MassDOT ADA/Section 504 Interim Transition Plan

February 2013
# MassDOT ADA/Section 504 Transition Plan
## Table of Contents

## Contents

I. Overview ........................................................................................................................................... 4

II. Federal and State Accessibility Requirements ................................................................................. 6
   a) Americans with Disabilities Act ................................................................................................. 6
   b) Section 504 of the Rehabilitation Act of 1973 ........................................................................... 8
   c) ADA and Section 504 Implications for MassDOT ...................................................................... 9
   d) Commonwealth of Massachusetts Accessibility Requirements ................................................... 10

III. ADA/Section 504 Working Group; Structure and Purpose ......................................................... 11
   a) Formation of Scope of Work, Working Group and Interdepartmental Coordination ...................... 11
   b) MassDOT ADA/Section 504 Working Group Charter ............................................................... 11
   c) Description of Working Group ................................................................................................. 12
   d) Key Working Group Accomplishments to Date .......................................................................... 13
   e) Projects covered by Transition Plan and Relationship to Architectural Access Board ..................... 15

IV. Public Engagement/Inspection of Plan ............................................................................................ 16

V. Self-Evaluation ................................................................................................................................. 17
   A) Self Evaluation of Relevant Policies ........................................................................................... 18
   B) Self Evaluation - Fixed Assets ..................................................................................................... 28

VI. Transition Plan Business Methodology, Budget, Remediation Schedule and Monitoring .................. 53
   a. Interim Access Repairs and Emergency Response ....................................................................... 53
   b. Management Structure .................................................................................................................. 55
   c. Method to Address Deficiencies Identified .................................................................................. 57
   d. Budget Projections ....................................................................................................................... 58
   e. Multi-year Plan to Correct Deficiencies ....................................................................................... 60
   f. Periodic review and evaluation update .......................................................................................... 61
   g. Monitoring and Evaluation ........................................................................................................... 61

VII. Transition Plan Implementation .................................................................................................... 63
VIII. Documentation of Plan .............................................................. 63
IX. Attachments ................................................................................ 64
I. Overview

The Americans with Disabilities Act (ADA) is a civil rights law mandating equal opportunity for individuals with disabilities. The ADA prohibits discrimination in access to jobs, public accommodations, government services, public transportation, and telecommunications. The Massachusetts Department of Transportation (MassDOT) is undertaking a comprehensive re-evaluation of its policies, programs, services and facilities to determine the extent to which individuals with disabilities may be restricted in their access to MassDOT’s services and activities.

In October 1994, the former Executive Office of Transportation and Construction (the former EOTC, and now MassDOT), completed a self-evaluation form generated by the Commonwealth of Massachusetts to achieve compliance with Title II of the ADA. When this report was compiled, the role of the EOTC was administrative in nature and less involved with the substantive work of the former MassHighway department. For this reason, EOTC’s self-evaluation focused on functions within the core administrative duties of this Secretariat. This report also contained separate self-evaluations among each of the Highway, Aeronautics, Massport, the Mass Turnpike, and Registry of Motor Vehicles departments that were part of EOTC, reflecting access considerations within each entity’s management of its operational obligations. The MBTA was not included in this process because it was an authority outside of the Commonwealth of Massachusetts Executive Branch, although since 2006, the MBTA has had in place an Office of Systemwide Accessibility that responds to accessibility issues within the authority.

In 1994, each agency completed the required survey, which included an outline of the organizations’ programs and activities, an affirmation of agency understanding of the obligation to provide access under the ADA and identification of the services provided to the public. The responsibility for ADA coordination was generally held by the senior Affirmative Action/Equal Employment Officer for a given agency, and there was overall coordination through EOTC’s Civil Rights Officer. EOTC provided public notice of the intent to comply with the ADA and the availability a contact person through the agency, including a statement of policy that designated the Civil Rights Officer as the
person designated to implement EOTC’s nondiscrimination programs in employment and programs sponsored by the agency. Each of the transportation agencies identified ADA Coordinators with respect to the implementation of policy.

This self-evaluation effort by the EOTC and the Transportation agencies was intended to be responsive to both ADA and Commonwealth requirements for compliance. The overall responsibility for compliance was delegated to a highly placed person in the EOTC administration. ADA coordination responsibility was established in each Transportation agency and public notice was given. From 1994 to the creation of MassDOT in 2009, each agency fulfilled its requirement to provide access on a recurring basis, as requests for assistance were made.

In 2010, MassDOT revisited its self evaluation and determined that the coordination of response on ADA matters was more strategically developed for internal employment or employee related issues of access. On the Highway side, this coordination did not extend to establishing leadership to conduct and respond to more complete inventories of the Highway Division’s assets, policies and procedures. The need for training and coordination beyond the Highway Division was also identified to respond to matters concerning the public across the transportation enterprise.

Despite the gaps in terms of a more systematic approach, before and after the ADA was established, the former Executive Office of Transportation made meaningful efforts to assist people with disabilities in external matters, including support for access at public meetings, programs and activities across the agency, including responding to complaints. A strong indication of this focus is evident in the former Highway Division’s Project Development & Design Guide (2006), which emphasizes accessibility in the development of highway construction projects. Through our self-evaluation, it became nonetheless clear that the policies and procedures underlying the obligation to afford access were not fully articulated or needed to be revised to reflect the current state of the law and practice. The creation of MassDOT and this agency’s emphasis on making cutting edge efforts to become the best transportation system
in America has created an optimum backdrop for restating the MassDOT ADA/Section 504 Transition Plan.

MassDOT’s Transition Plan will guide the planning and implementation of necessary program, activity and facility modifications over the next several years, which will expand on previous work and reflect the reality of MassDOT becoming a single transportation organization. Given the complexity and need for a deliberate effort to follow through on our revised agency’s self-evaluation, this interim document sets forth all of the elements contemplated, and or completed to establish a final and executable multi-year transition plan. This work will result in a restated MassDOT commitment to the development and maintenance of policies, programs, and facilities that ensure equal access to all who work, reside in or visit the Commonwealth of Massachusetts. This ADA/Section 504 Transition Plan will apply to all facilities based on their being open to and/or used by members of the public.

II. Federal and State Accessibility Requirements

a) Americans with Disabilities Act

The Americans with Disabilities Act (ADA) was enacted on July 26, 1990, and provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. The ADA is companion civil rights legislation to the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. With respect to public entities, the ADA mandates that qualified disabled individuals shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides disabled employees with certain protections and requires employers to make reasonable accommodation for disabled applicants and employees. The ADA is divided into five parts, covering the following areas:
Title I: EMPLOYMENT

Employers, including governmental agencies such as the Massachusetts Department of Transportation (MassDOT), must ensure their practices do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, discharge of an employee, or other terms and conditions of employment.

Title II: PUBLIC SERVICES

This title prohibits state and local governments from discriminating against persons with disabilities or from excluding participation in denying benefits or programs, services, or activities to persons with disabilities. It is under Title II that a “Self-Evaluation” is prepared. The Self-Evaluation is intended to outline programs, services, and the transportation-related facilities of MassDOT, and to evaluate what policies, procedures, or structural changes must be revised or implemented to affect the non-discrimination policies contained in Title II. Several examples of MassDOT facilities which must provide public accommodation in accordance with ADA, regardless of funding source include but are not limited to the Registry of Motor Vehicles sites on the Massachusetts Turnpike, rest areas, public information centers, Park and Ride facilities, maintenance facilities (if applicable) and administrative buildings. The Self-Evaluation is also the precursor to the “Transition Plan (the Plan).”

Title III: PUBLIC ACCOMMODATIONS

Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. The term “public accommodation” as used in the definition is often misinterpreted as only applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility open to and/or used by the public.

Title IV: TELECOMMUNICATIONS

This title covers regulations regarding private telephone companies, and requires common carriers offering telephone services to the
public to increase the availability of interstate and intrastate telecommunication relay services to individuals with hearing and speech impairments.

**Title V: MISCELLANEOUS PROVISIONS**

Title V contains several miscellaneous regulations, including construction standards and practices, provisions for attorney fees, and technical assistance provisions. The Department of Justice’s [DOJ] established implementing regulations for Title II of the ADA which specify in relevant part that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination requirements of ADA. See, 28 C.F.R. Sc. 35.105. The DOJ regulations were issued in July, 1991, and have been revised from time to time to reinforce the essential requirements of the law. These DOJ regulations mandate that each public entity is required to examine activities and services and identify problems that may limit accessibility for persons with disabilities. The entity must then proceed to make the necessary changes resulting from the Self-Evaluation. The DOJ regulations implementing Title II of the ADA further require that a Transition Plan be prepared to describe any structural or physical changes required to make programs accessible. The MassDOT Transition Plan will be a companion to the MassDOT Self-Evaluation Plan; however it will be prepared in a separate document.

**b) Section 504 of the Rehabilitation Act of 1973**

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 701 et seq., states, in relevant part, that

“…no otherwise qualified individuals with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

This requirement applies to each recipient of Federal financial assistance from the United States Department of Transportation (USDOT) and to each program or activity that receives or benefits
from such assistance. Each Federal agency has its own set of Section 504 regulations that apply to its own programs.

When a state agency is a primary recipient of federal financial assistance and extends such assistance to third parties, called subrecipients, the agency has both Section 504 compliance and oversight obligations. As a primary recipient of federal financial assistance, MassDOT must ensure that local public agencies and other subrecipients that receive federal financial aid through MassDOT follow Section 504 regulations. Requirements common to these regulations include reasonable accommodation for employees with disabilities; program accessibility, effective communications with people who have hearing or vision disabilities; and accessible new construction and alterations.

c) ADA and Section 504 Implications for MassDOT

MassDOT must observe all requirements of ADA Title I in its employment practices; ADA Title II in its policies, programs, and services; parts of ADA Titles IV and V that apply to MassDOT and its programs, services, or facilities; and applicable requirements specified in the ADA Accessibility Guidelines (ADAAG), the Public Right of Way Accessibility Guidelines (PROWAG) and other related federal policy statements that apply to facilities and other physical holdings. Title II of the ADA has the broadest impact on MassDOT, including administrative requirements that apply to all government entities employing more than fifty people. These administrative requirements include:

- Completion of a self-evaluation;
- Development of an ADA complaint procedure;
- Posting a notice of Nondiscrimination based on Disability
- Designation of a person responsible for overseeing Title II compliance; and
- Development of a transition plan if the self-evaluation identifies any structural modifications necessary for compliance. The transition plan must be retained for three years.

In accordance with Title VI, and Section 504 and their related implementing regulations MassDOT must submit signed assurances
to the FHWA that it will not discriminate in the administration of its programs and activities. MassDOT must also secure, where applicable, similar assurances from its subrecipients. The assurances remind MassDOT and its subrecipients of their nondiscrimination obligations and provide a basis for the federal government to enforce compliance with the nondiscrimination laws. The subrecipient assurances generally appear in MassDOT project related documents.

d) Commonwealth of Massachusetts Accessibility Requirements

The Massachusetts Architectural Access Board (MAAB) is the regulatory agency in the Massachusetts Department of Public Safety. MAAB's legislative mandate states that it shall develop and enforce regulations designed to make public buildings accessible to, functional for, and safe for use by persons with disabilities. To carry out the board's mandate, the "Rules and Regulations", which appear in the code of Massachusetts Regulations as 521 CMR 1.00, have been developed and amended. These regulations are incorporated in the Massachusetts building code as a "specialized code", making them enforceable by all local and state building inspectors, as well as by the Board itself.

In assessing specific services, policies and practices and addressing the removal of physical barriers or the revision of policies and procedures, MassDOT must ensure compliance with applicable ADA and Section 504 regulations, including 49 C.F. R. Part 27 (Section 504), 28 C.F.R. Part 35 (ADA) and with the provisions of 521 CMR, the Accessibility regulations of the state of Massachusetts. Under state law, MassDOT must apply the more stringent of these standards to achieve accessibility.

