

**Accessibility and the Implementation of the Americans with Disabilities Act in
Small and Medium-Sized Municipalities in the Dallas/Fort Worth Metropolitan Area**

by

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Abstract

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People with disabilities face daily physical challenges posed by inaccessible buildings and unsafe sidewalks or public parks. These barriers prevent millions of people from enjoying resources provided by municipalities across the countries, such as public parks, libraries, and community centers. The Americans with Disabilities Act (ADA) of 1990, later amended in 2008, was designed to guide municipalities in the removal of those barriers to offer a more inclusive living environment for people with disabilities.

Title II of the ADA requires municipalities to ensure that their sidewalks, public parks, and public buildings are accessible. Additionally, public programs such as city council meetings must also be accessible to those with disabilities. The ADA has provided guidelines for municipalities to follow to become compliant with the law. Compliance with the law should, in theory, provide a more accessible built environment for all.

Previous research studies have shown that many municipalities across the country have been slow in implementing Title II of the ADA. The purpose of this research study will be to gain a greater understanding of the level of compliance with Title II for small and medium size

municipalities of the Dallas/Fort Worth metropolitan area. Additionally, this study will address the factors affecting the level of compliance by these municipalities. The results of this research may provide a blueprint for municipalities still struggling with the full implementation of Title II.

Using the mixed research method, this research provided an updated insight into the challenges faced by small and medium-size municipalities in the Dallas/Fort Worth metropolitan area when striving for compliance. The data suggests that 75% of these municipalities with 50 or more employees (a key benchmark for ADA compliance) fall short of compliance in a number of ways. First, most municipalities in the area have not created a Transition Plan or conducted a self-evaluation to determine their level of compliance. Second, many have not designated an employee of the municipality as the ADA Coordinator, another requirement of Title II. These two critical factors have a cascading impact on the level of compliance of the municipalities with 50 or more employees.

Many municipalities with less than 50 employees in this study area also fell short of full compliance with the law. As expected, the data illustrate the budgetary and staffing challenges faced by municipalities of all sizes in the study when striving for compliance. Additionally, these smaller municipalities indicated a lack of understanding of the requirements of the law, further complicating compliance. The results of this study show that even after more than three decades of existence, many municipalities in the Dallas/Fort Worth Metropolitan area have yet to achieve compliance with Title II of the ADA.

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The paper is organized as follows:

- Introduction: Details an introduction, problem statement, and significance of the research and research scope.
- Literature Review: Provides a review of literature on the Americans with Disabilities Act, studies regarding compliance with Title II of the ADA, disability policy, and the evolution of accessibility theory.
- Disability Data: This section discusses disability data, defining disability, and measuring compliance with the ADA.
- Methodology and Analysis: Defines the method used to collect, analyze, and interpret the data and provides a quantitative and qualitative analysis of the data.
- Summary and Conclusions.

CHAPTER ONE: INTRODUCTION

Many people with disabilities face a number of challenges on a daily basis. These challenges range from accessing public transportation and using public sidewalks safely to finding, interviewing, and keeping a job commensurate with their experience and level of education.

Safe and accessible sidewalks and public transportation allow for greater mobility for people with and without physical impairments. Uneven pavement, curbs, and cracks in sidewalks are obstacles for people using walking aids or wheelchairs (Hara, 2015). Public transportation, such as city buses or mass transit, must not only accommodate individuals with physical impairments, but also take into account individuals with developmental disabilities and those with visual and hearing challenges.

The Americans with Disabilities Act (ADA) prevents discrimination against individuals based on disability and strives to remove barriers for those who experience challenges in navigating today's physical environment. The ADA was originally signed in 1990 but was amended in 2008 to provide more clarity and guidance for municipalities, employers, and property owners to become compliant (Hallman 2017). The amended ADA places requirements on these entities to ensure equality and greater protection for individuals with disabilities (Brown, 1996).

Problem Statement

While the ADA may be the single most important piece of comprehensive legislation to affect the lives of people with disabilities, many municipalities have yet to reach full compliance with the law (Hara, 2015). Previous studies (Slayton, 2000; Switzer, 2001; Condrey & Brudney, 1998; Brault, Harrison, Gips, Angel, & Blakeslee, 2019; and a study conducted by the National Council on Disability in 2007) have indicated that compliance with the ADA has been lagging behind expectations. More than 13 years after the signing of the amended ADA, many municipalities are still not in full compliance, resulting in continuing mobility challenges for people with disabilities nationwide.

Texas has been recognized as a leader in ADA compliance (Slayton, 2000, pg. 152). However, the full extent of implementation of the Title II of the ADA by small and medium-sized municipalities in the Dallas/Fort Worth area had not been previously addressed. This research will explore how small and medium-sized municipalities in the Dallas/Fort Worth metropolitan area have struggled to implement Title II of the ADA and explore possible solutions to increase compliance rates across the region.

Research Purpose and Scope

The purpose of this research study will be to gain a greater understanding of the factors that hinder how small and medium-sized municipalities implement the ADA, such as budgetary and staffing factors, and how those factors prevent full compliance with Title II of the ADA. More than one decade has passed since the United States Congress amended the ADA. It is essential to examine the level of compliance of these municipalities in an effort to determine the effectiveness of the federal mandate.

Previous studies have examined the implementation of the ADA in large municipalities across the country. One study conducted did examine the levels of compliance of small and medium-sized municipalities across the country, but this study was conducted years before the ADA was amended in 2008. Other studies have been region-specific (such as the implementation of the ADA in the Northeastern United States). More on these studies will be discussed later in this paper. No existing studies have examined the implementation of the ADA in municipalities of the Dallas/Fort Worth metropolitan area.

This research will examine multiple aspects of ADA compliance at the municipality level, including the level of compliance with removing physical barriers on municipality-owned property. Further, the research will attempt to determine the factors that hinder the level of compliance by these municipalities.

The Dallas/Fort Worth metropolitan area was chosen for a number of reasons. First, the University of Texas at Arlington sits in the middle of the massive metropolitan area, allowing the author to conduct more personalized research into this field. Additionally, the DFW metro area is one of the largest metropolitan areas in the country, with more than 200 individual

municipalities in the 11-county metro area.¹ This provides a large data set to be drawn upon and studied.

Research Questions

The purpose of this study is to determine the factors that hinder the level of compliance with Title II of the ADA for small and medium-sized municipalities in the Dallas/Fort Worth metropolitan area. Previous studies have indicated national or other regional trends towards compliance. However, understanding the behavior of local municipalities in North Texas regarding ADA compliance has not been studied. Additionally, no study conducted in the past 20 years has attempted to understand the challenges to ADA compliance faced by small and medium-sized municipalities.

This study will attempt to answer the below questions regarding accessibility and ADA compliance in small and medium-sized municipalities in the Dallas/Fort Worth metropolitan area:

1. What is the level of compliance with Title II of the ADA by small and medium-sized municipalities in the Dallas/Fort Worth metropolitan area?
2. What are the factors that hinder compliance with Title II?

¹ According to 2010 data from the United States Census Bureau.

3. What can be done to increase or improve compliance with Title II (and ultimately accessibility) across the Dallas/Fort Worth metro area?

The level of compliance will be calculated by quantifying the following factors:

1. Existence of a designated ADA Coordinator
2. Existence of a municipality ADA Transition Plan
3. Accessibility of municipality government building(s)
4. Accessibility of public parks and other recreational facilities
5. Percentage of sidewalks that are fully accessible

To accomplish this, I first conducted a survey of the 197 municipalities in the Dallas/Fort Worth metropolitan area. The survey was conducted using an online survey tool as well as a mailing to each municipality. Of the 197 municipalities surveyed, 70 responded, providing a response rate of approximately 35.5%.

Next, I conducted a more thorough and detailed interview of willing ADA Coordinators (or their equivalent) to obtain additional data regarding their municipality's challenges when striving for full compliance with Title II of the ADA. This interview was conducted either by phone or via email with each municipality's ADA Coordinator or individual tasked by the municipality to handle ADA matters.

Research Significance

Full compliance with the ADA is more than simply complying with a federal mandate. The level of compliance implemented by a municipality can have a dramatic impact on the way of life for all residents of a municipality and the entire region. More accessible sidewalks may improve the employment of people with disabilities, and greater accessibility to public buildings and parks may encourage more people to move to a certain city or region, thereby increasing the tax base. By addressing the issue of compliance and the issue of accessibility across an entire region, the Dallas/Fort Worth metropolitan area could be recognized as the standard for the inclusion of people with disabilities.

