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**City of Dallas**

**Americans with Disabilities Act  
(ADA)**

**Compliance Plan**

**February 17, 1993**

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**City of Dallas  
Americans with Disabilities Act (ADA)  
Compliance Plan**

**I. Background**

The Americans with Disabilities Act (ADA) was signed on July 26, 1990. The ADA is a major federal civil rights law which makes it illegal to discriminate against individuals with disabilities in employment, public accommodations, public services, transportation, and telecommunications.

Congress laid the legislative groundwork for the ADA when it passed the Rehabilitation Act of 1973. The Act was similar in substance to ADA but more restricted in coverage and prohibited federal agencies and their grantees and contractors from discriminating against people based on disability. In 1977, regulations to implement Section 504 of the Act was issued prohibiting discrimination against people with disabilities in a range of areas, such as employment, social services, and education.

The City of Dallas began compliance efforts in 1976. An evaluation of all public facilities and the upgrading of many existing buildings was begun and by 1981 the upgrading of many existing buildings had been accomplished. In 1984, the City of Dallas Office on Disability was established to coordinate ongoing compliance efforts with state and federal legislation. The Office on Disability is currently located in the Personnel Department.

In 1982, a group of Dallas business leaders, service providers, and disability advocates asked the then Mayor, Jack Evans, to endorse the Dallas Mayor's Committee for the Employment of People with Disabilities. Since that time, the committee has conducted annual career fairs, scholarship programs, and training activities for the business community. The City's Disability Coordinator serves as a liaison to the committee to assist in coordinating activities between the committee and the Mayor's Office.

The substantive regulations implementing ADA were issued in July 1991, however, the City Manager appointed an ADA Task Force on May 30, 1991. The Task Force was given the responsibility of assessing the City's current condition, identifying any necessary adjustments, developing an action plan to get the City into compliance, and determining the fiscal impact for compliance.

## II. ADA Legislation

### Definitions

Qualified individuals with disabilities are protected. ADA defines an individual with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or is regarded as having such an impairment.

The definition of disabled has been enlarged from that used in the Rehabilitation Act. The ADA covers not only persons with disabilities, with a record of having been disabled, or perceived as being disabled, but also covers individuals related to or associated with persons who fit into one of those three categories. Among the more important provisions of the ADA are the following:

- The ADA contains a broad definition of "accommodation" requiring for example, that an employee be given consideration to job restructuring, part-time work, employee transfer to vacant position, and other similar actions. (By contrast, the Rehabilitation Act has not been interpreted as requiring such substantial accommodation and certain employee actions, such as employee transfer, have not be required.)
- The defense of "undue hardship" will be narrowly construed and larger employers will be required to undertake a greater and costlier accommodation effort than smaller employees.
- The enforcement scheme has been taken from the Civil Rights Act of 1964, as amended, permitting individuals to file charges of discrimination with the Equal Employment Opportunity Commission and, eventually to seek redress of complaints in federal court.
- Pre-employment inquiries concerning whether an applicant is disabled are prohibited; employers are permitted to conduct post/offer medical examinations on a limited basis in order to assess the applicant's ability to perform the job at issue.
- Persons with AIDS, the AIDS virus, or perceived as having AIDS are protected.

- Current users of illegal drugs are not protected and employers are free to test applicants for drug use. By contrast, alcoholics are protected to the extent that they can perform unless they are under the influence of alcohol in the work place. A former drug addict undergoing or having completed a rehabilitation program is protected.
- A person who has recovered from cancer but who is discriminated against because of his or her past experience with a disability would be covered as someone with a record of an impairment.

## Requirements

There are five (5) titles to the Act:

**Title I - Employment:** prohibits discrimination in employment against a qualified individual with a disability in the terms and conditions of employment.

**Title II - Public Services:** prohibits discrimination by a public entity in providing services to a qualified individual with a disability. This title also requires that forms of public transportation be made accessible to individuals with disabilities.

**Title III - Public Accommodations and Services Operated by Private Entities:** prohibits private entities from discriminating against a qualified individual in providing public accommodations and services. The title also requires that new commercial facilities and public accommodations are designed and constructed so that they are readily accessible to individuals with disabilities unless it is structurally impracticable to do so. Architectural barriers must be removed in existing public accommodations, where removal is readily achievable.