By meeting the requirements of the ADA, Section 504 and the MAAB, MassDOT's Interim Transition Plan will also satisfy many Commonwealth of Massachusetts agency level requirements for ensuring nondiscrimination and access for people with disabilities. Among the relevant Massachusetts laws and orders that MassDOT must comply with to ensure access for people with disabilities are: Article CXIV of the Massachusetts Constitution; M.G.L Chapters 93 § 103, 151B, 272 §§ 98 and 98A; and Massachusetts Executive Order
526. To the extent that state law may require that MassDOT take actions beyond what is required under the ADA or Section 504, MassDOT will take steps to meet such additional requirements as may be determined to exist now or in the future.

III. ADA/Section 504 Working Group; Structure and Purpose

a) Formation of Scope of Work, Working Group and Interdepartmental Coordination

In January 2011, the Massachusetts Department of Transportation (MassDOT) initiated an Americans with Disabilities Act Transition Plan Working Group (Working Group), to update and implement MassDOT’s plan for compliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504), as well as related state statutory and regulatory provisions. This working group was established pursuant to an ADA/Section 504 Transition Plan Scope of Work that was drafted by the Working Group, and approved by the Federal Highway Administration (FHWA) to establish MassDOT’s ADA/Section 504 Transition Plan. Attachment 1, ADA/Section 504 Transition Plan Scope of Work.

The structure of the Scope of Work has been developed across several phases, with Phase 1 focused on the self-assessment activities and subsequent phases focused on remediation efforts. Currently MassDOT has primarily engaged in Phase 1 self-assessment activities, although significant remediation work (design standards, Accessible Pedestrian Signals, Accessible Public Meeting policy) has already been completed and is being implemented.

b) MassDOT ADA/Section 504 Working Group Charter

The MassDOT Americans with Disabilities Act Transition Plan Working Group will use technical, policy and legal expertise, as well as employee and stakeholder opinions, knowledge and experience to assess, identify and improve access across MassDOT’s services, policies and practices. The Working Group is envisioned as a proactive and engaged committee that will:
1. Provide leadership and structure to MassDOT’s efforts to ensure accessibility, consistent with our mission to become one transportation organization focused on customer service and safety.

2. Identify and discuss critical issues that impact accessibility, where colleagues are welcome to help develop and recommend solutions for adoption and implementation within the MassDOT ADA/Section 504 Transition Plan.

3. Ensure a process that respectfully takes into account the concerns and participation of the public in developing and implementing the ADA/Section 504 Transition Plan.

4. Increase MassDOT’s ability to provide access through enhancement to the agency’s ADA/Section 504 Transition Plan that better reflects the legal and moral imperatives for accessibility across MassDOT’s services, policies and practices.

c) Description of Working Group

The Working Group is co-chaired by David Anderson, Deputy Chief Engineer for Design and John Lozada, Manager of Federal Programs in MassDOT’s Office of Diversity and Civil Rights. The Working Group’s efforts are coordinated through a Core Group that includes a member of MassDOT’s Office of General Counsel, a representative of the MBTA’s Systemwide Accessibility department, MassDOT’s Title VI Specialist, FHWA representatives (David Chandler and Joshua Grzegorzewski, representing civil rights and engineering perspectives), and the Massachusetts Office on Disability’s (MOD) Director Myra Berloff. Ms. Berloff serves as the Working Group’s advisor and sits on the Commonwealth’s Architectural Access Board, thus bringing a state level policy perspective and understanding of federal requirements for ADA and Section 504 compliance. Due to her advising role with MassDOT on this Transition Plan effort, MOD Director Myra Berloff, who serves on the Commonwealth’s AAB and has recused herself from AAB proceedings on matters that pertain to MassDOT projects, during her participation in this effort. This Core Group develops Working Group meeting agendas, reviews proposed documents, discusses strategy, undertakes special initiatives and directs implementation of Working Group decisions.
The Working Group has been meeting monthly since January 2011. The group includes all members of the Core Group, as well as representatives from key Highway units, Planning, Information Technology, the Registry of Motor Vehicles and MassDOT Enterprise Services unit. Meeting agendas and minutes are developed for each monthly discussion to structure the meetings and deliberations of the Working Group. Working Group meetings focus on subcommittee updates on progress implementing the Scope of Work and considering key issues and policy modifications to eliminate impediments to accessibility. This Working Group also serves as a clearinghouse for information on ADA related matters that enhance our efforts across MassDOT departments, and will support community outreach efforts to seek support for the Transition Plan. 

**Attachment 2**, ADA Transition Plan Working Group Members.

### d) Key Working Group Accomplishments to Date

There were seven Phase I subcommittees at the outset of meetings within the ADA/Section 504 Working Group, each having specific objectives to begin the effort to restate the ADA/Section 504 Transition Plan. Many critical Phase I self-evaluation and remediation elements have been achieved from January 2011 to the present, including:

- Drafted ADA/Section 504 Nondiscrimination Policy Statement and Grievance Procedures
- Revised standard drawings (Wheel chair ramp and Traffic related, including Work Zones)
- Established baseline data on intersections and sidewalks owned by MassDOT, for inventory, data analysis and prioritization purposes
- Revised Design and Construction Notes
- Incorporated Variance Process, if needed, for the Architectural Access Board into project development processes
- Established the Accessible Pedestrian Signal policy
- Conducted preliminary statewide Wheel chair Ramp data collection test
- Conducted statewide Signalized intersection data collection test
- Developed Accessible Public Meeting Policy (pending Secretary approval)
- Developed MassDOT's Public Participation Strategy for the ADA/Section 504 Transition Plan
- Engaged a consultant to develop curb ramp self-assessment business protocols, software and database
- Secured preliminary financial resources to support remediation efforts required through inventory process

Other work has been achieved that is not specifically required to restate MassDOT’s ADA/Section 504 Transition Plan, but has significant meaning for the work going forward. For example, in January 2011, MassDOT’s Working Group became aware that the Department of Justice was moving forward with establishing the Public Right of Way Accessibility Guidelines (PROWAG). As part of the process for determining the standards applicable to the inventory of existing and needed curb ramps, MassDOT reviewed these proposed standards and made a comparison with existing standards under the ADAAG and relevant state Architectural Access provisions. Through this review process, MassDOT also provided comment to the Department of Justice in response to its Notice of Proposed Rulemaking on PROWAG, as well as recommendations to the state Architectural Access Board, which is currently revising its design standard regulation.

We anticipate that MassDOT's recommendations will encourage the approval of a more congruent set of accessibility standards in the right of way for Massachusetts, where in the past conflicts or confusion resulted from different applicable standards being utilized. Based on the achievement of key Phase 1 self-evaluation activities and the resulting creation of critical policy statements and applicable standards, MassDOT is beginning to move into Phase 2 inventory activities, starting with the curb ramp inventory that is expressly required by federal regulation. To achieve this inventory, MassDOT has contracted with a consultant group, BSC/Geonetics, to design a software format for collecting key data points on the estimated 90,000-110,000 curb ramps that exist or should exist across the properties owned by the Commonwealth of Massachusetts. This stage of the transition effort is being coordinated by members of the Phase 1 Design and Standards committee who have joined with other
staff from Planning, Asset Management and Civil Rights to oversee the development of the tools and strategy needed to conduct a statewide curb ramp inventory.

Other standing committees are working through self-evaluation phases to develop and implement transition strategies that will support the overall Transition Plan. For example, within the Facilities-Programs, Services and Activities committee, there is an effort underway to identify all of the buildings MassDOT owns or leases that invite the public to participate in programs or activities. This work involves review of roughly 940 buildings, some of which were merged into the transportation enterprise for the first time with the creation of MassDOT. This committee is also working to establish an inventory strategy that will focus on identifying and remediating accessibility issues from a program and activity standpoint, in collaboration with the Commonwealth’s Division of Capital Asset Management (DCAM). These efforts and those of related subcommittees are described in more detail within the section on Fixed Asset inventories.

MassDOT will consider establishing additional Phase II and III subcommittees to support the data collection, plan implementation and policy review efforts that comprise our initial activities. As additional committees are needed, they will be formed and staffed appropriately. The focus of our current subcommittees and each group’s deliverables are outlined at Attachment 3, Subcommittees.

e) Projects covered by Transition Plan and Relationship to Architectural Access Board

In 2006, the former MassHighway (now the MassDOT Highway Division) created a Project Development and Design Guide (Design Guide), which has three stated purposes:

- Ensure equal consideration of multimodal users of the right of way, including pedestrians, bicyclists and drivers, with a commitment to full compliance with state and federal accessibility standards for people with disabilities.
- Incorporate principles of Context Sensitive Design that would involve all constituents throughout project planning design
and construction, to develop transportation facilities that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility for all users.

- Establish a clear and transparent project development and design process that can be administered consistently throughout the state. The ideal is a process that results in project consensus among constituents which can be expeditiously accomplished within reasonable project cost.


The development of the design guide received input from the community of people with disabilities and the Massachusetts Office on Disability (MOD), and there are references throughout the document that reference the goal to seek compliance with both applicable ADA standards as well as Commonwealth of Massachusetts regulations for accessibility established by the Architectural Access Board (AAB). See, 521 C.M.R. (2006).

In 2011, MassDOT met with the Executive Director of the AAB to discuss the AAB’s process, MassDOT’s Transition Plan restatement and considerations pertaining to prior complaints received by the AAB. The result of this discussion was that MassDOT has opted to take a more proactive approach to look at the variance process and give the AAB more advance and timely notice, whenever possible, of projects where AAB waiver approval is needed. It is understood by all parties that at times, issues that were unforeseen or that arise during construction may sometimes make it difficult or impossible to provide more timely notice, but MassDOT is committed to work up front on projects to make determinations on accessibility so that such occasions are minimized.

IV. Public Engagement/Inspection of Plan - 28 CFR 35.150(d)(1) & 49 CFR 27.11 (c )(2)

In collaboration with the Massachusetts Office on Disability, the Public Participation committee developed a draft public engagement plan focused on obtaining consideration and input from those
individuals and groups most significantly impacted by the agency’s obligation to provide access across the Department’s policies, programs and activities. The Public Participation Plan is an attempt to strategically provide an opportunity for review and comment on MassDOT’s ADA/Section 504 Transition Plan. Attachment 4, Public Participation Plan (draft).

Under the Public Participation Plan, the Transition Plan will be shared for comment with individuals, groups and other stakeholders, in draft and as the Plan is being implemented, with modifications made based on questions, comments or concerns that warrant change. The target audiences will include people with disabilities for whom barriers may be posed by curbs, sidewalks, physical structures, programs, policies and/or procedures under the authority of MassDOT’s Highway Division. In this process, MassDOT will seek a diversity of opinion from this community among racial and ethnic groups, senior citizens, and parents of small children with disabilities. The draft plan includes the development of an Advisory Committee, a series of larger public meetings inviting members of the community at large, and an accessible multi-media approach designed to provide a reasonable ability for review and comment on the Transition Plan, and its component parts.

Implementation of the Public Participation Plan will begin between October and November 2012, primarily small meetings and one on one discussions with key stakeholders. It is planned that the Advisory Committee will be developed and structured to begin meeting and working on discussions that will include comment on the draft Transition Plan and planning during winter 2013, concurrent with the posting of the draft ADA/Section 504 Transition Plan for MassDOT and the initiation of formal curb ramp survey and other inventory initiatives.

V. Self-Evaluation 28 CFR 35.150(d) & 49 CFR 27.11; 28 CFR 35.150(d)(3)

In 2011, the creation of the ADA Transition Plan Working Group led to MassDOT initiating a range of self-evaluation efforts. The approach utilized has taken the following form:
1. Identifying applicable MassDOT standards to utilize in the assessment process, and where necessary, revising such standards to reflect current legal requirements.

2. Strategizing through subcommittees and the Working Group to establish the parameters of the substantive areas to be assessed.

3. Developing an approach, based on the information collected to conduct the self-assessment, including the identification of such data as will be determinative of compliance or deficiencies.