CHAPTER TWO: LITERATURE REVIEW

Accessibility and the ADA

People with disabilities are among the most discriminated groups in the country and around the world (Byrnes, 2015, p.III). Regardless of race, age, religion, national origin, or sexual preference, people with disabilities continue to face challenges such as physical mobility through city streets and employment discrimination. This problem is often exacerbated by the fact that many people with disabilities cannot speak up for themselves.

According to United States census data from 2010, approximately one in five people in the US has a disability. Nearly 31 million Americans have trouble walking and use walking aids such as crutches or wheelchairs. More than 8 million people have difficulty seeing (US Census Bureau, 2012). This means nearly 40 million people in the United States may face challenges such as using public sidewalks, accessing government buildings, getting into a restaurant, and visiting or working in commercial properties. Many elements of poorly designed or poorly maintained infrastructure, such as sidewalks and driveways that are barriers to use for people with disabilities, go unnoticed by the non-disabled population. To add to the problem, adults with disabilities tend to earn less income (“2017 Disability Statistics Annual Report”, 2017), resulting in greater use of public transportation, public sidewalks, and other public services.

The Americans with Disabilities Act (ADA or the “Act”) of 1990 was the first piece of comprehensive legislation passed by the United States government to address the rights of people with disabilities. According to the text of the Act, “Congress finds that ... physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of

society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination...” (ADA, Chapter 126, Sec. 12101(a)). While the intent of the ADA was to address discrimination against people with disabilities, the benefits were oftentimes stymied and slowed by legal challenges from municipalities across the country (Slayton, xii, 2000). These legal challenges were not necessarily a result of opposition to the Act but instead ambiguity associated with interpreting the Act. Beginning with the enactment of the ADA in 1990 through 2002, municipalities and employers struggled to interpret, and in turn implement and budget for, the necessary changes imposed by the ADA. The purpose for much of the struggle was the lack of clear and concise policy of the initial ADA, creating legal battles and courtroom arguments over the interpretation of the ADA.

In 2002, after over a decade of implementation and interpretation struggles over the ADA, the law was put to the test in *Barden v. City of Sacramento* (Barden v. City of Sacramento). The landmark *Barden* case found that cities and municipalities must make public sidewalks accessible for people with disabilities. The *Barden* case started the process of the federal government working towards amending the original ADA and clarifying many of the responsibilities and objectives of the law.² In 2008, the United States Congress passed the ADA Amendments Act of 2008, and it was signed by President George W. Bush. This new landmark legislation became effective on January 1, 2009 (ADA.gov).

There are five sections of the Americans with Disabilities Act, which are referred to as Titles. Title I covers employment issues; Titles II addresses public entities and public transportation issues; Title III regulates accessibility for private and commercial properties; Title IV deals with telecommunications; and Title V is the final section, which contains the

² The Barden decision will be discussed in greater detail later in this proposal.

“miscellaneous provisions” that are not covered in the other titles. These provisions include but are not limited to attorney’s fees, suits filed for noncompliance with the Act, application of the Act to state law, insurance, mediation, and other items (Jasper, 1998, p. 1).

Evolution of the Definition of Disability

To illustrate the challenge municipalities face in creating an accessible living environment, one must begin by first understanding what it means to have a disability or impairment. The Americans with Disabilities Act of 1990 used three principles to define a disability. They are: “1) a physical or mental impairment that substantially limits one or more major life activities of such individual; 2) a record of such an impairment; or 3) being regarded as having such an impairment”.³ It is this third portion of the definition, the “regarded as,” that caused confusion and multiple legal court battles.

The writers of the ADA took this definition of disability from the Rehabilitation Act of 1973 (amended in 1974). The ADA used the same general language for defining a disability as the Rehabilitation Act. However, the ADA updated the language to reflect a more appropriate description of people with disabilities.⁴

In the years following the original ADA, this third aspect of the definition of disability, the “regarded as” having a disability, proved to be problematic. In a key Supreme Court decision, *Sutton v. United Air Lines, Inc.*, (Sutton v. United Air Lines, Inc., 1999), the court ruled that the plaintiff was not protected by the “regarded as” portion of the ADA because their

³ www.ada.gov/pubs/adastatute08mark.htm#12102. Text of the amended ADA showing changes from the 1990 law.

⁴ For example, the Rehabilitation Act uses the term “handicapped”, which is no longer deemed an appropriate description of an individual with a disability.

employer did not “perceive the plaintiff’s impairment as one that would substantially limit a major life activity” (Befort, 2013, pg. 2036). This clearly, and arguably unfairly, put the burden on the person with a disability to prove to their employer that they had a disability. And according to *Sutton*, if the employer did not “perceive” that the employee had a disability, then they were not bound by the ADA.

The notion of a “perceived” disability also came from the 1974 amendment of the Rehabilitation Act of 1973. That amendment “extended protection beyond those individuals with actual disabilities to also encompass individuals who are perceived, either correctly or incorrectly, as being disabled” (Belfort, 2010, pg. 997). It is easy to see how this ‘perception’ could become problematic for both employers and individuals with disabilities.

Even before the implementation of the ADA, courts were arguing over this definition of disability from the days of the Rehabilitation Act. In one critical early Supreme Court decision, *School Board of Nassau County v. Arline* (School Board of Nassau County v. Arline, 1999), the court attempted to narrow the definition of disability because, in the words of the court, the definition of disability was too “broad” (School Board of Nassau County v. Arline, Page 480 U.S. 286). As interpreted by legal and academic scholars, the precedent from this Supreme Court ruling indicated that this definition of disability prevents discrimination against anyone because of “*any* impairment”⁵ (Feldblum, 2007).

As a result of this ambiguous third portion of the definition of disability from the ADA, numerous court cases continued to be filed. Most of these court cases dealt with employee discrimination based on an employee’s disability. In one such case, *Pedigo v. P.A.M Transportation* (Pedigo v. P.A.M. Transportation, Dec 1, 1994), the “court advised that the ADA

⁵ Emphasis on “any” added by writer.

as it was being interpreted had the potential of being the greatest generator of litigation ever, and that the court doubted whether Congress, in its wildest dreams or wildest nightmares, intended to turn every garden variety worker's compensation claim into a federal case" (*Pedigo*, pg. 485).

This led the courts to begin to constrict their interpretation of the definition of "regarded as" to limit the number of lawsuits being filed. As a result of the courts' efforts, plaintiffs would only have standing in a lawsuit if they could prove not only that they had an impairment but that the impairment would have a "substantial limitation in a major life activity" (Mayerson, pg. 591). Thus, throughout several Supreme Court decisions, the courts had successfully narrowed the definition of disability with their rulings.

This narrow definition of disability was not in line with the initial intent of the ADA. As such, one of the most significant aspects of the ADA Amendments Act of 2008 (ADAAA or Amendments Act) was to define disability more clearly.

"Congress passed the ADAAA in response to several Supreme Court decisions that narrowly interpreted the ADA's definition of disability, leading ultimately to the exclusion from the coverage of individuals with cancer, diabetes, epilepsy, attention deficit hyperactivity disorder, learning disabilities and other disabilities. The ADAAA made a number of significant changes to the meaning and interpretation of the ADA definition to ensure that the term would be broadly construed and applied without extensive analysis so that all individuals with disabilities could receive the law's protection." (DOJ OPA press release, 08/10/2016).

The new definition of disability in the ADAAA expanded on the “regarded as” section of the law. Below is the text of the law specifically related to the “regarded as” portion:

“An individual meets the requirement of “being regarded” as having such an impairment if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.” (ADAAA Section 12102(3)(A))

The ADAAA brought the definition of disability back to what the writers of the law had initially intended. That was to ensure that the law had very broad coverage over anyone who has some type of impairment that may impact their daily life or their ability to be gainfully employed.

“The ADA Amendments Act, passed in 2008 and effective January 1, 2009, explicitly disproves the two major Supreme Court cases limiting coverage of the ADA, and by extension, section 504⁶. It provides that the definition of disability “shall be construed in favor of broad coverage of individuals” and declares that the intent of Congress is “that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations,” rather than whether the claimant’s impairment meets the definition of disability” (Weber).

⁶ Section 504 of the Rehabilitation Act of 1973, Amended in 1974.