**Title IV - Telecommunications:** requires that common carriers of interstate wire or radio communications provide technological accommodations for individuals with hearing and speech impairments.

**Title V - Miscellaneous Provisions:** contains various additional provisions of the ADA. The provisions include a prohibition from retaliation against or coercing an individual who seeks to enforce another's or their own rights under the ADA. Title V also amends sections of the Rehabilitation Act of 1973 to exclude current users of alcohol and drug abuse from its coverage.

### III. Compliance Timeframe

#### Effective Dates of ADA Title I - IV

<u>Title</u>	<u>Effective Date</u>	<u>Responsible Agency</u>
I. Employment	25 or more employees July 26, 1992	Equal Employment Opportunity Commission
	15 or more employees July 26, 1994	
II. Public Services (State & Local Government)	January 26, 1992	Justice Department
Public Transporta- tion	Newly acquired vehicles August 26, 1990	Transportation Department
	Paratransit January 26, 1992	Transportation Department
III. Public Accommodations	January 26, 1992	Justice Department
Private Transporta- tion	Newly acquired vehicles August 26, 1990	Transportation Department
Over-the-Road Buses(*)	July 26, 1996	Transportation Department
IV. Telecommunications	Telecommunication providers must comply with Title IV by July 26, 1993	Federal Communications Commission

(\*) Private over-the-road buses must be accessible by July 26, 1996 (six years after the effective date) for large providers; the effective date for small providers is July 26, 1997 (seven years after effective date).

#### IV. City Compliance Impact

ADA became effective for local government on January 26, 1992. Titles I and II of the Act will have the most impact on the City, especially in the area of employment and the accessibility of all government facilities, services, and communications for people with disabilities. Below is a summary of Title I and II and is not intended to be all-inclusive.

**Title I - Employment:** prohibits discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, job training, and other terms, conditions, and privileges of employment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodations may include, but not limited to:

- making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- job restructuring, modifying work schedules, reassignment to a vacant position;
- acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials or policies, and providing qualified readers or interpreters.

An employer is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

An employer is not required to lower quality or production standards to make an accommodation, nor is an employer obligated to provide personal use items such as glasses or hearing aids.

**Title II - Public Services:** extends the provisions of the ADA to state and local governments and their agencies. Title II prohibits the exclusion of individuals with disabilities from the benefits of the services, programs, or activities of a public entity, including those services, programs, or activities provided by a contractor. It also prohibits discrimination against an individual with a disability by any public entity.

Accessibility to programs, services, or activities includes not only the ability of the mobility-impaired to access programs, but people with other disabilities, e.g., hearing and speech impaired, the blind, etc. For example, the requirement to communicate in an equally effective manner may involve a variety of auxiliary aids and services including (1) written materials, telephone handset amplifiers, assistive listening devices, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, telecommunications devices for deaf persons, or other effective methods of making aurally delivered materials available to individuals with hearing impairments; (2) qualified readers, taped texts, audio recordings, braille materials, large print materials, or other effective methods of making visually delivered materials available to individuals; (3) acquisition or modification of equipment or devices; and (4) other similar services and actions.

Upon request, the City is required to furnish appropriate auxiliary aids and services to people with disabilities to participate, enjoy a service, program, or activity.

New facilities must be made readily accessible to persons with disabilities. Areas in such existing facilities that undergo alterations must be made accessible to persons with disabilities. "Facilities" mean all or part of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, garages, indoor and outdoor where human-constructed elements have been added.

In addition, Title II requires that public transportation be made readily accessible and usable by individuals with disabilities. Also public entities must provide paratransit public transportation for persons with disabilities to supplement regular fixed-route transportation systems.

Dallas Area Rapid Transit (DART) has published its plan to comply with Title II, subpart B of the ADA to provide accessible public transportation for people with disabilities. The plan emphasizes access to mainline fixed services with supplementary paratransit for those unable, due to the severity of their disability to access mainline services.



## V. Cost Impact

### Assessing Impact

Titles I and II of the Act will have the most impact on the City, especially in the area of employment and the accessibility of all government facilities, services, and communications for people with disabilities. The estimated financial impact of implementing the ADA is outlined below. Using data collected from the city wide self-evaluation, priorities have been identified and broken down into a three-year transition plan. The cost estimates reflect the alterations needed to provide general access to city facilities.

Where alterations are infeasible program modifications will be required, when requested, in order to make activities and services available to people with disabilities.