4. Consultation with FHWA representatives and the Massachusetts Office on Disability to confirm that the strategic approach being developed is sound and consistent with applicable regulatory provisions.

5. Implementing the strategy and collecting the requisite data.

6. Analyzing the data that is collected, prioritizing the deficiencies that are identified, consistent with such factors as critical nature of the program or activity, population density, severity of the deficiency and other factors to be determined. (Pending the results of inventory activities)

7. Budgeting and scheduling corrective activities. (Pending the results of inventory activities)

Most of the self-evaluation effort conducted to date has taken this strategic approach, and where applicable, MassDOT has also completed the series of checklists recommended by the United States Department of Justice to affirm ADA compliance or identify areas of noncompliance.

A) Self Evaluation of Relevant Policies

1) Fulfilling Administrative Program Requirements of ADA – the Policy subcommittee determined that there was a need to revise the baseline administrative policy statement, notice and grievance procedures for ADA. The Policy subcommittee took on this responsibility and addressed the following critical elements:
i. ADA Coordinator identified in non-discrimination policy statement - 
28 CFR 35.107(a) & 49 CFR 27.13 (a) and (b)

The ultimate responsibility for implementation of MassDOT’s ADA/Section 504 Transition Plan rests with MassDOT Secretary/CEO Richard A. Davey. This responsibility has been delegated by Secretary Davey to the Chief Civil Rights and Diversity Officer, Eddie J. Jenkins, who is the designated ADA Coordinator for MassDOT. Mr. Jenkins has assigned John Lozada as Manager of Federal Programs, to lead the effort on behalf of Civil Rights to establish and ensure implementation of the Transition Plan on a day to day basis. 
Attachment 5, Nondiscrimination Policy Statement.

ii. Notice of ADA Requirements and Public Dissemination - 28 CFR 35.160(a), 28 CFR 35.163(a) & 49 CFR 27.7 (c ); 28 CFR 35.106 & 49 CFR 27.15; 28 CFR 35.160(a), 28 CFR 35.163(a) & 49 CFR 27.7 (c )(notice of availability of Auxiliary Aids on request)

MassDOT has established a detailed notice of ADA requirements, and an abbreviated version of this notice. Attachment 6, Notice of Nondiscrimination. Each form of the notice identifies the designated ADA Coordinator, consistent with the approach that MOD recommends for providing notice to the public, and provides information on how to request assistance. The information on requesting assistance is to be included on all meeting notices that are created by agency personnel. A strategy for dissemination of this information has been created as part of MassDOT’s Public Participation strategy, which is referenced in more detail, below.

iii. Review of Policies on the extent to which auxiliary aids are provided by MassDOT - 28 CFR 35.160(a), 28 CFR 35.163(a) & 49 CFR 27.7 (c )

These policies were reviewed and resulted in the revision to the notice of ADA requirements to make clear that the ADA Coordinator was the point of contact for reasonable accommodation requests.

iv. Procedure for handling individual requests for such devices - 28 CFR 35.160(b)(1) & 49 CFR 27.7 (c )
MassDOT’s current procedure focuses on requests being made through the Office of Diversity and Civil Rights and its ADA Coordinator, and the support for the accommodation requested to be provided by the Enterprise Services office, as assisted by the Facilities department. As training is implemented, particularly for those individuals who host public meetings and/or work with members of the public it is the agency’s objective to have a more decentralized structure, with the Office of Diversity and Civil Rights serving as a technical advisor and providing a specialist function to resolve complicated issues and/or to address grievances.

v. Establishment of Grievance Procedure and Complaint Handling - 28 CFR 35.107(b) & 49 CFR 27.13 (b); 49 CFR 27.121 (b) (complaint kept on file for one year)

MassDOT has developed a grievance procedure for handling complaint matters that is consistent with FHWA and MOD requirements. MassDOT also has investigative staff in its civil rights unit capable of handling ADA related complaint matters. Attachment 7, Grievance Procedures.

vi. Agency and Sub-Recipient Assurances to FHWA - 49 CFR 27.9

MassDOT has evaluated the assurances that are required of subrecipients and has determined that some revision of these documents is needed, both in terms of our oversight of ADA compliance as a related program to title VI and within the context of this Transition Plan.

Under MassDOT’s Title VI Program, we are identifying and monitoring relevant subrecipients as to their overall compliance with the nondiscrimination provisions that FHWA enforces. In terms of Highway Division subrecipients that are extended federal financial assistance for construction related projects, there are 175 cities and towns across the Commonwealth in this pool. MassDOT has a Maintenance subcommittee to the Transition Plan Working Group that is focusing on the revisions needed to ensure compliance with the requirements of the ADA, including the articulation of compliant assurances. MassDOT will use its policy statement and supporting documentation as models for the types of assurances that we will
expect from subrecipients. MassDOT will also develop a strategy to provide training on our expectations and monitor compliance with these agreements, as they are approved and implemented.

2) Awareness and Information Dissemination

Awareness, Information Dissemination and Training including Accessible Public Meeting - 28 CFR 35.160(a), 28 CFR 35.163(a) & 49 CFR 27.7 (c)

i. Staff dissemination and awareness

MassDOT will disseminate a link to the ADA/Section 504 nondiscrimination Policy Statement and Notice to all staff as well as a copy of the interim MassDOT ADA Transition Plan, upon their approval by FHWA. MassDOT will also provide direct mail of these documents to relevant staff in departments with public engagement responsibilities. MassDOT staff will also be advised of the Civil Rights website portal for external ADA and Transition Plan inquiries and information. To build internal awareness, MassDOT will incorporate relevant information in various formats for ongoing staff development, and for new employee orientation.

ii. Public dissemination and awareness

MassDOT’s Civil Rights and ADA links will be prominently featured on the public facing website. MassDOT has developed a public participation strategy that will ensure that the public has knowledge of the Transition Plan and an opportunity to comment, as well as understanding of MassDOT’s ADA/Section 504 and related state obligations on a going forward basis. A prominent feature of this effort will be the creation of a Community Advisory Committee which will meet on a recurring basis to provide input and learn about the development and implementation of MassDOT’s ADA/Section 504 Transition Plan. MassDOT is also collaborating with the Massachusetts Office on Disability to develop a dissemination list to reach out to the broad network of organizations and individuals that would be interested in MassDOT’s ADA/Section 504 Transition Plan efforts.
iii. Training

Training on the knowledge needs for staff and managers to effectively implement the ADA Transition Plan will be broad based, multifaceted and developed in concert with MassDOT’s Title VI Plan implementation effort. We plan to develop a series of protocols based on our Policy Statement, which will provide staff with a clear guidance to how to engage with the public in different accessibility contexts. A prime example of this approach will be based on the Accessible Public Meeting policy that MassDOT has drafted. In connection with the plan for dissemination of this policy, MassDOT will develop training that will be provided to each of the units that conduct meetings with the public, to provide orientation to the policy and instruction that will ensure its proper implementation. To ensure the effectiveness of training, MassDOT will collaborate with internal staff resources and Commonwealth agencies focused on disability advocacy and awareness, including:

- Massachusetts Office on Disability (MOD)
- Massachusetts Rehabilitation Commission (MRC)
- Massachusetts Commission for the Blind (MCB)
- Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH)

Training on the ADA/Section 504 Transition Plan and policy related requirements for staff will be the subject of a range of strategies that will include senior leadership and managers in impacted departments. We will also develop ADA specific training on accommodating members of the public in the context of meetings or the office setting.

This training will complement the significant Commonwealth mandated training for all staff and managers on matters concerning employees and disability related issues, including protocols for addressing people with disabilities. These efforts established a good predicate for initiating further training to address more complicated subject matter, including the provision of reasonable accommodation, complaints and ensuring access on a proactive basis. Through Commonwealth and internal staff resources, MassDOT will develop a team of individuals who are trained and thereby become able to train
others in connection with the ADA Transition Plan, ideally through a combination of staff members and volunteer members of the public, as well as support from other Commonwealth agencies.

As noted, staff and manager training received at MassDOT has been focused on relations in the workplace, as coordinated through the Commonwealth of Massachusetts’s Office on Diversity and Equal Opportunity. An e-Learning training opportunity, entitled “Diversity Part II – Disability Awareness” was launched in mid-September. It presents disability among colleagues as part of healthy workforce diversity. It cites the basis in law for workplace accommodations, offers a lesson in disability etiquette, and explains the important distinction between disclosure and self-identification. To date, more than 7,300 executive branch employees have taken the mandatory course.

3) Review and Revision of Design and Construction Policies and Related Documents for ADA Compliance

Self-evaluation of Existing Information, Policies, and Practices, including Relocation Assistance Policy - 28 CFR 35.105 & 49 CFR 27.11 (c)(2)(i-v); 28 CFR 35.151 (c) (reasonable consistent policies); 28 CFR 35.150(a)(3) & 28 CFR 35.164 (undue financial or administrative burdens or fundamental alteration analysis process)

a) MassDOT self-assessment efforts are taking the methodological approach, referenced above to identify applicable standards and work through subcommittees to identify, develop and recommend strategies to address the need for policy modification.

b) Design and Construction Standards and Guidance – MassDOT will establish a policy to address ADA/Section 504 conformity for projects designed by or at the expense of MassDOT, constructed by or through MASSDOT, and owned or accepted for ownership by MassDOT. 28 CFR 35.150(a)(3) & 28 CFR 35.164 - ADAAG 4.1.1 (5) & 4.1.6 (J); also 28 CFR 36.401(c) and 402 (process for infeasibility determinations).

i. Construction Standards and Design Policy Review and Restatement

This effort was the work of MassDOT’s ADA Transition Plan’s Construction and Design Standards subcommittee, which was formed with the purpose of reviewing all available Highway Division guidance related to the design and construction of sidewalks and intersections. The review focused on ensuring that the Highway Division’s guidance conformed to applicable state and federal laws, regulations and guidance. The process resulted in the preparation of new and/or revised standard plates for the Construction Standard Details and a set of Notes on Walks and Wheelchair Ramps (“Notes”) which provide the following guidance with respect to the determination of technical infeasibility in the design and/or construction process with respect to compliance and seeking variance approval from the Commonwealth’s Architectural Access Board:

All MassDOT projects shall be designed and constructed to meet all state and federal regulations associated with pedestrian access. There are conditions which will be encountered; however, where full compliance is structurally impracticable, ortechnologically infeasible, or where the cost of compliance is excessive without any substantial benefit to persons with disabilities, or prohibitive in some other manner. In these cases variances from the rules and regulations of the Massachusetts AAB are required.

These documents were approved by both MassDOT’s Legal Counsel and FHWA. The documents were issued via an Engineering Directive in March 2012 and are available on the Highway Division’s public website.

The subcommittee is also addressing modifications to the Work Zone flipcharts, in collaboration with FHWA. This effort is underway and there are on-going discussions with FHWA concerning the language to be adopted. Other issues being addressed by this committee
include maintaining a pedestrian path through construction sites and other forms of temporary pedestrian access.

ii) Accessible Pedestrian Signals Policy

The Construction and Design Standards subcommittee also undertook a review of MassDOT’s policies and procedures for the use and application of accessible pedestrian signals to ensure compliance with 28 CFR 35.149. The result of this effort was the development in June 2012, of an Accessible Pedestrian Signal Installation Policy, which was formally established as Highway Division policy and implemented pursuant to an Engineering Directive dated June 7, 2012. **Attachment 9**, Accessible Pedestrian Signal Policy.

Section 4A.02 of the Manual on Uniform Traffic Control Devices (“MUTCD”) defines an Accessible Pedestrian Signal (“APS”) as a device that communicates information about pedestrian timing in a non-visual format such as audible tones, verbal messages, and/or vibrating surfaces. The draft PROWAG definition is similar, however, under PROWAG, APS devices must include both audible and vibrotactile functions. APS devices let pedestrians who are blind or visually impaired know when the WALK interval begins and terminates. Pedestrians who know when the crossing interval begins will be able to start a crossing before turning cars enter the intersection and can complete a crossing with less delay. Audible signals can also provide directional guidance, which is particularly useful at non-perpendicular intersections and at wide multi-lane crossings.