The most significant aspect of the portion above is how the new amendment takes the burden away from the individual with a disability and places the burden on the entity “covered under the ADA” to ensure that they are fulfilling their legal obligations to the law. While much of the case law up until this point has been dealing with employment discrimination matters, this portion indicates that all “entities covered under the ADA” have a responsibility to comply with the law.

A study conducted analyzing the effect of the change in the definition of disability showed that after the ADAAA, the courts were interpreting the definition of disability as written in the ADA more consistently and more fairly. Courts had a more concrete definition of a qualifying disability and were therefore not forced to create their own, evolving definition for each court case (Belfort, 2013).

Evolution of Accessibility Theory

Well before the ADA and the ADAAA, the first formal regulation by the federal government to address accessibility issues was the Architectural Barriers Act (ABA) of 1968 (Williamson, 2020). Over the next five decades, the US government had passed legislation that was built on the principles of the ABA of providing greater accessibility to the everyday world for individuals with disabilities. The most significant of these federal laws in terms of accessibility were the ADA of 1990 and the ADA Amendments Act of 2008. These two laws specifically have altered the course of accessibility and inclusion across the country and affected the daily lives of millions of people.

While federal law has changed and been amended over the years, so too have theories and models related to accessibility. Early theories related to accessibility, as incorporated into the ABA, were narrow and focused exclusively on removing physical barriers primarily for wheelchair users. These were known as “Barrier-Free” theories. However, later models of accessibility have led us to more inclusion and fewer barriers for all types of abilities and disabilities. This “Universal Design” would strive for a world with no barriers for those with or without a disability (Hamraie, 2017).

“Universal Design” is a relatively new theory in terms of disability access. The movement became more recognized in the 1990s, shortly after the signing of the original ADA. Universal Design began at a crossroads of disability policy and architectural design. The fundamental question was how to incorporate the needs of all individuals (with or without mobility challenges) into the built environment. This theory would be more inclusive than previous design theories to a much larger segment of the population. Additionally, utilizing Universal Design aspects early on would potentially avoid expensive and often unsightly modifications later.⁷

Universal Design is based on a series of principles created by Ronald Mace, the founder of the Center for Universal Design. Mace used these principles during the inception of the idea of Universal Design to better limit physical barriers in the design of the built environment (Erkiliç, 2011). The principles of Mace’s Universal Design concept included designs that were easy and flexible to use for people of all abilities, required minimal physical effort to use the design, and provided ample space for all individuals, regardless of size or use of walking aids or wheelchairs.

⁷ This will be discussed in more detail later in this proposal.

The idea of Universal Design came about from the challenges of developers and planners to incorporate “barrier-free” environments into their plans. Earlier “barrier-free” theories were based on viewing life through the lens of someone with a physical disability and attempting to ensure that no barriers existed in their access to certain areas. While this movement was successful early in the development of accessibility law and design, it was essentially creating two separate designs for many buildings or public areas: one area would be for those without disabilities, and the other would be accessible for those with disabilities. This led to buildings often having two entrances (one with stairs and the other with a ramp) or buildings with separate accessible bathrooms from the other general use bathrooms (Zimmer, 2012). While these accommodations did provide for a more “barrier-free” environment, they were not truly inclusive for all, including people with disabilities. Hence, the notion of Universal Design, or “design for all” (Erkiliç, 2011). This theory would strive to be more inclusive of all users of a certain building, park, school, or any structure, regardless of ability.

It is important not to confuse accessibility with Universal Design. Accessibility to a certain building, room, bathroom, or park describes the minimally acceptable solution: simply that someone in a wheelchair can access the space. This may result in minimal compliance with building codes or standards (or the ADA). But this could mean that the ramp is behind the building or hidden or tucked away in such a manner requiring an individual using a wheelchair to take a more circuitous route to gain access to the building. While this may be compliant with the ADA and/or local building codes, it would not foster a welcoming environment for individuals with disabilities (Zimmer, 2012).

On the other hand, Universal Design takes a different approach and views design through a different lens. “Advocates of [Universal Design] refrain from focusing on disability and have

shifted their focus to all with the goal of inclusion, disregarding a person’s status as able-bodied or disabled” (Erkiliç, 2011). This approach mirrors what disability advocates have been pushing for years, a “person first” mentality.

“Person-first” means that one should focus on a person first, and not any type of disability that person may have. In essence, the person comes first, then the disability (or other characterization of that person). For example, as a society, we have moved from the description of a “disabled person” to a “person with a disability” (Lynch, Thuli, & Groombridge, 1994). This is critically important because it places the initial value on the person, and not the disability. The similarity can be found in Universal Design. Universal Design begins with a focus on including all people first, not simply looking for ways to remove barriers for people with disabilities.

The evolution of the theories of the accessibility movement from “barrier-free” to “Universal Design” shows how developers, city planners, and designers are attempting to be more inclusive in their design methods. In addition, these theories can help lay the groundwork for professionals in more fully understanding the accessibility of facilities and areas under their jurisdiction.

Title II: Physical Accessibility to Public Spaces and Programs

Title II requires that municipalities ensure accessibility to public property and programs, including sidewalks, bus stops, and public buildings.⁸ The ADAAA did not result in significant changes to Title II of the ADA and therefore did not impact municipalities' compliance or

⁸ Title II of the ADA Amendments Act of 2008 is included in the appendix of this paper.

noncompliance with Title II compared to the original ADA of 1990. However, what dramatically affected compliance with Title II was the *Barden v. City of Sacramento* (*Barden v. City of Sacramento*, June 12, 2002) case.

One of the most controversial aspects of the ADA prior to 2002 was whether sidewalks were subject to the ADA's accessibility regulations. Prior to this time, municipalities were unsure of their legal requirements to either 1) retrofit existing sidewalks or 2) ensure that new construction complied with the standards of the Act. *Barden v. City of Sacramento* held that "sidewalks are subject to program accessibility regulations promulgated in furtherance of" the ADA (*Barden*). The *Barden* decision clearly held that cities were responsible for ensuring their sidewalks were accessible for people with disabilities.

Per the *Barden* decision, cities and municipalities were required to comply with the Title II accessibility regulations of the ADA. Thus, while historically sidewalks may have been only under the purview of local municipalities, the *Barden* decision placed those same sidewalks under federal government jurisdiction as it relates to the ADA. And while the federal government may not be providing any financial contributions to the construction or renovations of sidewalks, municipalities must still comply with the ADA's accessibility standards. This means that all municipalities must take the federal standards into account any time a new sidewalk is installed, or an existing sidewalk is renovated in order to be compliant with the federal law. The federal government's responsibility to local municipalities is simply to provide the guidelines to be followed (the ADA Accessibility Standards).

Separate from the issue of sidewalks, Title II of the ADA also has requirements for public building accessibility and the accessibility of public (government) programs. For buildings built before 1990 (the signing of the Act), this may require costly renovations to ensure historical

aesthetics are not affected. Or the building owner could opt for cheaper (but less aesthetically pleasing) alterations such as ramps. On the other hand, installing elevators in older buildings can be cost-prohibitive or structurally impossible. Building owners could, therefore, also move in the direction of more programmatic changes by simply relocating programs to facilities that are already accessible. The ADA has provided minimal guidelines for municipalities and employers to follow but has allowed for flexibility in the implementation of the program.⁹

While minimal legal compliance may be the goal of some municipalities, the extent to which a municipality is willing to go above minimum legal compliance is different from one municipality to the next. Some municipalities may decide to strive for full accessibility by ensuring that their entire city or town is fully accessible. Others, due to financial constraints or other priorities, may strive only for minimal compliance. Both choices would ensure compliance with the ADA. However, each can have dramatically different effects on the aesthetics of the municipality's buildings or public places, the structural integrity of those buildings, and the accessibility of the whole community for people with disabilities. Many factors will go into the choice made by the municipality, including financial and political considerations, the number of people with disabilities in the community, and the current level of accessibility of the area.

To help ensure that municipalities were striving for greater accessibility, the United States Congress included in the ADA a requirement for municipalities to create a "transition plan" to demonstrate how the municipality intends to come into compliance with the law. Many cities and towns created transition plans in the 1990s as required and then later amended or created new transition plans following the signing of the amended ADA in 2008. The transition

⁹ Options for implementation of the ADA will be discussed in the analysis portion of this proposal.

plans were intended to force municipalities to describe how they would become compliant with the ADA.

