TO: APWA Board of Directors
FROM: David Lawry, At-Large Director Engineering and Technology
SUBJECT: Approval of Amendments to Americans with Disabilities Act (ADA) Requirements For the Public Right of Way Advocacy Position Statement
DATE: October 19, 2016

EXECUTIVE SUMMARY

As part of the Engineering and Technology Committee’s annual review of position statements, it was agreed that an update to the statement was appropriate. The Government Affairs Committee has reviewed and recommends board approval.

PROPOSED ACTION (MOTION):

Move to approve the update to the Americans with Disabilities Act (ADA) Requirements For the Public Right of Way Advocacy Position Statement

SUPPORTING RATIONALE:

The committee believed it was important to replace “best management” with “sound practices” because best is a subjective term. Item 7 was added to the list of recommended characteristics of ADA requirements. In addition, the historical portions of the Background and Rationale section were updated and revised.

FINANCIAL IMPLICATIONS:

None

IMPLEMENTATION:

Government Affairs staff will keep the statement on file in the event an update to the Americans with Disability Act Requirements is proposed. Staff will replace the document on the APWA website.
Advocacy Position Statement

Americans with Disabilities Act (ADA) Requirements
For the Public Right-of-Way

Statement of Purpose
The American Public Works Association (APWA) seeks to inform elected officials, regulators, policy-makers and decision-makers and the public at-large of its stated position on Americans with Disabilities Act (ADA) Requirements for the Public Right-of-Way.

Statement of Position
APWA supports regulations and legislation that set out guidelines and best management sound practices for accommodating the needs of people with disabilities. APWA believes that all communities should provide a safe and inviting environment with facilities and amenities accessible to all, including those with disabilities. However, infrastructure within the public right-of-way is rightfully intended to serve the needs of and provide benefit to the entire community. Community leadership and public works officials have a responsibility to balance community needs and available resources to effectively and equitably serve all members of the community.

APWA believes that regulations and guidelines intended to implement the Americans with Disabilities Act (ADA) Requirements for the Public Right-of-Way should have the following characteristics:

1. maintain local decision-making authority while holding local officials accountable to their constituents;

2. provide reasonable processes for the review of decisions relating to the manner in which accessibility accommodations are made, relying primarily on administrative reviews by the local agencies making the decision and with access to court relief only after all administrative processes are exhausted;

3. recognize the need to balance the diverse needs of all users of the public right-of-way and take into account the cost and benefit of making accommodations for specific users, including those with disabilities.
(4) provide for flexible, creative, and professional judgment in the planning, design, construction, maintenance and operation of public right-of-way infrastructure;

(5) support the concept of best management sound practices and context sensitive solutions as the preferred guideline to the decision-making process and discouraging a prescriptive “one-size-fits-all” approach;

(6) encourage development of transition and emergency plans to accommodate immediate specific needs and recommendations while efforts to develop permanent solutions continue;

(7) promote standards that are reflective of research, study, and input from representatives of state and local government, the transportation industry, disability organizations, and other interested groups;

Background and Rationale

The Architectural and Transportation Barriers Compliance Board—also known as The United States Access Board or simply the Access Board—is “an independent Federal agency that promotes equality for people with disabilities through leadership in accessible design. The Board develops guidelines and standards under the Americans with Disabilities Act (ADA) and other Federal laws that address access to the built environment, transportation, communication, and information technology. In addition, the Board enforces accessibility standards covering federally funded facilities and promotes accessibility through public outreach, technical assistance, training, published guidance, and research.”

APWA participated in and endorsed the Access Board’s initial work from 1992-2001, which established recommendations to improve access to state and local government facilities, including pedestrian facilities in the public right-of-way (ROW). The recommendations were based on research and public outreach and education efforts headed by a federal advisory committee composed of representatives of state and local government, the transportation industry, disability organizations, and other interested groups. The Access Board subsequently drafted guidelines in 2002, which were since revised in 2005 and 2010.

The Access Board initially proposed guidelines for access for state and local government facilities, including pedestrian facilities in the public right-of-way in 1992. These were revised based on public comment to produce final guidelines, issued in 1998, which did not include requirements for pedestrian facilities in the public right-of-way because the Board concluded that research, public education, and outreach were needed. The Board subsequently worked with a number of industry organizations and sponsored research on accessible pedestrian signals and pedestrian pushbuttons, detectable warning surfaces, and pedestrian facilities at roundabouts; produced a series of videos, a design guide, and an accessibility checklist for pedestrian facilities in the public right-of-way; and conducted training programs around the country. The Board also established a federal advisory committee in 1999 to recommend accessibility guidelines for pedestrian facilities in the public right-of-way. That committee, which included representatives of state and local governments, the transportation industry, disability organizations, and other

The Access Board subsequently drafted accessibility guidelines for pedestrian facilities in the public right-of-way and made the draft guidelines available for public review and comment in 2002. These guidelines were revised and in 2005 again made available for public review, to facilitate the gathering of data for a regulatory assessment of the potential costs and benefits of issuing the guidelines under federal rulemaking procedures. Public hearings were held—in Dallas, Texas, and Washington, DC—in the last quarter of calendar year 2011. APWA participated in these hearings.

APWA technical leadership has determined that overly rigid application of Access board requirements can result in unnecessary reconstruction of serviceable infrastructure and thus can have a substantial impact on the already limited funding available to improve and maintain access in the public ROW for the entire community. Some projects may be cancelled or delayed due to impacts that can be avoided if local and state agencies are given the authority to base final project designs on context sensitive solutions.

The Access Board’s guidelines-development and rulemaking processes have done much to address state and local government concerns regarding the variety of local conditions influencing how accessibility within public rights-of-way may best be ensured. Nevertheless, APWA and its members remain responsible for balancing the interests of all segments of their local communities in making accessibility accommodations. APWA advocates flexibility in the application of federal guidelines and standards to enable such accommodations to be made through the application of professional design creativity and effective community engagement.

Sponsor

Engineering and Technology Committee _10/18/16_