The policy essentially requires the inclusion of APS devices as part of all new pedestrian signals installed on MassDOT projects. The policy also describes the process for considering the installation of APS devices as retrofits to existing signals not scheduled to be replaced under a MassDOT project.

iii. Project Development and Design Guide - 28 CFR 35.151 (c); 28 CFR 35.105 & 49 CFR 27.11 (c)(2)(i-v)
The Highway Division’s Project Development and Design Guide (Guidebook) was created in 2006 following a lengthy and consultative process that began in 2003 and involved a number of stakeholders, including the Massachusetts Office on Disability. The Guide is voluminous and covers a very wide range of resulting work and is intended to meet the following objectives.

The purpose of this Guidebook is to provide designers and decision-makers with a framework for incorporating content sensitive design and multi-modal elements into transportation improvement projects. The emphasis is to ensure that investments in transportation infrastructure encourage projects that are sensitive to the local context while meeting the important needs of the people they serve.


The Guidebook has been recognized through numerous awards for its exhaustive treatment of public outreach, community engagement and consensus building as a means to achieve effective project development. Given the time, expense and comprehensiveness of the Guidebook, there is no immediate plan to revise and reissue the document wholesale. As policy changes are made that impact the document, they will be referenced through Engineering Directives that will disseminated consistent with existing protocols for new policy issuance, which will ensure that any revised content is considered by appropriate professionals and accessible to stakeholders.

iv. Standard Specifications for Highways and Bridges; Bridge Manual

Currently, MassDOT has not made any proposed changes to the standard specifications to assure ADA compliance, based on the approach and protocols in place that set obligation for the creation of ADA and AAB compliant designs on the professionals charged with the component parts of the highway and bridge design process. Most of MassDOT’s construction work is horizontal construction and deals with ADA/AAB issues as related to walkways, sidewalks and ramps. MassDOT holds its contractors responsible for constructing projects in accordance with the contract plans and specifications, and project
designers responsible for assuring that the plans and specifications are compliant with the latest ADA requirements.

The standard specifications will be updated as needed for relevant language for contractor compliance with AAB/ADA. This may include some general compliance language, as well as language specific to traffic control and detours. More specifically, there will be language associated with making wheelchair ramps and sidewalks accessible and the need for contractor awareness and compliance. There are two key members of the ADA Transition Plan Working Group serve on the MassDOT Specifications Committee and will work toward assuring that this compliance language is added and updated as needed.

v. Other Highway Division policies

MassDOT is committed to ensure that its policies and procedures comply with the accessibility requirements set forth in the Massachusetts Architectural Access Board (AAB) regulations (521 C.M.R. 3.00 et seq.), the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and other applicable federal and state statutes and regulations related to accessibility.

Accessibility refers to mobility impairments, hearing and visual impairments, and any other disability that creates access problems. MassDOT acknowledges that the standards for existing facilities differ from those for new construction or various levels of rehabilitation under each code and is committed to taking all necessary steps to comply with the particular requirements for each project. The Policy Committee has begun a self-evaluation of MassDOT’s policies and practices with respect to its programs, services, and activities to determine the existence of any physical or communication barriers that limit full participation of persons with disabilities.

As part of the self-evaluation the Committee has:

- Started cataloguing and reviewing the nearly 300 policies, standard operating procedures and engineering directives issued by MassDOT or one of its predecessor agencies.
- Assisted in the development of a policy for the use and application of accessible pedestrian signals, a draft copy of which is attached to this report.

- Assisted the Accessible Public Meeting Committee in the development of an open meeting policy.

The Committee is currently working to articulate an omnibus or catch all notice applicable to all relevant MassDOT policies to prohibit the policies from being used or construed in ways that would allow for discrimination against people with disabilities, among individuals in other protected categories.

**B) Self Evaluation - Fixed Assets**

1. **Curb Ramp (CR) and Sidewalks - Standards, Proposed Methodology and Data Collection Tool Development**

   **a) Overview**

   MassDOT has initiated efforts to conduct a survey and inventory of all existing and/or missing agency owned, operated, or maintained curb ramps or locations within the state public right-of-way (PROW) where pedestrian paths cross public roads. With field study data, MassDOT will prioritize curb ramps by the level of critical need for remediation and develop, fund and implement a Curb Ramp remediation schedule, pursuant to 28 CFR 35.105(d)(2) & 49 CFR 27.11(c)(2)(i-v); 28 CFR 35.151(e)(1)(2) & 49 CFR 27.75 (a)(2)(Installation of curb ramps or other sloped areas); ADAAG 4.29 & FHWA policy guidance (installation of detectable warnings) (May 2002). A Traffic Signal Schedule will be included in this item. GIS technology will be utilized to develop both schedules.

   MassDOT has determined that we have a responsibility to survey and inventory an estimated 110,000 curb ramps or missing curb ramps that are within the Highway Division right of way. Given both the massive number of ramps and the complexity of managing the data to meet the prioritization and remediation scheduling requirements of the ADA, MassDOT determined that the best approach to conduct this work would be to create a technology based solution. Our
strategy is to capture the assessment data on each curb ramp to be evaluated, upload the information to a data warehouse where the information will be studied through application of a severity index formula, and individual curb ramps prioritized for remediation.

b) Creation of Curb Ramp Inventory Methodology

In spring 2011, the Construction Standards and Design Guidance subcommittee, created revised engineering design standards which facilitated MassDOT’s ability to revise standard design drawings for types of intersections and specifications for curb ramps. Through this process key measurements were identified that indicate the inaccessibility of a curb ramp, as well as related measurements determined important to achieve compliance in the remediation phase of the process. Using the revised drawings for curb ramps a survey tool was designed to be used to measure and record curb ramp elements. We coordinated our work with MOD staff specializing in making accessibility determinations to refine the list of data points, resulting in a set of 23 items to assess for each curb ramp, along with several traffic signal related questions. Tabulation forms and instructions were developed based on these variables, and the resulting format was tested through a sample field study conducted by the MassDOT Highway District offices in late fall 2011. The field test involved an evaluation of 10 intersections per district, with data manually recorded and comments on the exercise submitted by each of the districts.

c) Establishing a Technology Driven Software Solution

Using the results of the internal field study, in November 2011 and December 2011, members of the Construction Standards and Design subcommittee drafted a consultant scope of work for the creation of a computer tablet based application, a pilot wheelchair ramp inventory and a technology based format for data collection and retrieval. The BSC/Geonetics group was contracted to conduct this work in March 2012. The consultant has created the basic model and is currently testing and refining the software application to meet MassDOT’s assessment specifications. The application relies on Android tablet technology to implement the data collection format which was established through our field testing efforts. This device is currently
being tested over a sample of 100 intersections, which provide sufficient data to further refine this tool, modify the data to be collected and begin the identification of priority factors. As of August 2012, a total of 52 intersections had been assessed, with the balance pending the upgrade of GIS orthographic images to ensure the accuracy of our mapping of the ramps to be assessed. Completion of the sampling effort, follow up modifications to the application, final creation of the inventory tool and the beginning of the broader inventory will take place by early 2013. Attachment 10, Proposed Curb Ramp Inventory Questions.

d) Inventory implementation - Field initiatives

i) Strategic Planning for Field Inventory

MassDOT estimates that data collection and processing of all of the information that is required to complete this inventory will take an estimated to two years, and we are designing a strategic plan to capture this information and process the resulting data in a fair, logical and timely manner. MassDOT envisions employing a number of strategies to conduct this effort, and at the outset, we will begin the process by using consultants to conduct the inventory efforts. We are currently considering the potential to expand our efforts through staff and intern support, although the aggressive construction schedule in our district offices and the difficulty of collecting data during the winter months make it problematic for our internal workforce to assume this obligation.

Based on the pilot field work of the consultants and the information we receive from our District offices, MassDOT will structure the inventory efforts to be as expedient as possible and to target areas for assessment on a combination of population, extent of movement in the area and other factors to be determined.

e) Prioritization of Inventory Data

The field study of MassDOT’s curb ramps to begin in 2013 will yield raw data compiled concerning the ADA and AAB compliance of individual ramps or missing ramps. MassDOT is currently developing criteria to establish a priority order and sequence of projects to be
addressed. To develop this priority index, MassDOT is considering key factors including location, degree of utilization and degree of non compliance. The strategy for these priorities is being refined through the preliminary data from the field study, and will be further refined depending on the public input received.

Consistent with the Code of Federal Regulations, at 28 CFR §35.150(d)(2), we envision a remediation schedule that will generally prioritize pedestrian access upgrades to State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas. To make these determinations, we will also seek public input on the priorities that are established to ensure that we capture critical needs, including those needs that are not readily apparent. For example, there may be a particular school, community center or other program or activity that serves a significant population of people with disabilities that might not be on a primary thoroughfare, but which community members might identify as presenting a priority need. MassDOT will review such matters and adjust its curb ramp remediation to accommodate such identified need when the facts support such a modification.

MassDOT has also raised the question of detectable warnings as far as how and when they would become a priority, given the federal 10-year moratorium on the requirement for detectable warnings ended in 2003. Through discussions with both FHWA and MOD representatives, there is agreement that the warnings should be installed as part of the regularly scheduled repair cycle, and that the date of when the ramp was built should not be a triggering factor.

f) Budget and Scheduling – Curb Ramps Remediation

MassDOT will coordinate the remediation of deficient curb ramps at a district level, and begin the process of undertaking remediation of curb ramps in critical areas, even as we progress on the curb ramp inventory. Toward that end, in spring 2012, MassDOT reprogrammed approximately $15,000,000 for the fiscal years 2013-2016, which will be divided across the six highway districts for the purpose of the “ADA Retrofit Program.”
MassDOT will preliminarily depend on District leadership to identify critical areas in need of remediation in this interim, which could include either or both curb ramp related remediation or facility accessibility, to establish contracts to start addressing these areas.

As the inventory effort begins in 2013, we will conduct on-going analysis and prioritization of curb ramps using the data we receive from the field, and begin to establish the priorities that are determined on a statewide and district by district level, to set the next group of curb ramps for remediation. With these priorities, our approach will target concurrent remediation of deficient curb ramps in each of the districts, both with regard to current funds that are available for the work, and through such funding as will be programmed to the Transportation Improvement Plan for future years beyond 2016.

g) Sidewalks

i. Self-evaluation efforts

As part of the Working Group self-evaluation process, in 2011, the Sidewalk subcommittee created a report entitled “MassDOT Sidewalk Analysis,” identifying the total miles of sidewalks and total miles by route number in each MassDOT Highway District. MassDOT owned and maintained intersections and signalized intersections, with pedestrian phases, sidewalks, and crosswalks were also reported. Attachment 11, Sidewalk Analysis (Draft). This subcommittee has repeatedly updated its “MassDOT Sidewalk Analysis” report, and is currently mapping intersections and sidewalks for purposes of determining high-volume areas of utilizations that will begin to help our team analyze strategies for inventory and remediation purposes.

Planning will generate a sidewalk layer that is coded by priority. Planning has a program that generates a GIS layer of sidewalks utilizing additional layers, including but not limited to public facilities and landmarks, to determine the priority of a sidewalk based on anticipated sidewalk use. It is anticipated that this sidewalk layer will be in place for review and subsequent incorporation into curb ramp and sidewalk assessment activities by fall 2013. MassDOT is also establishing a Continuously Operating Reference Station (CORS)
Network that will allow for survey grade GPS readings anywhere in the state, which will also support this analysis.

ii. Remediation strategies under development

Our current understanding is that of the roughly 1,100 miles of sidewalk that MassDOT owns, there has possibly been ADA compliant upgrading that has taken on 20% of the sidewalks. Confirmation of this data, as well as information pertaining to the use of particular sidewalks, is pending the upgrade of GIS mapping data, which should be complete during fall 2013.