The level of detail and transparency of ADA transition plans can vary from one municipality to the next. Many transition plans highlight the needs (or deficiencies) of the municipality in terms of accessibility. Many will also include proposed dates for the completion of accessibility projects and even costs associated with such projects. The intent of a transition plan was to provide a roadmap for compliance for the municipality. All municipalities with 50 or more employees were required to have a transition plan before the end of July 1992 (Eisenberg, Heider, Gould, & Jones, 2020).

Title II of the ADA also requires that municipalities with 50 or more employees have one employee designated as an ADA Coordinator to oversee compliance with the Act (ADA Title II). And while municipalities with fewer than 50 employees are not required to have a designated ADA Coordinator, having someone in that role with expertise or understanding of the law would improve the municipality's chances of increased compliance (Switzer, 2001). Additionally, having an ADA Coordinator who has completed formalized training creates additional benefits for the municipality.

Previous Studies Related to Title II ADA Compliance

Since the original ADA, several studies have been undertaken to gain a greater understanding of the level of compliance of municipalities and the challenges faced by them in terms of compliance with Title II. The studies identified a variety of factors that hindered

compliance with Title II by these municipalities. In this section, I will discuss the theoretical perspective of the municipalities and the empirical findings of each study.

A study conducted in 2000 on the implementation of the ADA in small and medium-sized municipalities found that municipalities were slow to comply with the ADA. Additionally, the study found several factors that affected the municipalities' decisions on complying (Slayton, 2000), such as having a dedicated ADA compliance officer or strong state laws governing disability policy. Of note in Slayton's study referenced above is that the state of Texas ranked highest in the nation in terms of municipality compliance with the ADA.

Slayton's approach to understanding the implementation of the ADA demonstrated that municipalities had a long way to go in becoming fully compliant. Slayton found that the municipalities in his study took an incremental/bounded rationality approach to comply with Title II. What he found was that "when faced with a complex, confusing, or potentially conflictual decision, [municipalities will] seek to simplify the decision-making process" (Slayton, pg. 84) by taking small, incremental steps.

Another study published in the Policy Studies Journal (Switzer, 2001) attempted to place cities into compliance categories according to their efforts related to ADA compliance. Those categories were defined as Progressive, Reluctant, and Forced Compliant. Cities that fell into the Progressive category were determined to have put the highest effort into becoming ADA compliant. The other two categories are self-explanatory when viewed through this narrative.

Switzer's research highlights several reasons why different municipalities may fall into the aforementioned categories, and she discusses the challenges that municipalities face when attempting to comply with the ADA. One of her core arguments deals with the ADA Coordinator. Switzer highlights that some municipalities struggle with full compliance due to

“statutory and regulatory vagueness” that is found in the ADA (Switzer, 2001, p 657). Having a dedicated ADA Coordinator or someone in a position of authority tasked with understanding and addressing ADA-related matters may combat this challenge. It is worth noting that Switzer’s research was published in 2001, prior to signing the amended ADA, which was designed to minimize this “vagueness”.

Switzer attempted to understand the theoretical perspective of municipalities by discussing the municipalities’ views towards the ADA. Switzer stated that “the majority of cities” in her study “have taken a paternalistic attitude or viewed the ADA as something that gives a group ‘special rights’” (Switzer, pg. 660). Switzer rationalized that when municipalities have a negative or paternalistic view of disability rights, then their attempts to include the disability community will lack substance, thus negatively affecting compliance rates.

A similar study examined the compliance levels of municipalities in the New England area (Brault, Harrison, Gips, Angel, & Blakeslee, 2019). This study, published in 2019, highlights the challenges that many municipalities face in implementing, and therefore complying with, the ADA. The study only addressed compliance with Title II of the ADA in these municipalities in New England. Using a similar approach of conducting a survey of the municipalities in their study region, the results found compliance lacking in the vast majority of those surveyed.

The study discusses a broad understanding that many municipalities face multiple challenges in implementing the ADA, but there had not been any studies conducted in their region to gain a greater understanding of the level of compliance. Additionally, no study has been conducted to determine the reasons behind the lack of compliance. Their study attempted to address both research gaps.

The results of the study found that municipalities with 50 or more employees were more likely to comply than those with fewer than 50 employees. Overall, the study found 24% of cities were in compliance with the administrative requirements of Title II of the ADA. The study also found that the two primary reasons for lack of compliance were “lack of personnel” who were dedicated to ADA compliance efforts and “lack of knowledge” of the requirements of the ADA.

Those two primary reasons allow municipalities several options to improve their chances of increasing compliance. While city budgets may not allow additional hiring of a dedicated ADA Coordinator, this study may demonstrate the need to assign ADA compliance responsibilities to one or more employees. Additionally, continuing education for those responsible for ADA compliance or other disability matters may also improve the likelihood of increasing compliance with the federal mandate.

The other reasons for noncompliance with the ADA across New England were a “lack of money” and a “lack of time”. These four factors contributed the most towards noncompliance with the ADA in their study.

A similar study conducted in the late 1990s found very similar reasons for noncompliance with the ADA in municipalities across the country with 50,000 people or more (Condrey & Brudney, 1998). This study also included a survey and found that a “lack of budgetary support” and “vague regulations” were to blame for noncompliance. These two obstacles were cited much more frequently than the following two reasons for noncompliance, which were “lack of administrative support” and “lack of political support.”

Condrey interestingly attempted to tie the level of compliance with the type of government structure of the municipality. For example, Condrey compared “Mayor-Council”

government structures with “Council-Manager” structures in an effort to explain compliance levels.

It is important to understand that this study was published in 1998 in the very early years of the ADA prior to the signing of the amended ADA. The amended ADA sought to solve the problem of the “vague regulations” but would do nothing to solve the problem of the “lack of budgetary support”. Issues such as this would need to be addressed by city and community leaders.

Condrey did point out that municipalities that demonstrated higher levels of flexibility tended to have higher compliance rates. This theory for Condrey basically states that cities and towns that have more “malleable personnel systems” lead to a “more receptive home for ADA implementation” (Condrey, pg. 41).

Finally, a study conducted by the National Council on Disability, published in 2007, attempted to address the reasons why particular sectors have continued to struggle with implementing the ADA. This study also attempted to provide recommendations to improve compliance for municipalities and businesses with ADA requirements. Additionally, the study discussed recommendations for the legislative and administrative branches of the federal government. For example, significant time is spent discussing recommendations to Congress to improve the law, as well as to federal agencies to assist in enforcing the law or supporting businesses and municipalities in their compliance efforts.

Each of these studies attempted to quantify Title II compliance within municipalities. The theories presented demonstrated that compliance is a very complex challenge to many cities and towns. While no one theory can explain a municipalities compliance (or lack thereof), these studies have highlighted the critical factors that have hindered compliance for decades. This

research project will build on these previous studies to provide a more updated analysis of the current state of compliance of Title II.

Table 1: Previous Studies Related to ADA Title II Compliance

Study Name and Author	Focus	Findings	Theoretical Perspective
Condrey & Brudney: The Americans with Disabilities Act of 1990. <i>The American Review of Public Administration</i> , 1998	<ul style="list-style-type: none"> National survey of cities with 50,000 or more in population First to look at Title II compliance Eight years after the implementation of the original ADA 	<ul style="list-style-type: none"> Larger cities may have a greater administrative capacity to implement and comply Vague regulations were a primary factor contributing to a lack of compliance 	<ul style="list-style-type: none"> More flexible the municipality governing structure the higher the compliance
Slayton: Implementation of the Americans with Disabilities Act in Small and Medium-Sized Municipalities, <i>Doctoral Dissertation for the University of Oklahoma</i> , 2000.	<ul style="list-style-type: none"> National survey of cities between 10,000 and 100,000 in population 75 random cities in four different regions across the country 	<ul style="list-style-type: none"> Cities with the highest levels of compliance were ones with a dedicated ADA Coordinator Confusion and a lack of information were contributing factors to compliance deficiencies 	<ul style="list-style-type: none"> Incremental/Bounded Rationality of municipalities
Switzer: Local Government Implementation of the Americans with Disabilities Act: Factors Affecting Statutory Compliance. <i>Policy Studies Journal</i> , 2001	<ul style="list-style-type: none"> Focus on 20 cities in much greater detail Attempted to place cities into one of three compliance categories: Progressive, Reluctant, and Forced Compliant 	<ul style="list-style-type: none"> Having a dedicated ADA Coordinator with a personal interest in disability policy and the authority to make decisions was correlated with higher levels of compliance Vagueness of the law was a contributing factor to compliance deficiencies 	<ul style="list-style-type: none"> Paternalism or negative views towards ADA hinder compliance
National Council on Disability. Implementation of the Americans with Disabilities Act: challenges, best practices, and new opportunities for success, 2007	<ul style="list-style-type: none"> Conducted by an independent government agency Thorough review of all five titles of the ADA, including Title II Was used by Congress for the Amended ADA 	<ul style="list-style-type: none"> Lack of appropriate and consistent information on implementation was a key problem for compliance Cost concerns and limited enforcement were contributing factors to compliance deficiencies 	<ul style="list-style-type: none"> Indifference or lack of motivation by municipalities and stakeholders