### Estimated Budget Impact

The budget request to implement the ADA compliance strategies includes the following estimations:

#### Transition Plan (1992-93)

Estimated Cost: \$400,000

- Restriping of parking lots and designation of accessible parking spaces
- Install parking lot curb ramps and building ramps
- Install signage to indicate accessible routes and entrances as well as interior signage for visually impaired access
- Install curb cuts

#### Transition Plan (1993-94)

Estimated Cost: \$6,327,200

- Adjust entrance doors and interior doors for pounds of pressure for opening, correcting threshold problems and replacing hardware.
- Complete minor restroom improvements, modifying hardware and mounting heights.

- Correct elevator and assist lifts for ADA compliance.
- Install curb cuts

**Transition Plan (1994-95)**

**Estimated Cost: \$7,129,950**

- Complete major restroom improvements
- Integrate audible and visual alarms into existing alarm systems
- Install directional building signage
- Install curb cuts

**Community/Employee Awareness** **Estimated Cost: \$69,200**

- To provide organizational awareness in the areas of policies, practices, and procedures required by the ADA to all levels of the organization
- Training equipment and materials required, such as:
 

Films:	\$ 1,200
Printing:	\$ 7,000
Posters:	\$ 1,000
Video Productions:	\$60,000
- These above activities will develop an awareness among City employees of the abilities of people with disabilities in Dallas and enable increased participation and understanding in City government programs and operations by people with disabilities.

**Communications**

**Estimated Cost: \$50,000**

- To enhance communications with hearing impaired and visually impaired community
- Equipment and services required include:
 

Telephone Devices for the Deaf (TDD's):	\$10,000
Listening Systems:	\$20,000
Interpreter Services:	\$10,000
Alternate Printed Materials:	\$10,000
Braille, Large print, Audio tape and Computer disc	

## Staffing

Estimated Cost: \$125,000

- To provide support to the Office on Disability. The office is currently budgeted and continuation funding is requested in the long range financial forecast.

## Consultant Fee

Estimated Cost: \$300,000

- To conduct a study of validations of medical standards as they relate to the physical requirements of the job

## **VI. City Compliance Strategy**

### 1. Appointment of an ADA Task Force

On May 30, 1991, City Manager Jan Hart appointed a task force to:

- assess the City of Dallas's current position;
- determine what adjustments need to be made for compliance;
- develop an action plan for the City's compliance.

The ADA Task Force, chaired by Assistant City Manager Teodoro Benavides, will oversee the implementation of the ADA Compliance Program. The Personnel Department, which includes the City's Office on Disability, has been assigned to coordinate the implementation of the requirements of ADA.

The ADA Task Force consist of four subcommittees: Accessibility, Public Information and Communications, Public Activities, and Employment.

#### Accessibility Subcommittee

To survey all City facilities including street and sidewalk clearances to ensure they are accessible for people with disabilities.

#### Employment Subcommittee

To review all employment policies to ensure that the City is giving non-discriminatory treatment to applicants and employees with disabilities.

### **Public Information and Communication Subcommittees**

To make all information prepared for the general public available in an accessible format. To ensure optimum accessibility for people with disabilities upon request.

### **Public Activities Subcommittee**

To ensure that all public activities of the City of Dallas are readily accessible to and usable by persons with disabilities.

It is recommended that this Task Force convert to the City's ADA Advisory Committee by July 1993. The committee would consist of City staff and community representatives.

#### 2. Conduct a Self-Evaluation of City Programs, Services, and Facilities

A self-evaluation of the accessibility to programs and services for people with disabilities began in March 1992. Departmental ADA Coordinators were trained to conduct the self-evaluation in their respective departments. The Task Force will gather data from the self-evaluation questionnaire, input from interested persons, people with disabilities, and organizations for an analysis of what must be done toward compliance. The self-evaluation has been completed by the January 26, 1993 mandated date and will be kept on file for three years. (See attached flowchart)

#### 3. Develop a Transition Plan

The Transition Plan is a legislative mandate and sets forth the actions for making the necessary structural changes to facilities, and any other area of improvements to comply with ADA. The Transition Plan was completed July 26, 1992. (See attached Transition Plan)

#### 4. Adopt and Publish Grievance Procedures

The City's grievance procedure people with disabilities was developed in 1984 and revised in November 1991 to comply with Section 504 of the Rehabilitation Act of 1973. The procedure allows for the resolution of a complaint by a person with a disability in regards to employment activities or access to services or programs provided by the City.