Based on the primacy of the curb ramp inventory, MassDOT is working on a three pronged approach to address sidewalk reconstruction for ADA compliance. First, MassDOT is evaluating the potential to include sidewalk reconstruction with other projects (such as roadway resurfacing). It has been determined that it takes 20-30 years for an entire highway resurfacing cycle to take place, thus if agency resources allowed for the modification/rehabilitation of sidewalks in this way, the work would be done in 20-30 years. Once the evaluation of sidewalks needing reconstruction is complete, further steps will be taken to determine how feasible this strategy is, in whole or in part, including with respect to the cost factor for this effort.

Second, given that some portion of sidewalks are actively used, while other portions are likely to have little or no use by the public, MassDOT is working to identify areas of sidewalk where there is significant public use, for prioritization. These so called “hot spots” are being identified utilizing GPS software that can be used to structure the level of public use. We have a rough estimate that approximately 85% of MassDOT sidewalks have some level of public use. The Working Group will develop a prioritization matrix which will be shared for public comment through our Public Participation Plan, with the support of MOD, as a means to establish a format for structuring sidewalk rehabilitation under this approach. We will also rely on research data from other MassDOT departments, including “journey to work” and other related research and data.
Third, where there is particular concern raised by community members concerning the prioritization of a sidewalk under the first two approaches, MassDOT will develop a process which would allow low-priority projects to be “bumped” up the list via the operation of a request, supported by relevant evidence of need. It is envisioned that this is a process that could incorporate the support of metropolitan planning organizations and disability commissions across the Commonwealth for information on the worst sidewalks and need for reconstruction.

In this process, MassDOT has also evaluated the potential for utilizing cutting edge inventory technology and has studied in particular the effort in the City of Bellevue, Washington, where a Segway inventory approach was utilized. This approach was determined highly effective for the sidewalk inventory in that community, although it was not useful for curb ramp inventory. We also learned that the approach was funded with federal dollars as a pilot study, and based on the conclusion of our self-evaluation, we will revisit adopting this approach for the inventory work in this area.

To begin the remediation process, there are efforts underway to ensure that engineering staff in the Districts are giving due consideration to accessibility considerations in connection with road resurfacing projects. They have been reminded that all sidewalks within the project limits must be evaluated for conformance with the requirements of 521 CMR and the PROWAG. It is anticipated that once more clear data is available on the extent of the sidewalks to be repaired, and budgetary considerations have been properly addressed, that more directive guidance will be developed and issued across the highway district offices. MassDOT is also taking preliminary steps to determine the feasibility of incorporating sidewalk remediation work into the established roadway improvement schedule, although this is a speculative possibility that will hinge on factors including the extent of curb ramp remediation required.

2. Programs, Services and Activities

MassDOT will conduct a survey of agency owned, operated or maintained facilities, other than curb ramps, to determine if barriers
exist that deny full access to any program, service, or activity housed within a facility, and to remediate these barriers as needed.

a) Self-evaluation

MassDOT has identified roughly 940 physical structures that are owned or managed by our agency. The large majority of these structures are not accessed by the public based on their purposes, which include sheds and storage facilities, such as for equipment and road salt. In terms of the possibility that MassDOT employees or contractors with disabilities who work in these facilities may require accommodation to a disability, MassDOT addresses such matters under its Affirmative Action Plan as reasonable accommodation, consistent with the requirements of federal law and the Commonwealth’s guidelines to Executive Order 526. Based on this assessment, MassDOT will focus efforts on surveying MassDOT facilities that offer on-going programs and services to the public to ensure they are accessible. In focusing on public-facing facilities, we have divided the remaining inventory into the following categories:

i. Registry of Motor Vehicles (RMV) Sites.
   - MassDOT operates 32 RMV locations across the Commonwealth; some are owned by the Commonwealth while others are privately leased. Services offered at these locations include, but are not limited to, road tests, issuance of state licenses and identification, vehicle registration and titles, payment of various fees, administration of road tests, hearings, voter registration.

ii. Rest Areas.
   - MassDOT operates 120 rest areas, some of which feature restrooms and vending machines, while some locations include visitor centers.
   - Eighteen of these rest areas are also Service Plazas, many of which offer gas stations, food service vendors, and stores in addition to restrooms and vending machines. Much of this retail space is leased from MassDOT to private realtors.

iii. Park and Rides
   - MassDOT also operates 81 park and rides. Eight of the 81 are currently closed. The majority is operated by
MassDOT but several are operated by other entities such as Massport.

iv. District Offices

- There are six district Highway offices across the Commonwealth, and one additional office that is identified as Headquarters. These offices serve primarily as employee space; however, programs/services such as public meetings, staff and vendor training, permit applications, visits by municipal, state and federal representatives occur at these locations.

**Attachment 12**, Inventory of Programs, Services and Activities to be Surveyed.

b. Inventory Methodology:

Parallel to MassDOT’s efforts to capture and categorize an inventory of facilities, the Commonwealth’s Universal Access Committee (UAC) and Division of Capital Asset Management (DCAM) have developed a means of updating agency transition plans by assessing the accessibility of facilities owned or operated by the Commonwealth. This method focuses on evaluating a person’s access to the programs, services and activities offered at that facility, as opposed to every aspect of the facility’s built environment. For example, an assessment that revealed public meetings were being held on the second floor of a building without an elevator would likely focus on ways to relocate the meeting space to ground level, as opposed to installing an elevator. This approach aims to expand the scope of the total number of significant barriers to be addressed by strategically using resources on a larger number of facilities.

MassDOT will adopt this method of assessing facilities for the purposes of this transition plan, and has consulted with FHWA on the reasonableness of this approach.

c. Inventory Implementation Strategy

MassDOT seeks to pilot an assessment at the Chinatown branch of the RMV beginning this fall. Based on concerns recently raised by employees, we know that access deficiencies exist there today.
Additionally, it is one location that MassDOT has leased so its assessment will allow us to explore issues that may be raised regarding lease/lessor obligations. As the pilot assessment is ongoing, we will be identifying funds for additional assessments as well as staff (internal as well as contractors) to perform these assessments.

Independent of MassDOT’s ADA transition plan, although with a sense of the need for all of the Commonwealth’s Secretariat agencies to update their transition plans, DCAM has secured resources to hire consultants with appropriate ADA experience to perform assessments for state agencies such as MassDOT. The Facilities sub-committee has met with DCAM to begin preliminary discussions toward securing the consultants’ services for the MassDOT inventory effort. We are hopeful of being able to leverage some of these resources to assess MassDOT facilities. If the services of DCAM consultants are secured, MassDOT will work with them to develop the scope of each facility assessment based on what types of programs, services and activities occur there. The scheduling of this inventory process will be conducted in consultation with the DCAM representatives, as this process moves forward.

d. Remediation

The inventory will identify both the extent of need for remediation and the number of facilities that require attention on a priority basis, using the factor of public use as a major criterion. There will be funding from a combination of sources identified to address needed remediation between the Commonwealth, Facilities and Highway resources. The Commonwealth resources are anticipated to be in kind, in terms of the consultant resources anticipated through the DCAM initiative, where Highway and Facilities resources would be in dollar amounts. There is no clear estimate on the cost possible at this point, given that the assessments have not started at this point.

3. Communications

MassDOT has reviewed the communication access afforded under agency programs, services, and activities that provide a public benefit, including the extent to which auxiliary aids are provided, and
the procedure for handling individual requests for such devices, as required by 28 CFR 35.160(a), 28 CFR 35.163(a) & 49 CFR 27.7 (c ).

a) Communications Related Policies – Policy Statement and Accessible Public Meeting Policy

MassDOT is committed to meet the requirement to provide equal access to communications for people with disabilities, and is responding to this obligation through existing or new policy statements, procedures, equipment and technology.

MassDOT’s intent to comply with the ADA stated within MassDOT’s ADA/Section 504 Policy Statement, signed by Secretary Davey, and by the MassDOT and MBTA Accessible Public Meeting Policy. The ADA/Section 504 Policy Statement provides the public with contact information to seek auxiliary aids or other accommodation in connection with a program or activity offered by MassDOT, or to file complaints. The Accessible Public Meeting policy is an expansive document which provides a set of definitions, procedures and contact information relevant to creating accessible meetings across the Commonwealth’s transportation enterprise. Included within this document are instructions for providing public notice, ensuring accessible spaces, securing CART and Sign Language interpretation, access to telephones the creation of accessible print materials. This policy is addressed in more detail, below in the subsection on Public Hearing and Public Information Procedures.

To ensure that the policies are understood and properly implemented, MassDOT will develop training for relevant meeting planners and conveners and create and distribute a condensed brochure or pamphlet outlining the policy for ease of staff review. These two statements definitively set forth the public’s right to notice, accommodation and to seek redress in connection with participating or benefitting from MassDOT’s programs, activities or services.
b) Self-Assessment - Communications

1) Telephone Communication

i. Self-evaluation

There is a dedicated central TTY line that connects to the MassDOT Highway and Aeronautics Divisions and to Enterprise services, as well as separate dedicated TTY lines that connect to the Registry and to the Rail and Transit Division. These lines are referenced on the MassDOT website, although there is a need to clarify that the central line also services the Aeronautics division and Enterprise services. There is also a dedicated TTY line within the MassDOT Office of Diversity and Civil Rights, which is referenced on the notice of nondiscrimination based on disability.

In this self-evaluation process, MassDOT staff is learning about the advances in telecommunications for people with disabilities, and using that information to evaluate and plan for prospective deployment of equipment to support people who are deaf or hard of hearing. We understand that TTYs are currently used less by people who are deaf, based on the increased use of video and voice relay systems. MassDOT further understands that TTY systems are still used by a number of individuals, thus our agency will maintain its commitment to providing this service into the future. MassDOT will also provide notice to staff on the more contemporary communications tools used by people with hearing related disabilities, including any protocol or etiquette elements that staff should be aware of and follow.

ii. Remediation

MassDOT is currently working toward having one central TTY number for all of the divisions in the agency, which will ensure that all offices can be reached consistently and facilitate training of key staff members who will be assigned the responsibility for coordinating such calls. There will be a separate TTY line for the Office of Diversity and Civil Rights, to provide a discrete means of contact with this department on matters that could include possible complaints against MassDOT from employees or members of the public. There
will continue to be a distinct MBTA TTY number for the foreseeable future, given size of the organization, the population served and the significant funding from the Federal Transit Administration.

MassDOT is also concurrently undertaking a major telephone upgrade project which will provide ADA compliant telephones to assist staff with hearing related disabilities. This initiative has been identified “One Voice,” and started with a first phase focused on the upgrade of Registry telephones and will progress to the Highway division in late 2012 or early 2013. ADA related considerations on messages and protocols will be considered and addressed as part of this process.

2) Web Based Communications

i. Self-evaluation

The Massachusetts transportation agencies have a history of commitment in providing an accessible online environment. Prior to 2009, both the Executive Office of Transportation and the Mass Highway agency websites went through a third party accessibility audit.

The newly designed MassDOT website has been reviewed by the Commonwealth’s Assistive Technology Lab to ensure that the website met accessibility standards before it went live in November of 2009. The Commonwealth’s accessibility standards have been determined to exceed those of the federal government. Since going live, the MassDOT website has been maintained and updated using the Commonwealth’s standards as a guide for all content and design decisions. For on-going web development and new content, MassDOT’s Web team uses a selection of Web tools to check for accessibility issues and remediate them in the development environment prior to going live as to any given project or posting of material.

As part of this self-assessment process, MassDOT has also completed the Website Accessibility survey included in the ADA Best Practices Tool Kit for State and Local Governments.
ii. Applicable Policies

The MassDOT Accessibility Policy closely follows the Web Accessibility Standards developed by the Commonwealth’s Information Technology Division (ITD) with the participation of state web page developers, including developers with disabilities. They are intended for use by all state agencies to address accessibility issues in web page design: http://www.mass.gov/anf/research-and-tech/it-pols-stnds-and-guidance/tech-guidance/accessibility-guidance/web-accessibility/web-accessibility-standards.html.