<p>Brault, et al: Results from the Identifying Challenges to Implementing the ADA Survey for Cities and Towns in New England. <i>Institute for Human Centered Design</i>. 2019</p>	<ul style="list-style-type: none"> • Only post Amended ADA study focusing on Title II compliance for municipalities • Focused on cities and towns in one region: New England 	<ul style="list-style-type: none"> • Larger cities were more likely to be in or closer to compliance than small or medium sized cities • A dedicated ADA Coordinator was a key factor for larger cities having higher levels of compliance • 24% of the towns studied were in compliance • Budget issues and a lack of knowledge of requirements were key factors in ADA compliance deficiencies 	<ul style="list-style-type: none"> • Scarcity of resources and knowledge within municipalities hinders compliance efforts
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CHAPTER THREE: DISABILITY DATA

Measuring Compliance

Measuring accessibility and compliance with the ADA or other accessibility standards can be challenging. There are several methods that are currently being used to measure various accessibility matters, including accessibility in transportation, public and private buildings, and sidewalks. Measuring accessibility, however, is different than measuring compliance with the ADA.

One method used for measuring accessibility involves a linear regression model measuring the heart rate of volunteers who used various sidewalk features during the course of a study. The regression model extrapolated increased levels of heart rate and based accessibility mathematically on this calculation (Zimmer, 2012). This type of accessibility measurement is not applicable to determining if a municipality (or specific sidewalk) is compliant with the ADA. This measurement can, however, be used by municipalities to better their already compliant sidewalks in an effort to make them more *easily* accessible to persons with disabilities, should they wish. In theory, a municipality could have a sidewalk that is ADA compliant, but is so difficult to use (based on the above linear regression), that users of wheelchairs or other walking aids may completely avoid that area.

Several other models in the literature discuss measuring the accessibility of buildings and other spaces. Many of these models are mathematically based and not applicable to this research study. However, a greater understanding of these measurements could be important to building

and property developers and city planners to ensure that not only are facilities and spaces ADA compliant, but they are also easily accessible to the greatest percentage of their population.

Measuring compliance with the ADA, on the other hand, is simplified by using a standards-based approach (Church & Marston, 2003). The ADA specifies the requirement, and a municipality (or building owner) either complies or does not comply. For example, regarding public sidewalks, the ADA specifies that “for curb ramps constructed after January 26, 1992 (post-ADA), the slope must be 8.33 percent (1:12) or less” (ADA.gov). The ADA requires curb ramps at locations where a pedestrian using a sidewalk may encounter a curb that needs to be traversed. So, to measure compliance, one simply needs to determine two things: first, does a curb ramp exist where a pedestrian would encounter a curb, and second, does the slope of that curb ramp meet the ADA requirement? There are other requirements for sidewalks, including width and length, but the point of this example is to show that measuring compliance with the ADA is more straightforward than measuring accessibility, as described above. Municipalities can calculate their level of compliance with sidewalks by determining which sidewalks do not comply with the ADA in terms of curb ramps, slope, and width.

Municipalities can calculate compliance with the ADA for public buildings in much the same way. For a municipality building to be fully compliant, the building itself must be accessible (i.e., a ramp or other means of entry and exit), must have accessible restrooms, and other surfaces (such as water fountains or writing desks) must be made accessible to individuals using wheelchairs. There are specific dimensions for these items provided in the ADA Standards.¹⁰ The building must also have an adequate number of accessible parking spaces based on the occupancy of the building.

¹⁰ Discussed later in this paper.

Title II of the ADA also provides a roadmap for municipalities when it comes to compliance with their public parks. In addition to having adequate accessible parking, the ADA guidelines include other factors such as “availability of accessible pedestrian routes to the playgrounds, the ready availability of accessible transportation, comparable amenities and services in and surrounding the play areas, size of the playgrounds, and sufficient variety inaccessible play components within the playgrounds”.¹¹

While measuring accessibility is an important aspect of understanding the challenges faced by individuals with disabilities, this research will focus on municipality compliance with the ADA and the causes and effects of that compliance (or lack thereof). Compliance with the ADA ensures that facilities and public areas are at least minimally accessible to individuals with disabilities.

¹¹ ADA, Title II Subpart D – Program Accessibility

Obtaining Disability Data

According to the United States Census Bureau, respondents to The American Community Survey (ACS) are asked about six different criteria that may indicate a disability. They are:

- Hearing difficulty
- Vision difficulty
- Cognitive difficulty
- Ambulatory difficulty
- Self-care difficulty
- Independent living difficulty

The ACS relies on the respondents to indicate if they believe they have one of the above disabilities. If a respondent indicates in the affirmative, then according to the ACS, that individual is “considered to have a disability” (*How Disability Data are Collected from The American Community Survey 2017*).

The ACS has made multiple changes to the ways in which they asked respondents about disabilities throughout the years, most notably in 2008. The US Census Bureau had begun the process of changing their questions with the *2006 ACS Content Test Evaluation Report Covering Disability (Evaluation Report Covering Service-Connected Disability 2017)*. This report was used to determine the expected effect of the change in the ACS questioning.

Prior to the changes made in 2008, the ACS asked respondents 6 questions (3 questions each with 2 parts) related to disability. The questions are below:

“Questions obtained from the 2007 ACS Questionnaire

F. Answer questions 15 and 16 ONLY IF this person is 5 years old or over.

Otherwise, SKIP to the question for PERSON 2 on page 10.

15. Does this person have any of the following long-lasting conditions:

a. Blindness, deafness, or a severe vision or hearing impairment?

b. A condition that substantially limits one or more basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying?

16. Because of a physical, mental, or emotional condition lasting 6 months or more, does this person have any difficulty in doing any of the following activities:

a. Learning, remembering, or concentrating?

b. Dressing, bathing, or getting around inside the home?

G. Answer question 17 ONLY IF this person is 15 years old or over. Otherwise, SKIP to the questions for PERSON 2 on page 10.

17. Because of a physical, mental, or emotional condition lasting 6 months or more, does this person have any difficulty in doing any of the following activities:

a. Going outside the home alone to shop or visit a doctor’s office?

b. Working at a job or business?”

The first question asked whether a respondent had a condition that affected their vision, hearing, or physical mobility. The second question asked whether the respondent had learning, memory, concentration difficulties or difficulties in general daily tasks such as personal hygiene. The third question asked respondents if they had challenges going outside or with employment.

Following the changes made to the 2008 ACS survey, respondents were still asked 6 questions, but the questions were more direct and clearer. The 2008 questions are below:

“16. a. Is this person deaf, or does he/she have serious difficulty hearing?

b. Is this person blind, or does he/she have serious difficulty seeing even when wearing glasses?

F. Answer question 17a – c if this person is 5 years old or over. Otherwise, SKIP to the questions for Person 2 on page 12.

17. a. Because of a physical, mental, or emotional condition, does this person have serious difficulty concentrating, remembering, or making decisions?

b. Does this person have serious difficulty walking or climbing stairs?

c. Does this person have difficulty dressing or bathing?

G. Answer question 18 if this person is 15 years old or over. Otherwise, SKIP to the questions for Person 2 on page 12.

18. Because of a physical, mental, or emotional condition, does this person have difficulties doing errands alone, such as visiting a doctor’s office or shopping?”

As can be seen, the questions are very similar but are more direct. For example, instead of one compound question asking about vision and hearing challenges, the question is split into two to address the specific disability. The same can be said regarding physical impairments that may impact a respondent’s mobility or ability to perform daily personal hygiene tasks.