5. Post Notices of Rights

The City must post appropriate legal notices on the effective date of the ADA, January 26, 1992, describing the applicable provisions of the ADA. Notices have been placed in employment application areas and will be placed in activity areas by the end of January 1993, notifying the public of intent to comply and a contact person.

6. Establish a Resource Network

The City is updating its current network with agencies, associations, and organizations that work with people with disabilities. These groups will be able to provide technical assistance to the City. The activity is ongoing and is updated regularly as new programs are established in the Dallas area. Representatives from some of the local organizations are participants on the ADA Task Force.

7. Rewrite City Job Descriptions

Under the ADA, an employer's written job description will be considered as evidence of the essential functions of a job, if the job description existed before the job was advertised or applicant/employee was interviewed for the job, considered for promotion, or other job-related action was taken. It is important that the essential job-related functions should be considered in the job description. Reasonable accommodations, if required, also must be provided for "essential job related functions."

The rewriting of all City job descriptions will be accomplished in conjunction with the Compensation Redesign Project. The tentative date for completion of the rewriting of job descriptions is May 1993.

8. Review Pre- and Post-Employment Medical Examinations

Traditional pre-employment medical examinations are prohibited under the ADA. Medical examinations can only be administered after an offer of employment is made, all applicants/employees for the position are required to take the medical examination, and the examination is consistent with the essential functions of the position. All examinations are under review and immediate actions will be taken if violations of ADA requirements are indicated. The ADA requires that medical information and application information be kept separate. The City has initiated this activity and records are now kept separate and confidential.

9. Review of Workers' Compensation Policies

Employees returning to work after an injury or illness may be considered disabled under the ADA. The Limited Duty Policy for the City has been rewritten to allow employees returning after an illness/injury, occurring on or off duty, to return to work activities as soon as possible, and to be monitored in the event a reasonable accommodation is required. Those employees injured on duty and receiving workers' compensation benefits are also afforded consideration of a reasonable accommodation.

10. Train Department Coordinators and Supervisors on ADA

Because of the complexity of the ADA, department coordinators and supervisors will require initial and ongoing special training. Supervisors who conduct employment interviews will require training in "disability etiquette," and the regulations governing the ADA.

Initial training has been provided for the City Attorney's staff, Personnel Department staff, ADA Task Force members, and departmental personnel administrators and ADA coordinators. The Personnel Department, the Disability Coordinator, and the Task Force Subcommittees are continuing to develop the training program that will reach all City employees.

11. Review and Sanitize Applications and Other City Forms

Employment applications used in Civil Service and in Personnel were revised in 1989, deleting any inquiries about a persons disability. Other forms utilized in other departments are being reviewed to insure continued compliance. The ADA compliance statement will be added to the employment application at the next printing in January 1993.

12. Review All City Contracts for ADA Compliance

City contracts must include an assurance based on the provision of the ADA and extend those provisions to those who hold contracts with the City. The Office on Disability and the City Attorney's Office are reviewing contract compliance to include non-discrimination based on disability.

## 16. Communications

Establish a procedure for effective and equitable communications in providing information to people with disabilities, in particular individuals with sensory or cognitive impairments. Utilizing data gathered from the Self-Evaluation Survey on how departments inform the public of their services, programs, or activities appropriate alternatives can be identified.

## 17. Remedies for Non-Compliance

Title II provides victims of discrimination a private right of action to sue a public entity in federal court. An individual need not exhaust administrative procedures before filing suit in court.

Many state and local governments will be covered by the regulations issued under both Title I of the ADA and Section 504 of the Rehabilitation Act. In addition, public entities subject to Title I may be liable for monetary damages as a result of the Civil Rights Act of 1991. Court awards may also include, injunctive relief, back pay, and reinstatement.

The maximum amount of damages an employee can collect is limited according to the size of the employee's workforce:

- 15 to 100 employees - \$ 50,000
- 101 to 200 employees - \$100,000
- 201 to 500 employees - \$200,000
- 501 or more employees - \$300,000

The Civil Rights Act makes clear that a "good-faith" effort to provide reasonable accommodation is a defense against a monetary claim.