The purpose of the Web Accessibility Standards is to ensure access to state web pages for all users, whether they be internal (employees) or external (public). The scope of these standards encompasses more than compliance with the Americans with Disabilities Act (ADA) and other statutes that call for accessible technology for people with disabilities. The standards also address access issues for people using different technologies, including older technologies (slower Internet connections, for example) and newer technologies (mobile devices, for example), as well as issues of computer literacy.

The Commonwealth and MassDOT standards are based on Section 504 (http://www.dol.gov/oasam/regs/statutes/sec504.htm) and 508 (http://www.dol.gov/oasam/regs/statutes/sec508.htm) of the Rehabilitation Act, which include a variety of provisions focused on rights, advocacy and protections for individuals with disabilities. The standards also consider Mass General Law chapter 151B (http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151b) which addresses unlawful discrimination and the W3C Web Content Accessibility Guidelines (http://www.w3.org/WAI/intro/wcag.php) which are the guidelines widely regarded as the international standard for Web accessibility.

MassDOT’s accessibility policy is posted on our public websites. The Web team also provides detailed guidelines for employees on the MassDOT intranet along with references to best practices and information provided by third parties, including Adobe. Every member of the Web team understands the accessibility requirements and how they relate to their responsibilities; our objective is to serve as the in-house resource on this topic. All
requests that come into the Web team are evaluated against these requirements and content that does not meet the standards is fixed before posting it to the Website. The Web team also works closely with MassDOT content managers and external contractors to inform them of the requirements and provide training and resources so that they can ensure their content is accessible.

The Web Manager attempts to keep the Web team informed and trained on best practices utilizing a variety of state, federal and private sector resources and organizations.

iii. Implementation Activities

MassDOT’s Web team is working to create and provide more formal training for our content managers as we begin to integrate our Website with a Content Management System beginning in the first half of 2013. The Web team continues to follow best practices in Website Development for accessibility, utilizing outside resources and experts in this field along with ITD’s Accessibility Lab.

The Information Technology Division’s current set of standards are under review and will be updated in 2013 to reflect changes in the 508 and W3C standards. Once the new standards are issued, MassDOT will review and adopt them in a timely manner.

3) Public Hearing and Public Information Meeting Procedures

i. Self-evaluation

In planning projects, conducting transportation studies, or providing information to the public on construction projects, MassDOT and the MBTA share a responsibility to conduct meetings that welcome the general public, including individuals with disabilities. The practice had been for meeting planners to reach out for accessibility related assistance through staff of the MassDOT Office for Civil Rights and the MBTA’s Office of Diversity and Civil Rights, or for more seasoned meeting planners to rely on prior corporate knowledge on the need for accessibility.
In 2010, the MBTA recognized that an ad hoc approach was not fully effective, and began to develop a policy to help meeting planners and others understand their responsibilities and the available resources to ensure access by members of the public. In light of Transportation Reform, the conversation became shared between the MBTA and MassDOT, and ultimately responsibility for developing an accessible meeting policy was brought into the Working Group.

In Massachusetts, there are limited numbers of people who serve as CART or sign language interpreters, thus there is a critical need for sufficient lead time to ensure their availability, and for staff to understand how these services function and are paid for. We have learned that providing timely notice to the public and to CART or sign language service providers is essential to ensuring that the service can be provided.

We have also learned that there is a need for structuring a system of coordination on the fiscal and administrative aspects of making requests for interpreter services, which is an issue that exists in both the context of disability related interpretation and in Title VI, with respect to language assistance services. When the work is connected to a specific project, it is clear where to assign charges for the service, but in other contexts that are not project specific, it is not as clear, and MassDOT staff appears confused as to who to reach out to for support.

ii. Remediation

The MBTA and MassDOT are jointly developing an enterprise wide Accessible Public Meeting Policy which is an expansive outline of the concepts, requirements and resources that combine to form an accessible public meeting. To ensure synergy between this component of the ADA and Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color and national origin, among other nondiscriminatory categories, the policy also references means for meeting planners to understand their obligation to address language translation issues in meeting planning. **Attachment 13**, Accessible Public Meeting Policy (draft).
MassDOT has vetted the draft document among diverse staff, as well as Commonwealth agencies charged with protecting the interests of people with disabilities in Massachusetts, including the Massachusetts Office on Disability, the Commission for the Deaf and Hard of Hearing, the Commission for the Blind and the Massachusetts Rehabilitation Commission. This process brought forth significant modifications and cultural awareness in dealing with particular concerns among people with disabilities that has significantly strengthened the policy statement. Among these considerations are the difference in background and accommodation needs between culturally deaf individuals and those who have lost their hearing over time, as well as the wide range of assistive listening device supports that are available and needed to ensure that people who are hard of hearing can be effectively accommodated.

Our plan to address the problem of CART translation will be initially addressed through training to ensure more timely notice of upcoming meetings to the public, which will result in more timely requests for CART or sign language translation. We will also incorporate specific training for accessible meeting planning and implementation, as referenced above in Section IV(A)(2)(c) of this Transition Plan.

In terms of the fiscal question on securing interpreter services, MassDOT Working Group members will follow up on this issue by reaching out to Budget for assistance in designating or clarifying the people who are to carry out this responsibility to make sure these requests are not impeded by confusion over the fiscal process.

iii. Implementation

Currently the Accessible Public Meeting Policy remains in draft form after an extended internal and external reviews, and is now being finalized for submission toward approval by both the Secretary of MassDOT and the MBTA’s General Manager. The policy will then be applicable to all of the MassDOT divisions.

We anticipate there will be some recurring scheduling issues, given that the Massachusetts Commission for the Deaf and Hard of Hearing requires at least 7 days notice for an interpreter, but MassDOT has encountered difficulties securing services even with two weeks
advance notice. This is an area where collaboration may extend to identify additional sources of qualified interpreters and CART reporters. We will gauge the ability to meet our need as the Accessible Public Meeting Policy is disseminated, staff is provided training and we determine what difference the policy makes in ensuring that accessible meetings are held.

We plan to coordinate the training effort on the Accessible Meeting Policy as part of the training conducted under Title VI with staff and managers who conduct public meetings, to ensure that the coverage of the issues is comprehensive. Because the policy document is extensive, a summary version will be created that highlights key considerations which meeting planners must know in order to comply with the policy.

4. Fixed Assets - Maintenance/Snow and Ice - 28 CFR 35.130(b) (1)(v); 28 CFR 35.133 & 49 CFR 27.7(v)

i. Overview of Legal Obligations and Standards

Under the ADA and state law, sidewalks are considered a public program. All government agencies operating streets or highways with sidewalks are required to assure that sidewalk systems are accessible. In the self-evaluation work our ADA Working Group has done to date, preliminary data from MassDOT’s Office of Transportation Planning shows that we own approximately 1,100 miles of sidewalk. We are currently working to determine which of our publicly used sidewalks are noncompliant. Our obligation to provide sidewalk access also means that we have to maintain the sidewalks in an “operable working condition,” which includes reasonable snow and ice removal. Below is the federal regulation that sets forth the ADA maintenance requirement (and is supported by the Commonwealth’s Office on Disability as well as by the AAB’s regulations for maintenance of accessible features that have been in place since 1996):

**Maintenance of accessible features**

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to
be readily accessible to and usable by persons with disabilities by the (ADA) or this part.
(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. 28 C.F.R. Sc. 35.133

Apart from maintaining MassDOT owned property, we are also required to ensure that the cities and towns that we build projects for are aware and commit to meet this obligation in locations built with any state or federal monies.

The question of sidewalks across the Commonwealth is the subject of a complex set of statutes, local ordinances and informal practices that have evolved over many years. Massachusetts General Laws, Chapter 81, Section 19 authorizes and directs the former Massachusetts Highway Department (MassHighway, now the MassDOT Highway Division) to keep such State highways or parts thereof as it may select, sufficiently clear of ice and snow to be reasonably safe for public travel. The Department engages in this activity to promote highway safety and mobility during inclement winter weather, with principal focus on the roadways across the Commonwealth.

In the Massachusetts cities and towns that own the majority of sidewalk miles in the Commonwealth, the law allows cities and towns to appropriate money to finance the removal of snow and ice, and to establish ordinances to impose the obligation on sidewalk abutters to remove snow and ice, as deemed expedient. MGL Chapter 40, Section 6C (appropriation); MGL Chapter 85, Section 5 (Adoption of bylaws and ordinances to require abutters to remove snow and ice). Further, local towns are determined to have police jurisdiction over all state highways within the local limits, and are required to provide notice to MassDOT of any defect or want of repair in the highways, or may make necessary temporary repairs, without notice to MassDOT. M.G.L. Chapter 81, Section 19.

ii) Self-evaluation – Snow and Ice Removal

MassDOT has used the term “Snow and Ice Control” to denote all operations required to maintain the State Highway System in a
reasonably safe condition for travel during the winter months when snow and ice on the highways would make travel hazardous or impossible. In general the principal focus of MassDOT on snow and ice control activities has been on addressing conditions on the roadways. The response to sidewalks has been addressed less by MassDOT directly than by municipalities and abutters, which appears to be a consistent trend among departments of transportation across the United States. See, Constructing, Maintaining and Financing Sidewalks in New Jersey, Alan M. Voorhees Transportation Center and C. Carmalt, pp. 49-52 (August 2006) http://policy.rutgers.edu/vtc/bikeped/reports/Sidewalks%20in%20New%20Jersey.pdf

There are approximately 1,100 miles of sidewalk along state highway identified in the preliminary sidewalk inventory. Whether snow removal operations on sidewalks is provided by municipalities, MassDOT vendors, MassDOT or a combination of these is presently unclear. The focus of our self-evaluation will be to identify the location of the sidewalks, including any particular pedestrian features that must be addressed along the sidewalk to achieve a reasonable degree of accessibility. Such features include bus stops, pedestrian buttons, wheelchair ramps, island breaks, and low areas subject to flooding.

MassDOT has determined that the complexity of the situation with regard to jurisdiction over snow and ice removal, as well as the associated cost factor, requires that we conduct a detailed inventory to identify the areas that still need to be addressed, and the personnel and equipment needs that MassDOT, municipalities and/or hired vendor(s) would have in place to ensure that the legal obligation to remove snow and ice is met within the applicable legal standard. During the winter of 2012/2013, MassDOT will work through its District offices to develop the baseline understanding of:

1. Locations where the Highway Division routinely performs snow and ice operations on state owned sidewalks.
2. Locations where municipalities routinely perform snow and ice operations on state owned sidewalks (including snow removal by abutting property owners).
3. Locations where no snow and ice operations are routinely performed by any party.
4. Locations that are isolated from other pedestrian facilities and experience little or no pedestrian activities.
5. Locations that have historically generated complaints from members of the public or elected officials resulting from a lack of snow and ice operations on state owned sidewalks.

This data will enable MassDOT to more concretely address its responsibility for the seasonal maintenance of the pedestrian facilities falling within its roadway layout and facilities. As part of this Transition Plan, MassDOT will also examine its current policies and procedures to it snow and ice control on pedestrian facilities.

iii) Remediation

With the self evaluation data to be obtained, MassDOT will examine its practices and policies to develop operational guidance for maintaining sidewalks in a reasonably safe and accessible condition for travel during the winter months in compliance with Title II of the ADA and Section 504 regulations for maintenance of accessible features. The self-evaluation will also enable MassDOT to take some or all of the following measured steps to strategically build the capacity to establish a compliant snow removal business model:

- Early action to ensure clearance of sidewalk areas for rest areas, park and rides and visitor centers and MassDOT buildings where the public conducts business.
- Establish pilot locations within Depots or Plow routes in each district, to get an overall understanding of the costs associated with clearing sidewalks in different areas. The pilot program would also include a pilot inspection procedure to be performed, including an inspection between storm events to ensure that the walks are reasonably clear and passable.
- Setting up pilot snow removal locations on roadways which may identify the rates at which these operations can be expected to occur.
Identify community features with an overlay of the sidewalk inventory and plow areas to determine a rational method for prioritizing which sidewalks areas to address on a programmatic or strategic level. Matrices will be developed to help prioritize these locations.