According to the US Census Bureau, when analyzing the results of the 2007 survey, the 2008

survey, and the 2006 report, the new questions “performed better,” and the 2008 questions above were formally adopted (US Census Bureau ACS).

Disability Data

Data from the 2018 ACS regarding disability indicate that approximately 12.6% of the United States population has at least one disability. This amounts to over 40 million people in the country. In the state of Texas, approximately 3.22 million people have a disability out of the 28.24 million people in the state. This amounts to approximately 11.4% of the population. The percentage of the population for the 11 counties constituting the DFW Metroplex¹² that responded that they have a disability is 11%, or a total of 686,915 people.

There are over 200 municipalities that are in the DFW Metroplex that were surveyed by the ACS. The average rate of respondents who reported having a disability was approximately 11.47%, with a median of 10.4%. This average is slightly below the national average but very close to the average of 11.4% for the state of Texas. The range of respondents reporting a disability across the DFW Metroplex municipalities varied greatly, with the highest municipality reporting 28.9% of the residents as having a disability.¹³ Only one municipality reported having no residents with a disability, and this was Corral City.¹⁴ The city that reported the lowest percentage of residents with a disability (excluding Corral City) was Westlake, Texas, which

¹² Collin, Dallas, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties.

¹³ The municipality of Cool, Texas, had a population in 2018 of 180 people. Of those, 52 reported to the ACS as having a disability.

¹⁴ The municipality of Corral City, Texas, had a population in 2018 of 6 people. None reported to the ACS as having a disability.

reported a 3.6% rate of residents with a disability. The data regarding disability rates by county and by the city in the DFW metro area can be found in the appendix.

As stated above, approximately 687,000 people in the DFW Metroplex reported as having a disability with the ACS 2018 survey. A look at the data can reveal several assumptions. First, in general, the smaller counties in terms of the population reported higher instances of disability per capita. The smallest county in the study area in terms of population, Wise County, reported the highest percentage of residents with a disability by a significant margin. The largest county in the study area in terms of population, Dallas County, reported in the bottom half in terms of percentage of the population reporting a disability. Additionally, the percentage of residents of Dallas County who reported a disability is less than half of the percentage of residents of Wise County who reported a disability.

Of the 5 smallest counties in the study area in terms of population, 4 reported percentages of residents with a disability at 11.4% or higher. Of the 5 largest counties in the study area in terms of population, 4 reported percentages of residents with a disability at 9.6% or lower.

There are several studies that discuss the challenges faced by individuals with different types of disabilities in urban areas vs. rural areas,¹⁵ but these studies only focused on the effects of having a disability in an urban vs. rural setting. Additional research would be needed to attempt to address the reasons why larger counties in the DFW Metroplex reported such lower rates of disability versus smaller counties.

However, there was one specific correlation that is apparent in a review of the data. As seen in data, there is one significant outlier in terms of disability percentages and the size of the

¹⁵ Such as “Social exclusion and people with intellectual disabilities: a rural-urban comparison” by L. Nicholson; and “Rural residents with disabilities confront substantial barriers to obtaining primary care” by LI Iezzoni.

county, and that is Rockwall County. Rockwall County is the third smallest county in terms of population, but they reported the second-lowest percentage of respondents with a disability at 7.2%. Data indicates that this may be related to the high per-capita income of the residents of Rockwall County. The next table adds per capita income to the associated counties to illustrate the possible correlation.

Table 2: Disability Statistics by County with Per Capita Income

	<u>Total Population</u>	<u>With a disability</u>	<u>% with a disability</u>	<u>Per capita income</u>
Collin County	1,002,454	71,507	7.1%	\$ 42,220
Rockwall County	99,743	7,159	7.2%	\$ 33,274
Denton County	855,963	68,370	8.0%	\$ 32,538
Johnson County	168,904	15,018	8.9%	\$ 23,669
Dallas County	2,619,843	242,257	9.2%	\$ 26,185
Tarrant County	2,068,666	199,602	9.6%	\$ 27,333
Parker County	136,857	15,611	11.4%	\$ 28,539
Ellis County	178,288	23,190	13.0%	\$ 25,346
Kaufman County	127,531	16,872	13.2%	\$ 23,909
Hunt County	95,686	14,596	15.3%	\$ 21,646
Wise County	67,532	12,733	18.9%	\$ 24,075
Texas	28,243,191	3,221,165	11.4%	\$ 24,870
United States	322,249,485	40,637,764	12.6%	\$ 27,334

*Additional per capita data obtained from the 2010 United States Census.

Of the five counties reporting the lowest percentage of residents with a disability, the average per capita income was \$31,577, which is significantly higher than the per capita income of the state of Texas (\$24,870) and the United States (\$27,334). The average per capita of the five counties reporting the highest percentage of residents with a disability was \$24,703.

Additionally, the city of Westlake, Texas, reported the lowest percentage of residents with a disability (outside of Corral City, which reported zero residents having a disability). Westlake is home to many well-known celebrities and wealthy residents, and according to a resident survey for the Town of Westlake,¹⁶ approximately 59% of the residents reported a household income of more than \$500,000. This amount is significantly higher than the median household income for Tarrant County of \$66,063 and Denton County of \$88,117.¹⁷

A number of factors could come into play that may help explain this result. One, people with more income may have greater financial resources to assist in overcoming certain types of disabilities. For example, a child born with a learning disability whose parents have the financial means may be able to afford private tutoring to overcome their child's challenges. A child born without the financial means to afford a tutor may not have the same success of overcoming the learning disability. Additionally, those with greater financial resources may have the ability to afford more costly medical procedures to correct or improve physical impairments that would typically be debilitating. For example, an individual with the financial means to afford certain types of health insurance plans may opt for hip or knee replacements. An individual who cannot afford that type of coverage may instead be forced to use a wheelchair or other walking aid for mobility and would therefore be considered as having a disability.

¹⁶ www.westlake-tx.org/documentcenter/view/1567

¹⁷ Westlake is located in Denton and Tarrant County.

This information would be valuable for local officials in understanding A) the prevalence of people with disabilities in their communities and B) how they compare to other municipalities in the DFW Metroplex. This is important to understand because it could help municipality leaders make more informed decisions regarding disability policy in general and ADA compliance in particular.

For example, county leaders for Wise County would need to understand that nearly 20% of their population reported as having a disability in the 2018 ACS. That means nearly one out of every 5 people who visit the County Courthouse, or the County Library, or use the county sidewalks, has some type of disability. Those residents are also voters and taxpayers in the county, and this is a significant portion of their county related to other counties in the area.

On the other hand, Collin County reported the lowest percentage of their residents with a disability at just over 7%. While this number is significantly lower than Wise County, the state of Texas, and the United States in general, it is still a considerable portion of the population of their county. Additionally, Collin County has the highest per capita income of all counties in the state of Texas. The correlation is clear, but additional research would need to be conducted to fully understand the relationship between per capita income and disability prevalence.

CHAPTER FOUR: METHODOLOGY AND ANALYSIS

Methodology

The mixed research method approach was used to understand ADA compliance with Title II within small and medium-sized municipalities. To complete this research project, I conducted a survey that was distributed to each of the 197 small and medium-sized municipalities in the Dallas/Fort Worth Metro Area.¹⁸ The municipalities included in the survey were those with less than 100,000 in population from the 2010 United States Census. These municipalities are all located in one of the following counties in the metro area: Collin, Dallas, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise.

I chose municipalities of this size because previous research studies have indicated that larger municipalities may already have higher levels of compliance due to larger budgets and a larger staff. Having dedicated staff members to address ADA matters is a luxury afforded to the largest of municipalities. I chose smaller and medium-sized municipalities to gain a greater understanding of their challenges to compliance with Title II.

Conducting a survey of these municipalities in this manner afforded me the best opportunity for data collection and analysis.¹⁹ The level of compliance was measured based on the aforementioned criteria and was compared to other municipalities of similar size. Other factors discussed regarding compliance included staffing and budgetary issues. Data collected

¹⁸ The survey was conducted using Survey Monkey and mailed through the US Postal Service.

¹⁹ A sample survey is included in the appendix.

and analyzed for each municipality included the population, annual budget, and the number of employees (both full and part-time).

