

ADA Questions and Answers

DMS pool facilities are presently in process of being resurveyed statewide and new transition plans prepared for all of them. These transition plans will be a living document and modified annually in an on-going basis.

If any of your buildings are in the pooled facilities then DMS will take care of the surveys and transition plans. We have identified the schedule for the plaintiff. Any facility outside of the pooled facilities will need to develop a survey and transition plan independent of DMS. There is no set timetable under the settlement agreement for facilities outside of the pooled facilities. However, a realistic plan needs to be developed for a schedule of the surveys and transition plans. Those plans, surveys and transition plans do not need to be reported to anyone under the settlement agreement. The intent was to get owners to start if the planning has not begun.

1. Under Settlement Requirements, it states: Request the initiation and completion of ADA surveys and delivery of 504 transition plans from other agencies under the Governor's direction. Where should these be delivered?

The 504 Transition Plans are to be “delivered” to each managing agency either from the firm agencies hire to perform the activities or from your lessors when requested. You do not have to submit these surveys and transition plans to DMS. Under federal statute you are required to have these in place since the ADA was enacted in 1991. We also want to minimize any potential future enforcement actions by U. S. Department of Justice.

2. Since the Bureau of State Lands owns the land, are they responsible for these surveys and ADA compliance?

No, for the most part with some exceptions, the Division of State Lands does own the land itself. However, the buildings on these sites are either constructed or maintained by an agency. The maintaining agency responsible for the building, facility, parking lot, etc. is required to have those facilities surveyed and have 504 Transition plans prepared for them under Federal Statute and is responsible for ADA compliance in those facilities. As the facilities are up-graded, renovated and modified; the ADA deficiencies must also be addressed in these renovations according to Federal Statute and the 2012 Florida Accessibility Code 553.503.

Statewide all DMS pool facilities are presently in process of being resurveyed and will have new transition plans prepared. These transition plans will be a living document and modified annually in an on-going basis.

3. Are all DMS leases being handled by DMS according to the settlement?

All DMS pool facilities buildings will be surveyed by DMS.

4. Will DMS be issuing any other instructions or guidance regarding how to comply with the Settlement Agreement?

This workshop and the accompanying handouts and web links are the complete list of instructions that are available to state agencies.

5. Where can I get a copy of the latest required ADA survey and 504 forms?

The word “Survey” was never used in the federal requirements; rather it stated a “Self-evaluation” of your facilities for accessibility. You can try to survey your facilities or you can hire a consultant to do it. If you have many facilities or large ones, it is suggested that you bring in an architect that is familiar with the ADA to perform this task.

If you wish to perform an ADA survey in-house, DMS has posted these forms on our website in a folder. Is this absolutely everything there is; the answer is no. These forms account for about 90% as the U.S. Access Board (ADAAG) continues to add and tweak the program.

The 504 Transition Plan requirement was part of the “The Rehabilitation Act of 1973”. It included the self-evaluation of your facilities and a plan as to how you are going to bring them into compliance. Additionally, it included everything (i.e. – communication, websites, employment, testing, interviews, everything in Human Resources, solicitations for bids, etc.).

There is not a set of forms for the 504 Transition Plan.

6. Is there a timeline for completion of the 504 transition plans?

The Transition Plans were supposed to be completed 35 years ago.

7. Does DMS have a recommended ADA survey tool for agencies to use to comply with this requirement?

You can use several tools if you are planning to survey your facilities and not use a professional. Most of these are be found on ADA.gov, which is the U.S. Department of Justice Website.

8. What assistance from DMS will agencies get on how to select vendors for both the survey and transition?

Agencies can purchase these services from any MFMP registered architectural firm. Currently there are 979 architectural firm registered in class and group number 973-070.

9. When will DMS provide a letter of notification for private sector landlords that all agencies can use to keep the information being distributed consistent?

Will pass out at meeting.

10. Who do the agencies send the transition plans to and when?

Agencies are not required to send the Survey's or the Transition Plans to any one in particular. They should be held as public documents and can be used to justify any Legislative Budget requests that may be needed to request funding.

11. Are the 504 transition plans to be submitted to the Legislature by the agency that owns the building(s)?

See question #10.

12. Are the 504 transition plans to be submitted to DMS?

See question #10.

