _ _

Name:

City: _ _ _ _ _ State: _ _

Zip: _ _ _ _ _

Phone: _ _ _ - _ _ _ - _ _ _ _

Fax: _ _ _ - _ _ _ - _ _ _ _

Contact Person:

Sec 15 ID: _ _ _ _

UZA Code: _ _ _ _ _ UZA Name:

Pop:

Plan Received: _ _ / _ _ / _ _ Plan Type:

Plan Number (Joint Only): _ _ _ _ _

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

Section 1. General Information

1.1 Name of entity or entities:

1.2 Address:

1.3 Name of contact person:

1.4 Telephone number:

1.5 Fax number, if available:

Section 2. Description of Existing Fixed Route Service

2.1 Is there an adequate description of:

Service area? ☐ YES ☐ NO

Route structure? ☐ YES ☐ NO

Days and hours of service? ☐ YES ☐ NO

Fare structure? ☐ YES ☐ NO

Population served? ☐ YES ☐ NO

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

- 2.2 Does the plan describe the total number of vehicles in fixed route service; the percentage of accessible vehicles; and the percentage of routes accessible to and useable by persons with disabilities?

____ YES ____ NO

- 2.3 Does the plan include any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service?

____ YES ____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

Section 3. Description of Existing Paratransit Service

3.1 Does the plan contain adequate descriptions of paratransit services operated by the entity and those "included" in the complementary paratransit plan according to the six service criteria below:

- a. Service area? ☐ YES ☐ NO
- b. Response time? ☐ YES ☐ NO
- c. Fares? ☐ YES ☐ NO
- d. Trip purposes? ☐ YES ☐ NO
- e. Hours and days of service? ☐ YES ☐ NO
- f. Capacity constraints? ☐ YES ☐ NO

3.2 Does the plan adequately describe the eligibility requirements of presently operated and "included" services, and does it indicate how the eligibility requirements compare to ADA paratransit eligibility requirements?

☐ YES ☐ NO

3.3 In preparing the plan, did the entity survey the area to be covered by the plan to identify any person or entity (public or private) which provides a paratransit or other special transportation service for ADA paratransit eligible individuals?

☐ YES ☐ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

☐ YES ☐ NO

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

If NO:

Additional information needed to complete review: _____

Comments: _____

Section 4. Description of Proposed Complementary Paratransit Service

4.1 Does the plan provide an estimate of demand for comparable paratransit service by ADA eligible individuals?

____ YES ____ NO

Does the plan provide an adequate description of the demand estimation methodology?

____ YES ____ NO

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

- 4.2 Has the entity provided an adequate comparison of the difference between the current paratransit service and the required paratransit service according to the six service criteria?

____ YES ____ NO

- 4.3 Has the entity provided an adequate description of the changes that will be made to the existing paratransit system and/or the existing fixed-route system during the implementation period?

____ YES ____ NO

- 4.4 Has the entity provided an adequate description of how the proposed paratransit service will meet each of the six service criteria?

____ YES ____ NO

- 4.5 Has the entity provided a timetable for implementation with a specific date indicating when the planned service will be in full compliance?

____ YES ____ NO

Does the timetable show milestones?

____ YES ____ NO

- 4.6 Has the entity provided a budget for comparable paratransit service, including capital and operating expenses over five years?

____ YES ____ NO

Is the budget consistent with demand estimates, the timetable and milestones provided?

____ YES ____ NO

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ **YES** ____ **NO**

If NO:

Additional information needed to complete review: _____

Comments: _____

Section 5. Description of Eligibility Determination Process

5.1 Has the entity described the availability of eligibility application materials and information in accessible formats?

____ **YES** ____ **NO**

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

5.2 Has the entity described an adequate eligibility determination process, including the method of notifying individuals about determinations?

_____ YES _____ NO

5.3 Has the entity described a system and a timetable for processing applications and allowing presumptive eligibility that are consistent with the regulations?

_____ YES _____ NO

5.4 Has the entity described the documentation that will be provided to ADA eligible persons?

_____ YES _____ NO

5.5 Has the entity described an adequate administrative appeals process?

_____ YES _____ NO

If included, does the separation of functions policy comply with the regulations?

_____ YES _____ NO

5.6 Has the entity described a visitor policy that is consistent with the regulations?

_____ YES _____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

_____ YES _____ NO

If NO:

Additional information needed to complete review: _____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

Comments: _____

Section 6. Description of Public Participation Process

- 6.1 Has the entity provided adequate notice of the opportunity for public comment?
_____ YES _____ NO
- 6.2 Has the entity indicated the date(s) of completed public hearings?
_____ YES _____ NO
- 6.3 Has the entity made the plan available in accessible formats?
_____ YES _____ NO
- 6.4 Has the entity described adequate outreach efforts to identify those who will be affected by the plan, to make them aware that a plan is being prepared, and to invite them to participate and/or comment?
_____ YES _____ NO

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

6.5 Has the entity described the process used to consult with persons with disabilities?

____ YES ____ NO

6.6 Has the entity provided a summary of significant issues raised in the public comment period, a response to each, and a discussion of how the issues were resolved?

____ YES ____ NO

6.7 Has the entity described an adequate, ongoing mechanism for participation by individuals with disabilities?

____ YES ____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review:_____

Comments:_____

Section 7. Coordination with Other Public Entities

- 7.1 Has the entity documented efforts to coordinate service with other entities subject to the complementary paratransit requirements which have overlapping or contiguous service areas or jurisdictions?

____ YES ____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____

Section 8. Endorsements or Certifications

- 8.1.a Has the entity submitted a resolution by the board of directors or chief executive authorizing the plan as submitted, or if more than one entity is submitting the plan, is there an authorizing resolution from each board?

____ YES ____ NO

- 8.1.b Has the entity submitted a certification that a survey of existing paratransit service was conducted?

____ YES ____ NO

- 8.2 Has the entity submitted an MPO certification of compliance with joint planning requirements?

____ YES ____ NO ____ NA

- 8.3 If applicable, has the entity submitted a certification regarding "other" paratransit services included in the plan?

____ YES ____ NO

Is the information provided in this section of the plan consistent with the regulatory requirements?

____ YES ____ NO

If NO:

Additional information needed to complete review:_____

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

Comments: _____

Section 9. Overall Planning Considerations

9.1 Was the plan filed on time?

_____ YES _____ NO

9.2 Are state comments included, if applicable?

_____ YES _____ NO

9.3 Does the plan contain responsive elements for each component?

_____ YES _____ NO

9.4 Does the plan, when viewed in its entirety, provide for paratransit service comparable to the entity's fixed route service?

_____ YES _____ NO

9.5 Has the entity complied with the public participation efforts as required?

_____ YES _____ NO

ADA COMPLEMENTARY PARATRANSIT PLAN REVIEW WORKSHEET

9.6 If applicable, were adequate efforts made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions?

____ YES ____ NO

Is the plan responsive to items 9.1 through 9.6 (above)?

____ YES ____ NO

If NO:

Additional information needed to complete review: _____

Comments: _____