The survey questions were designed to determine the level of compliance of municipalities specific to Title II of the ADA. For review, Title II requires that municipalities provide access for people with disabilities to public programs and public space. In conjunction with Title II, all municipalities are required to designate one municipal employee as the ADA Coordinator. Title II also requires municipalities with 50 or more employees to develop a transition plan to demonstrate their strategy for compliance.

Survey respondents were then asked if they would consider submitting to a more detailed interview to discuss their implementation of the ADA. This more detailed interview provided data that would better explain the decisions made by municipalities regarding accessibility and ADA compliance.

The definition of a mixed research method varies slightly depending on the approach and purpose of the research. However, the core principle of mixed research is that both quantitative and qualitative methods are utilized in the collection and/or analysis of the data (Gaber & Overacker, 2012). This method of research attempts to expand on quantitative research to gain a better understanding of the relationships of the variables and other social constructs that may be missed by using a single method of research (Xerex and Fonseca, 2011).

As stated, I employed the mixed research method approach. The benefit of this approach is that it allowed me to first examine the quantitative aspects of ADA compliance by small and medium-sized municipalities in the DFW metro area. This was accomplished by conducting a survey of the 197 small and medium-sized municipalities in the Dallas/Fort Worth metropolitan area. These surveys were sent to the ADA Coordinators or another employee who oversees

ADA compliance matters. This was often an employee in the human resources department, or smaller municipalities, possibly the city manager or city secretary. Then, I employed a more qualitative analytical approach by further developing the data obtained and analyzed during the conducted survey. This was achieved through interviews of willing ADA Coordinators or other city employees to gain a better understanding of their status in terms of compliance with the ADA. This interview focused more on understanding the relationship between compliance and other variables within the municipality, such as budget, ADA training, and general support for ADA-related matters.²⁰

I believe that this method was successful in my research for a number of reasons. First, I am attempting to determine the level of compliance with the ADA on city sidewalks and other publicly owned lands in municipalities across the DFW Metroplex. This is a quantitative study. Second, I am attempting to understand the nature and relationship between certain variables and how those variables hinder the level of compliance with Title II of the ADA in the DFW Metroplex. This can be quantitative and qualitative.

The quantitative approach utilized the aforementioned survey to discover the relationship between key variables such as the existence of an ADA coordinator, city budget, and city population on the level of compliance. The qualitative approach sought to better understand the more complex relationships that may only be obtained through interviews and other observations.

I received 70 responses from my survey sent to the 197 municipalities. This constituted a 35.5% response rate. This response rate provided a glimpse into the compliance rates of many

²⁰ Per email from Christina Morris, IRB Specialist with the Office of Regulatory Services, The University of Texas at Arlington, dated 02/18/2020 it was determined that this survey did not require an IRB review. Additionally, because my questions, including those that were asked during follow-up interviews, would be assessing a program and not a human subject, an IRB review is not required.

municipalities in North Texas. However, it does have limitations. A larger response rate could have provided more accurate compliance numbers²¹ and more detailed insight into the factors hindering compliance. In light of the COVID pandemic and the challenges faced by municipalities across the country during this time, I believe that a 35.5% response rate is sufficient in terms of providing a clear picture of compliance rates and challenges faced by small and medium-sized municipalities when it comes to compliance with Title II.

Quantitative Analysis

Of the 197 municipalities contacted in the North Texas/Dallas Metroplex, 70 responded to the survey. This constitutes approximately a 35.5% response rate. Of those who responded, five agreed to a more thorough interview to discuss Title II compliance for their municipality in more detail. Due to the COVID-19 pandemic, these interviews were conducted either by phone or through email discussions. This portion of the research will be discussed in the Qualitative Analysis section later in this paper. It dives deeper into the challenges of compliance with Title II for small and medium-sized municipalities in North Texas.

²¹ The compliance rate of 25% found in this study does is similar to the previous Brault study which found a 24% compliance rate in the New England area.

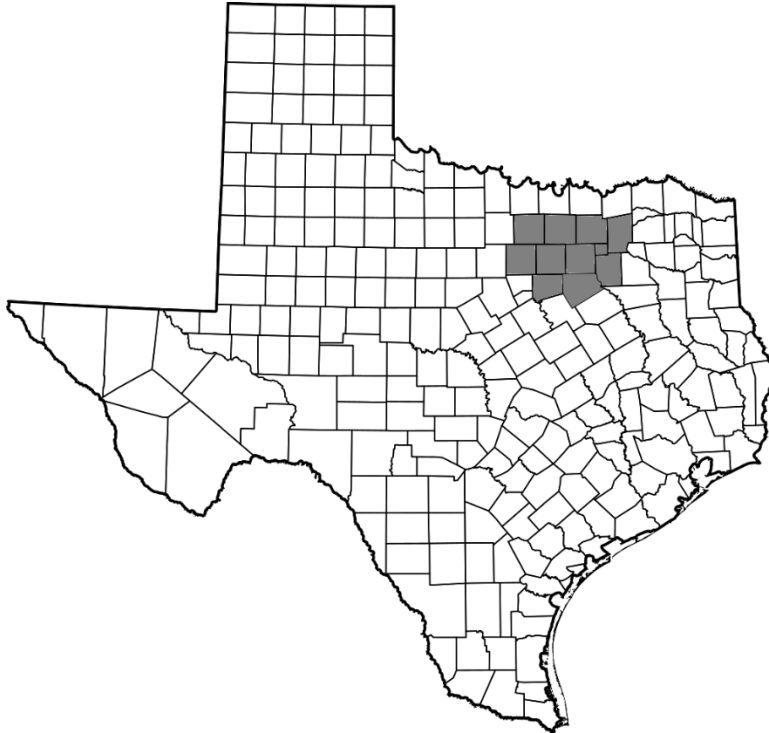


Figure 1: Map of DFW Metro Area courtesy of <https://commons.wikimedia.org/wiki/user:Fkbowen>

The research overall provided a glimpse into the struggles faced by many municipalities in the Dallas/Fort Worth Metroplex when it comes to compliance with Title II of the ADA. As expected, financial considerations were overwhelmingly cited as an obstacle to full compliance with Title II. And while one would possibly assume that funding issues would be more prevalent in the smaller municipalities, this issue was reported across the board of respondents. As a matter of fact, the three largest municipalities in terms of the population who responded to the survey all reported that funding or money was their biggest hurdle to full compliance. Conversely, only 4 of the 25 smallest municipalities in terms of the population reported that funding or money was their main obstacle to compliance.

This information could mean one of two things: First, it could suggest that the larger municipalities in this study have more government buildings and facilities that need to be modified or adapted to come into full compliance with the ADA. If that is the case, then these municipalities would require significant resources to make those necessary modifications. Conversely, that same assumption would apply to the smallest of the cities that responded to the survey. These small municipalities may not have any government buildings or facilities, meaning they do not require very high capital expenditures to reach full compliance. As a matter of fact, none of the smallest 25 municipalities reported as having a library or public recreation center. Three of the 25 municipalities reported as not having any municipality-owned City Hall or equivalent building. Only one reported as having any public parks. With little to no public facilities, there is little to no money needed to reach compliance with Title II of the ADA.

Secondly, the fact that the survey results indicated that money appeared to be of greater concern for the larger municipalities in this data set versus the smaller ones could indicate that having conducted a self-evaluation or a transition plan would highlight their deficiencies when complying with Title II. Not having undertaken a self-evaluation or transition plan would simply allow a municipality to overlook compliance matters. Simply put, if a small municipality is unaware of any issues requiring modifications to become compliant, they are unaware of the financial expenditures needed. This may indicate that conducting a self-evaluation or transition plan may be a double-edged sword: the self-evaluation or transition plan would allow the municipality to know what facilities or programs need modifications, but not knowing may save them critical resources that could be used elsewhere. The role of the transition plan or self-evaluation will be discussed later in this analysis.

The 70 municipalities that responded to the survey ranged in size from a population of 343 to approximately 70,000 people. The median population was 3,508, while the average population was 10,232. Thirteen of the municipalities that responded reported a population of 1,000 people or less.²²

The municipalities were placed into groups of 10 according to their population. The below Figure shows the average populations of the seven groupings of 10 municipalities each. This illustration shows the varied population of the surveyed municipalities.