13. Is there a template to use for the 504 transition plans? If so, where do we find? –

See question #5.

14. Do the new leasing provisions regarding ADA apply to warehouse space where no one is housed?

- Yes - if an agency has staff housed in the warehouse.
- Yes - If the agency has no staff housed at the warehouse but has the warehouse open to the public (even occasionally)
- No - If no staff work full time in the warehouse and the public does not go to the warehouse
- However, every lease contains ADA language that the lessors must comply with.

15. Is there a priority of work to be completed, either in terms of what buildings are worked on first, or what type of work is performed at each building?

Each agency should determine their own priorities based on factors such as; building age, safety, the public, their employees, their core mission and any other factors they deem appropriate.

16. Currently there is a requirement for each building owner to have ADA Architect assessment and then prepare a transition plan for any deficiencies. Do you think the Tampa building owned by FDLE (under major renovations) is ready for such an ADA assessment and since we have an architect on board can this survey be done while they are currently in the building?

Under federal statute you are required to have these in place since the ADA was enacted in 1991. The timing of the Survey and Transition Plan are at the discretion of the agency.

- 17. The FFWCC (FWC) is not under the Governor's direction, do we need to complete ADA surveys and 504 transition plan for buildings owned by the FWC? If so, does DMS have a standard ADA survey template for agency's to use? Does DMS have a survey template for buildings constructed after March 2012?**

While the settlement agreement only addressed Governor's agencies, the ADA law applies to all entities.

See question number #5 for ADA Surveys and Transition Plans.

- 18. Can you send me a list of DMS facilities within the facilities pool that have completed ADA surveys as described in Mr. Stewart's letter? We will need a copy of the DMS completed ADA surveys for facilities identified to be occupied by FWC employees.**

DMS is in the process of having ADA specialty architects survey all of our facilities statewide. When the surveys are completed and the transition plan is updated, DMS will post the entire plan on our website.

- 19. Can you provide me with a list of the 60 facilities identified in the settlement scheduled to have new ADA surveys completed by October 30, 2012?**

Yes, As DMS completed the ADA Surveys and Transition Plans for state buildings they can be made available to agencies that occupy those facilities.

- 20. FWC is under a DMS Master Lease Agreement at the Koger Center. Is DMS responsible for advising the current Lessor of non-compliant ADA issues and working with the Lessor to become compliant?**

DMS will be sending the letter to the Master Lease landlords on compliance with the ADA surveys and Transition Plans.

- 21. We are obligated to make sure any new leases that we procure has the new ADA requirements information in the lease document and it completed within the 180 days of the lease correct? However, we would require it before moving in.**

All new leases require that the landlord agrees that his site either currently meets at the time of occupancy or will conform or brought into conformance within 180 days of lease executions.

- 22. Are we to understand that if we do any renovations on any floor of a building that we now lease that the new ADA requirement must be met and if so does it apply to the whole building?**

Any renovation or new construction activity after March 15, 2012 must comply with the new code. There are some exceptions for historical buildings and antique architecture being preserved.

If you renovate half of a floor or wing of a building, that renovation or area and the accessible route must include being compliant with the 2012 U. S. Department of Justice Code and the 2012 Florida Accessibility Code.

- 23. Although it did not mention existing leased building, are there any requirements for private sector leases that are in place? AHCA wants to make sure we have no additional obligations to do anything in private sector building we currently occupy?**

Example: If we have planned renovations in an existing leased facility will they have to comply with the new ADA regulation just for the section being renovated or the entire building?

All buildings in the State of Florida are required to comply with state and federal ADA laws. While the law suit did not specifically mention private sector leases, agencies should perform their due diligence and remind landlords of this requirement. Agencies should be aware that if they receive a public records request for a copy of the ADA Survey and Transition Plan for one of their private leases they and the landlord must comply.

See question #22 on renovations.

- 24. Does DMS have a list of non-pool state buildings they can send out?**

A complete list of non-pool buildings can be found in SOLARIS.

http://www.dms.myflorida.com/business_operations/real_estate_development_management/facilities_management/state_facilities_inventory_tracking

- 25. Can you tell me whether the building that the Department of Citrus occupies at 605 E Main St. Bartow, FL is included in the buildings that DMS will be conducting an ADA survey? We lease the building from the Bureau of State Lands.**

Department of Citrus would be responsible.