Among the features at locations we will target to determine priorities and plan development and implementations are government offices, schools, churches, businesses, hospitals, senior centers and housing, polling places, public transportation/bus stop, station locations that have had specific requests from people with disabilities. To further fix the priority of locations to be addressed, we will also utilize data from our Planning department to establish areas that are within MassDOT’s jurisdiction that show high volumes of foot traffic, including among people with disabilities, such as Safe Routes to School, School busing routes, and facilities with identified programs which represent a “hot spot” for pedestrian activity.

MassDOT has conducted preliminary study of our relationship with cities and towns across the Commonwealth with respect to the removal of snow and ice from sidewalks, and are currently modifying the language in agreements with cities and towns in connection with the development of highway construction projects. Once we gain an adequate understanding of variables involved in addressing the removal of snow and ice from regularly used sidewalks where MassDOT, municipalities and/or abutters are not addressing this maintenance, MassDOT will be in position to structure an approach that would include one or more of the following strategies:

**Strategy A - Municipal Service Agreement** - This method would be based upon the model wherein a municipality provides for snow removal and routine maintenance on State Owned –Milestone Road by reimbursement. This method takes advantage of the local community’s personnel, equipment and proximity to the sidewalk location(s). This may be set at a flat rate based upon a typical snow season and or adjusted for actual costs. Most communities already conduct snow removal operations on sidewalks and MassDOT may investigate the advantages of contracting with a town rather than a vendor. This may be a useful tool particularly for outlying areas where state personnel and contractors may not be readily available or in communities with adjacent operations already in place or at isolated
locations. An agreement such as this is in place in Nantucket. A similar agreement was sought in 2011 for the 6 towns on Martha’s Vineyard with little success. This may be a result of the agreement being too broad to include other routine maintenance may be more successful if focused exclusively on snow removal on pedestrian sidewalks.

Strategy B – Snow and Ice Vendors - Due to the issues in hiring or utilizing MassDOT’s own labor force for sidewalk snow removal to perform, it is expected that, particularly in the initial phases of implementation, MassDOT will rely chiefly upon Snow and Ice Vendors to conduct the snow and ice removal from sidewalks on State Highway. Similar to determining MassDOT personnel and equipment needs, overlaying the statewide sidewalk inventory onto the respective plow routes operating at the approximately 150 MassDOT Maintenance Depots will help identify the locations MassDOT must seek to contract out. Success would be based upon availability of contractors, the development of clear guidelines for the clearance of snow and an inspection of plowed/cleared walks.

Strategy C – MassDOT Personnel - This method is based upon determining MassDOT personnel and Equipment needs to remove snow from existing MassDOT sidewalk locations. Discussions with Districts have identified several logistical issues in mobilizing personnel and equipment crews. Completion of the sidewalk inventory is critical in determining a staffing and equipment plan due to the locations of sidewalks with respect to nearest maintenance depots and available equipment. As the Statewide Sidewalk inventory develops it will be overlaid onto the respective plow routes operating out of MassDOT Maintenance Depots. This will identify the available MassDOT work force which might be available. It also clearly shows on a much more local level how many individual crews must be established and mobilized. The costs would include but not be limited to:

- Additional Laborers, Operators, & Mechanics to perform work and to provide maintenance for equipment
- Snowblowers
- Bombardiers with snow blower attachment
- Bobcat with snow blower attachment
- Trailers and pickups to transport equipment and crews.
- Spreader units

This activity would be conducted post storm when street plowing is largely completed. As a practical matter, part of our assessment to date had revealed that it may be difficult to conduct the removal activity with State Personnel in a snow event, given that these crews will have worked throughout the storm and will likely require downtime, thus special post storm crews might need to be held in reserve. As with MassDOT’s regular snow removal operations, the goal would be to achieve a uniform standard of maintenance for sidewalks on all State highways that provide a reasonably safe and accessible route.

Additional factors that will influence the development of performance standards and operational guidance are anticipated to be learned through pilot activity including the following:

- Performance Standards - clear width, reasonable time following event, tolerances
- Personnel/Consultant Deployment
- Post Storm Inspection – By whom? Criteria? Contractor call-backs?
- Between Storm Inspection - By Whom? Criteria?
- Corrective Actions – Internal, Contractors
- Feedback – public input

The existing policy established by the Department is to maintain the entire width of paved roadways and shoulders of all roads comprising the State highway system free from snow and ice as far as reasonable expenditure of funds will permit. During winter storm conditions, the precipitant would be treated with deicing materials to prevent snow-pack or ice until it can be effectively removed from the pavement surface. Bare pavement shall be attained as soon as possible upon completion of the storm event and operations will be terminated shortly thereafter. A similar policy must be established for the seasonal clearance of sidewalks. MassDOT is still a long way from establishing Standard Operating Procedures for the clearance of sidewalks. First clear performance standards must be established to
use as a guide to be implemented during Snow and Ice Control Operations.

5) Municipal Obligations on Federally Aided Projects - 28 CFR 35.130(b) (1)(v); 28 CFR 35.133 & 49 CFR 27.7(v)

i. Overview of Legal Obligations and Standards

The United States Code, at 23 U.S.C. § 116, states in part that

(a) It shall be the duty of the State transportation department to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts.

This statutory requirement is interpreted in coordination with the ADA Title II regulatory obligation for public entities to maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities, as discussed in subpart 4, above. To ensure compliance, MassDOT must either maintain the project, or secure timely and ongoing commitments from localities in which a project is built with federal financial assistance to maintain that property.

ii. Self-evaluation

MassDOT has identified inconsistency in the prior practice of securing maintenance agreements on federally aided projects, and is working with FHWA to develop a strategy to address this need for accountability. To limit the risk of inconsistency, MassDOT will seek municipal commitments applicable to all projects built with federal financial assistance.

iii. Remediation

MassDOT will use the results of the sidewalk snow and ice removal assessment to revisit the methods and means for securing municipal commitments to carry out maintenance obligations on federally aided...
projects. MassDOT is currently developing an approach, in consultation with FHWA that will be tied into the cycle for execution of Local Aid agreements with all municipalities to seek this assurance. The commitment will include an assurance to maintain property built with federal financial assistance and to refrain from using the property in a discriminatory manner. The format, language and approach for establishing this obligation are currently under discussion, including the cycle for renewing these agreements, currently envisioned to take place over a recurring two to three year periods. MassDOT will also address how these agreements will be administered, and establish means for seeking municipal compliance with this obligation based on the results of our snow and ice assessment.

VI. Transition Plan Business Methodology, Budget, Remediation Schedule and Monitoring

a. Interim Access Repairs and Emergency Response

As MassDOT conducts the necessary accessibility self-assessment outlined within this Plan and establishes a priority list of structures, programs, services and activities to be made accessible, on-going attention will be given to matters raised by members of the public. The routine repair of structures in response to consumer calls and inquiries has been a practice across MassDOT for many years. Unfortunately, the procedures and agency practices in response to public inquiries have not been widely disseminated.

Since the creation of MassDOT, interim or emergency repairs are addressed through calls to the central Highway Administration office and/or to individual Highway District offices. Calls are be evaluated to determine:

- the nature of the matter,
- whether the issue is within MassDOT jurisdiction,
- how the matter is to be addressed under the policies and practices for repairing the type of matter indicated,
- the appropriate office for referral of the matter.

There are the several means for making contact with MassDOT’s Highway Division to address repair concerns, as outlined below. For recording and tracking purposes, the best means is to use the
MassDOT webpage to send an electronic inquiry, but the other means are also effective for communicating concerns.

**Methods for Raising Interim or Emergency Concerns**

1. **Web Site Inquiries** -  
   [http://www.massdot.state.ma.us/ContactUs.aspx](http://www.massdot.state.ma.us/ContactUs.aspx)

   The link above is connected to the MassDOT Web-based site for the public to raise concerns regarding accessibility issues, and is readily addressed through “Contact Us” links located at the top and bottom borders of the webpage screen. By clicking the “contact us” icon, a second page opens up, allowing members of the public to report concerns via a drop down menu of options and a series of boxes for entering relevant information. One item on the drop down menu includes an option for reporting on “Roads and Bridges,” where a member of the public can identify themselves, the issue they wish to raise, and submit the inquiry a concern about.

   When a concern is submitted through this system, the complaint is directed to a central staff person at MassDOT who identifies the issue, and refers the matter for review and correction, if needed. The identified party would then be responsible for addressing the matter, and/or for consulting with Highway headquarters leadership if the issue is of a major scale and/or involves a significant cost consideration. This approach ensures the ability to track the response or need for further action as to a complaint or inquiry.

2. **Phone, fax, mail or e-mail contact to Highway Division**

   Members of the public can also call MassDOT to reach the Highway Division and refer a matter needing to be repaired or addressed with respect to accessibility, via the contact information below, which includes a TTY phone line:

   For all departments: 857-DOT-INFO (857-368-4636)  
   Toll Free: 877-MA-DOT-GOV (877-623-6846)  
   Fax: 857-368-0601  
   (TTY): 857-368-0655
Via regular mail:

Highway Division
10 Park Plaza, Suite 4160
Boston, MA 02116

The Highway Operations Center is open 24 hours a day thus it is possible to contact this arm of the Highway Division after regular working hours.

b. Management Structure

Management of ADA Transition Plan

The management structure and business models for implementing the Transition Plan will grow organically as the self-evaluation is engaged and MassDOT has a better concept of both the extent of deficiencies and available resources to conduct the work. As a starting point, the primary leadership roles in the several subject matter areas outlined in this Plan will continue to rest within the Working Group structure we have established. The Working Group co-chairs will continue to preside over the Core and Working Groups to build consensus, identify resources and assign responsibilities to carry out the tasks related to self-evaluation and implementation aspects of this Plan.

The structure of work flow, individual assignments and recording will be designed to ensure that, starting the curb ramp schedule remediation schedule to be created, and including other areas to be assessed under the Plan, we will aim for efficient implementation on a timely basis. There are global components of the effort already evolving on parallel tracks, such as the Maximo asset management tool that is currently being deployed across MassDOT, and where we will upload the data collected from our self evaluation activities for both programming of remediation and record keeping as to the completion of projects.

Our working group structure, which involved 27 individuals across multiple disciplines, affords a means to ensure accountability as to the coordination of efforts among units that have diverse relationships
to a particular area of self-evaluation. For example, with respect to roles related to intersections, the presence of Working Group members from design, traffic and construction ensure that we will be able to resolve conflicts that pose concerns in such complicated considerations as the placement of accessible pedestrian signals in relationship to a ramp that is part of an intersection that may need to be reconstructed due to the lack of a parallelism among curb ramps.

The additional presence and participation of subject matter experts from FHWA, MOD and MassDOT Highway Division leadership has and will continue to ensure a means for ensuring regulatory compliance as we address particular concerns or policy considerations on such matters as the structuring the determination of technical infeasibility in particularly difficult contexts, and similar matters we will that pose policy questions. MassDOT also has significant guidance in place within the agency’s Design Guide, which will be a primary resource consulted as the work moves from self-evaluation to implementation. We will also continue to rely on our subcommittee structure and individual units to propose work models, identify policy questions and provide leadership as we implement the tasks associated with self-evaluation and Plan implementation. To illustrate this role, Working Group subcommittees have established meaningful approaches for data collection and the infrastructure to sustain the efforts to record and deploy the data cultivated in the curb ramp and facilities inventories we have in view. We are certain that the Working Group will continue to take on roles that are designed to ensure that the implementation process is equally well-staffed and developed.