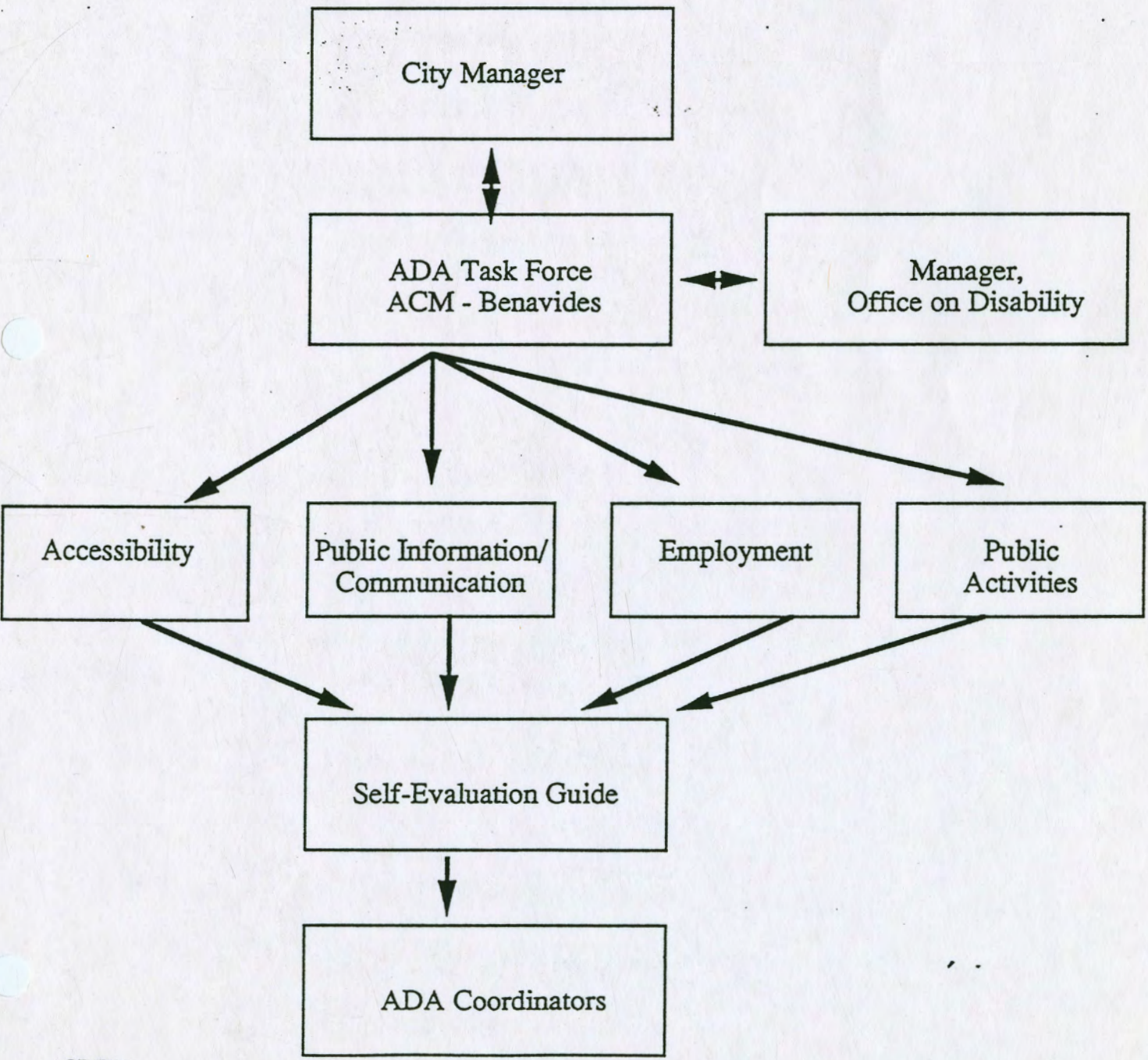
The Justice Department has government-wide responsibility for enforcing Title II of the ADA. It has had a similar role under the Rehabilitation Act, having coordinated enforcement of Section 504 since 1980. The Department of Justice can, therefore, delegate an investigation to another federal department such as the equal employment opportunity commission (EEOC) for Title I violations.

**Attachment A**

**Self-Evaluation Flow Charts**



**Self - Evaluation Guide**  
**How it was developed?**  
**How will it be used?**



### Self-Evaluation Guide: How will it be used?