Among the areas we envision addressing to establish fluid business model and identifying individuals to carry out roles are the following:

- Decentralized oversight to utilize district ADA Coordinators and others to oversee Plan self-evaluation and implementation components at a District level
- The approach for targeting deficiencies to be remediated through specialized contracts or through existing scheduled roadway maintenance program and other construction projects
- The process for ensuring that we are making timely determinations of technical infeasibility during the implementation process where barriers may meet the defined terms for seeking a waiver or variance
- Periodic updates to the Plan
- Data, project, schedule and reporting management in coordination with the Maximo asset management tool to consistently weigh the completion of projects and overall remediation
- The method for evaluation of unanticipated projects or facilities that require assessment
- Coordination of approval processes between units to ensure understanding and agreement on approaches for remediation
- Responding to community concerns or complaints on non-priority deficiencies
- Ensuring routine and systematic approaches that ensure timeliness and consistency in remediating deficiencies

It is envisioned that these work protocols will ultimately be defined into documents and policies, where needed, that will ultimately become the ADA Management Plan for MassDOT. This document will ensure that for the duration of our compliance efforts under this Plan and prospectively, there will be a means for building thinking on accessibility as part of MassDOT’s overall business protocols for construction and repair of our infrastructure.

c. Method to Address Deficiencies Identified

i) Deficiencies identified - We propose that the removal of the barriers identified through the self-evaluation process be prioritized into two established ADA categories, Priority #1 and Priority #2, and a schedule along with a budget for making modifications will be established for each category. Priority #1 items will identify those barriers whose removal is essential to providing access to specific elements under the jurisdiction of MassDOT (i.e. curb ramps, parking stalls, etc.), to access programs not otherwise accessible by modification of programs and practices. Those programs and services, located in buildings and facilities, and identified as requiring architectural modifications to provide access to qualified persons with
disabilities, will be included in the Priority #1 listing along with a timeline for completion.

Within the listing of the two priority levels, this plan will incorporate a series of the subcategories, as needed, to ensure the greatest definition on the most critical needs, and to facilitate the coordination of work on multiple priority areas concurrently, as feasible. For example, within the Priority #1 focus on barriers, this scope will apply a format that will rank based on variables (Situation) that include location, degree of utilization and degree of non compliance. The strategy for these priorities will be developed in connection with what the data leads us to understand in terms of the remediation needed.

Priority #2 items will identify all other architectural barriers whose removal will be completed as planned alterations are made to a specific building or facility with a forecast date. It is anticipated that Priority #2 items will be addressed as part of the Transportation Improvement Program (TIP) and/or with state bond resources (non-federal resources). Additionally, an estimated schedule and budget will also be provided for Priority #2 items. Under Priority #2 items, the same sub-categorization approach referenced under Priority 1 items would be incorporated as well, as warranted by the nature of the barriers identified.

ii. Schedule to Correct Deficiencies

Each of the subcommittees associated with the self-evaluation process will define objective measures to achieve the remediation outlined in this plan. This information will be compiled and set forth in an overall ADA/Section 504 Transition Plan work Schedule to be developed. This schedule will be predicated for tracking activities initially and will be monitored and used to seek reports on a monthly basis as part of the continuing activities of the Working Group. The successes of the group will be noted in revisions to this Transition Plan document through quarterly updates.

d. Budget Projections

MassDOT has developed the following funding strategies to address the requirements of this plan:
Self-Evaluation of Curb Ramps
It is anticipated that the majority of the field work associated with measuring and recording information related to existing curb ramps will be performed by firms under contract to the Highway Division. It is likely that two person survey crews will be contracted for this purpose. A conceptual estimate for this work is in the vicinity of $3.0 Million. This work will be funded with state dollars that are allocated to the Project Management Section for design and survey. For budgeting purposes it is anticipated that this work will be funded over two state fiscal years.

Curb Ramp Remediation Priority 1
These improvements will be implemented via District-wide contracts developed specifically for the purposes of constructing and reconstructing curb ramps. The contracts will be federal funded. The recently approved Statewide Transportation Improvement Program includes funding as follows: FFY 2013 - $3,000,000, FFY 2014 - $4,000,000, FFY 2015 - $4,000,000 and FFY 2016 - $4,000,000. Through MassDOT’s participation in the MPO process we will continue to advocate for federal funding of this program in future years.

Curb Ramp Remediation Priority 2
These curb ramps will be addressed through the implementation of the Highway Division’s annual construction program. All roadway reconstruction, roadway resurfacing and bridge rehabilitation or replacement projects will incorporate the construction of new ADA compliant curb ramps within the project limits. The construction of these curb ramps is not considered to be a separate activity. Including accessible curb ramps is a critical component of a successful project. As result, this work is not budgeted separately; it is simply considered part of the overall cost of the project. Over the last four years the Highway Division’s annual advertising program has averaged approximately $1 Billion. This work is funded through the following programs; federal aid program (STIP), Accelerated Bridge Program, State Bond Funded program, Western Turnpike and Metropolitan Highway System.
Facilities

Improvements to MassDOT facilities (e.g. buildings) will also be implemented as part of the Highway Division’s annual advertising program. A certain component of the annual allotment for State Bond funded, Western Turnpike and Metropolitan Highway System projects will be allocated for this purpose. There are also resources between the Highway Operations and MassDOT Administrative Services that are contemplated to support the self-evaluation and implementation efforts. There is also potential for reaching out to the Commonwealth for support through existing resources within the Division of Capital Asset Management and Maintenance (DCAM) and the Executive Office for Administration and Finance (A&F) designed to support state-wide accessibility initiatives, where there are insufficient resources across MassDOT for particular projects.

MassDOT’s plan is for Priority #2 items to be addressed as part of the Transportation Improvement Program (TIP) and/or with state bond resources (non-federal resources). An estimated schedule and budget will also be provided for Priority #2 items.

e. Multi-year Plan to Correct Deficiencies

i. Short-Term Activities (1 to 2 years) - referenced to Phase I activities under ADA/Section 504 Scope of Work, and as referenced above.

Based on the conclusions of our self-evaluation process, MassDOT will develop a schedule and budget for making access modifications/alterations over a multi-year plan, consistent with the requirements of the ADA at 28 CFR 35.150(d)(2). As part of this schedule, MassDOT will describe the approach and method(s) to be used in making all facilities and curb ramps accessible, and the approach and methods will be described for each year of the plan’s implementation. 28 CFR 35.150(d)(2); 28 CFR 35.150(a)(3) & 28 CFR 35.164. The removal of the barriers identified through the self-evaluation process will be prioritized into two established ADA categories, Priority #1 and Priority #2, as referenced above, and a schedule along with a budget for making modifications will be
established for each category. 28 CFR 35.150(d)(2); 49 CFR 27.11 (c) (2)(iv)

ii. Intermediate-Term Activities (3 to 5 Years) – to be defined and updated to Plan as part of the self assessment process 28 CFR 35.151(e)(1)(2) & 49 CFR 27.75 (a)(2); ADAAG 4.29 & FHWA policy guidance (May 2002)

iii. Long-Term Activities (6 to 10 years, subject to revision depending on budgetary and scheduling constraints) – to be defined and updated to Plan during the span of mid-term activities - 28 CFR 35.150(d) & 49 CFR 27.11; 28 CFR 35.150(d)(3). It is anticipated that this category will include Priority #1 activities that could not be fully funded over the course of initial remediation activities, and those Priority #2 items that were not funded during the course of initial remediation efforts and have been prioritized to be addressed among other architectural barriers whose removal will be completed as planned alterations are made to a specific building or facility with a forecast date.

f. Periodic review and evaluation update - 49 CFR 27.11 (c) (2)(v).

Periodic review and evaluation will flow from on-going Working Group meetings, where subcommittee activities and progress are reported on a monthly basis, and through Core Group meetings, which will address thorny policy and planning issues. The ADA Specialist will continue to record, follow up and report on progress made that is linked to Work Plan objectives that will be the source for follow up reporting and evaluation of progress. Quarterly progress reports will be submitted to FHWA and updates made to the Interim Transition Plan as implementation and other data is compiled and analyzed.

g. Monitoring and Evaluation - 49 CFR 27.11 (c) (2)(iv)

In December of 2010, MassDOT executed a contract with EMA Inc. for the software purchase of the IBM Maximo Asset and Maintenance Management System and the consultant services necessary to implement this system. The overall purpose of this project is to develop a centralized asset management database system and to
replace the paper-based work order management system in use by the Highway Division’s District offices. This contract represents the Highway Division’s initial deployment and will focus on signs, signals, and drainage maintenance, as well as mowing, sweeping and general road repair. This contract will establish a framework for future deployments that may include lighting, facilities, ITS components, pavement markings, guardrails, etc. Future phases will also explore integration with the Highway Division’s current asset management systems such as the bridge inventory and pavement management systems.

Maximo is primarily an asset management system. It is a highly configurable, hierarchical system. Assets of all types with simple to complex relationships to other assets and locations can be managed in the system. From the start of ADA/Section 504 activities related to data collection and inventory, the Highway Division envisioned storing all of the data related to the curb ramp inventory in a GIS layer compatible with the Office of Transportation Planning’s Road Inventory file. We intend to leverage GIS resources and capabilities as they will support the prioritization of retrofit projects we need to undertake once the data collection is complete. It is envisioned that Planning information regarding land use and population will be layered over the data collected for the ADA Transition Plan.

Maximo offers a variety of very useful functionalities. For example, one can create preventive maintenance routines, inspection schedules, and manage the costs associated with maintaining assets. Maximo also has robust planning and reporting capabilities. The current Maximo project includes the Maximo Spatial component which provides GIS integration. Based on clear capability to transfer GIS formatted material into Maximo, we have the ability to make the ADA layers to be incorporated into road inventory files visible in Maximo and to manage them as assets in the Maximo system, should our analysis indicate that this is an optimal approach. In other words, we are certain that, if appropriate within the business model under development, in addition to utilizing spatial analysis for project prioritization, MassDOT will be able to use Maximo for managing ADA assets. We will begin working toward this goal through the results of our efforts to develop and implement a data collection
format and business model for implementation of our curb ramp inventory process.

Ultimately, MassDOT will utilize the Maximo asset management system to track scheduling, construction, and inspection or completion of all alterations to be made throughout the implementation of the transition plan. MassDOT will develop a monitoring and status reporting plan that will seek details on a monthly and quarterly basis to identify the progress of remediation work.

VII. Transition Plan Implementation

The implementation of the Transition Plan will build on the groundwork of the self-evaluation process has been described in this interim stage, and will include the following components, among others:

- The identification of physical obstacles that limit accessibility to the people with disabilities to MassDOT’s programs, services and activities;
- An explanation of the methods used to address deficiencies and make MassDOT’s curb ramps, sidewalks, and other programs, services and activities accessible,
- The establishment of a schedule for making accessibility modifications to its programs services and facilities, which will be updated on an annual basis as projects are completed and new ones scheduled.
- The identification of the public official(s) responsible for implementation of the Transition Plan.

The implementation of the Plan will also highlight new policies or strategies created to further accessibility, the number and identity of facilities that are made accessible on an annual basis and a summary of the suggestions and response there to by the Working Group to public input.

VIII. Documentation of Plan

A copy of the original plan and any updates will be made available for public inspection for three years following the completion of the self-evaluation.
IX. Attachments

Attachment 1, ADA/Section 504 Transition Plan Scope of Work
Attachment 2, ADA Transition Plan Working Group Members
Attachment 3, Subcommittees
Attachment 4, Public Participation Plan
Attachment 5, Nondiscrimination Policy Statement
Attachment 6, Notice of Nondiscrimination
Attachment 7, Grievance Procedures
Attachment 8, Construction Standard Details and Engineering Directive
Attachment 9, Accessible Pedestrian Signal Installation Policy
Attachment 10, Proposed Curb Ramp Inventory Questions.
Attachment 11, Sidewalk Analysis (Draft)
Attachment 12, Inventory of Programs, Services and Activities to be Surveyed
Attachment 13, MassDOT and MBTA Accessible Public Meeting Policy (draft)