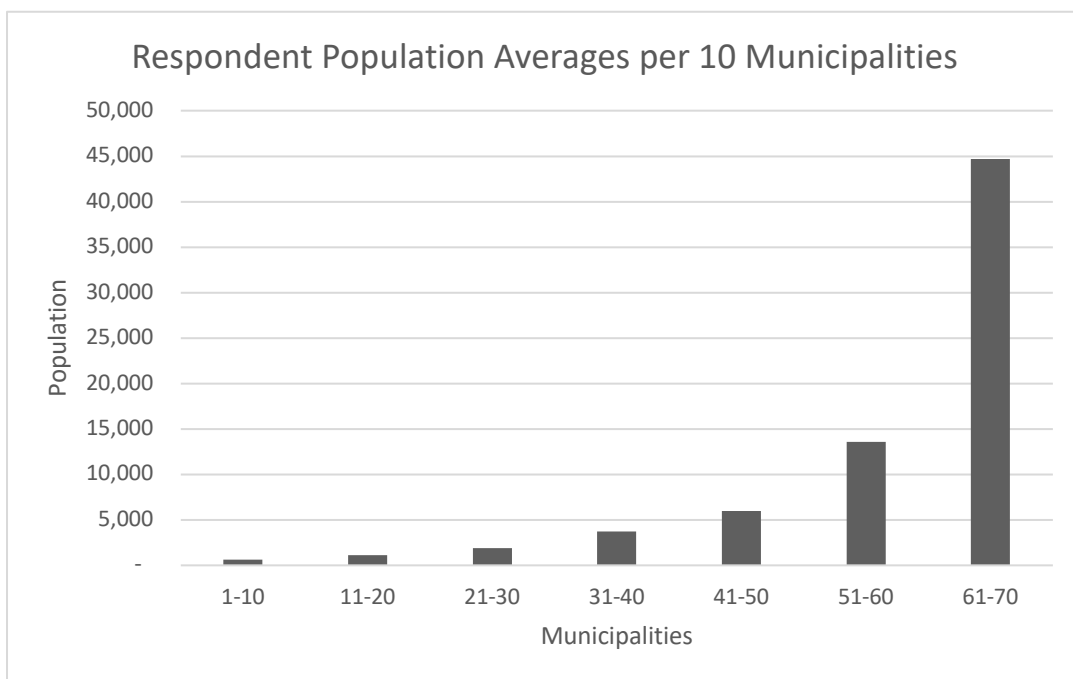


Figure 2

²² I used municipalities based on the 2010 US Census in DFW that had all had some sort of central government or governing body.

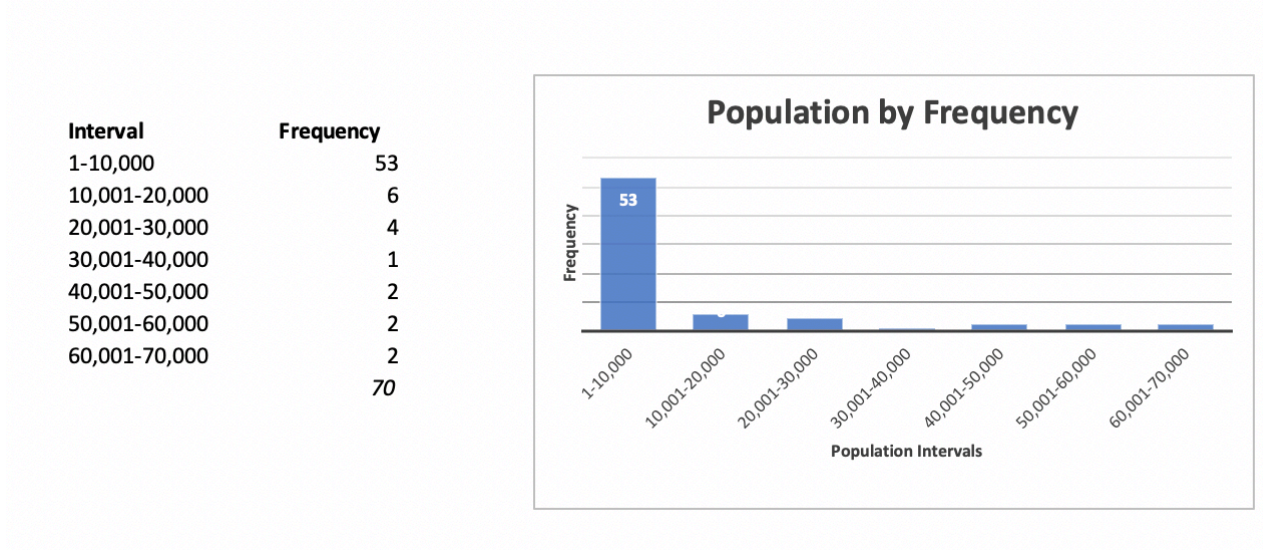


Figure 3

The size of the budget for the responding municipalities also varied greatly. The smallest budget of all the cities that responded reported an annual budget of approximately \$97,000, while the largest budget was reported as \$200,000,000. The average budget was \$20,755,040, while the median budget was \$4,250,000.

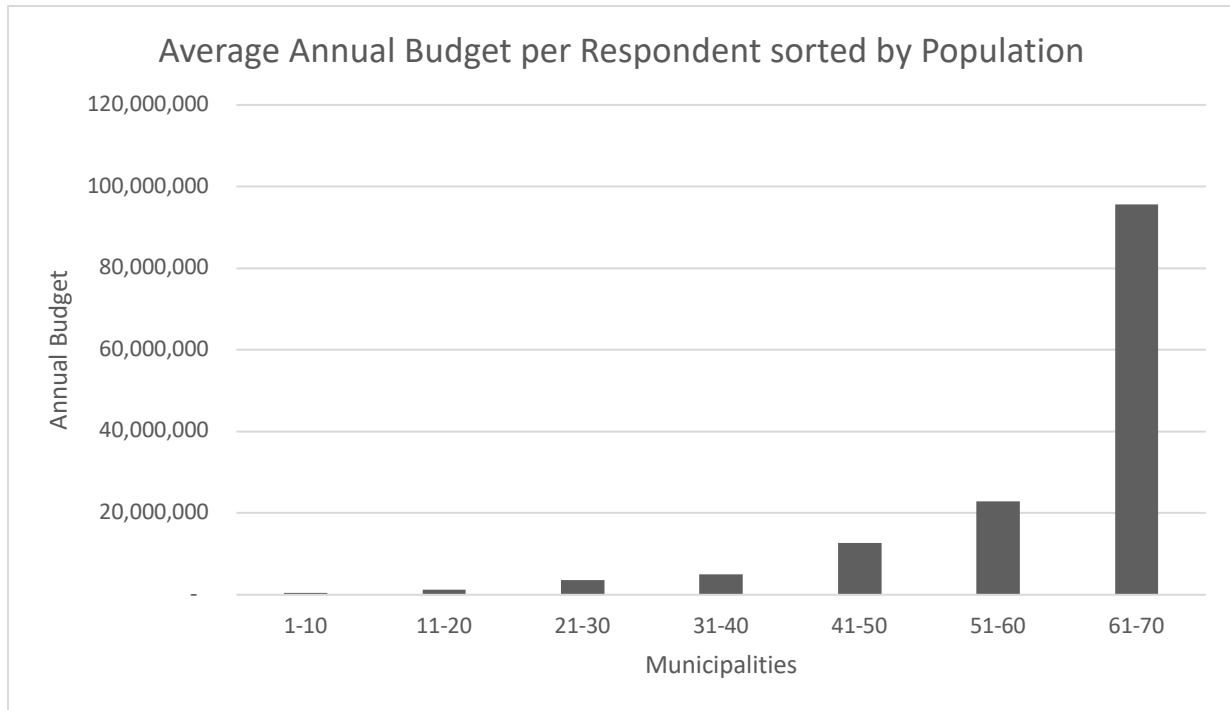


Figure 4

The number of employees for each municipality was also recorded. This number is critical when discussing Title II of the ADA as municipalities with 50 or more employees are required to have a transition plan and to have an employee designated as an ADA Coordinator. Five municipalities reported that their municipality has only one employee, either part-time or full-time. Sixteen of the responding municipalities reported that their municipality had five or fewer employees. The largest municipality to respond reported having nearly 700 employees. Twenty-eight of the municipalities reported having 50 or more employees, subjecting them to the ADA requirements of having a transition plan and a designated ADA Coordinator. This equates to 40% of all municipalities that responded. Extrapolating this figure would lead one to believe that approximately 79 out of 197 small and medium-sized municipalities in the DFW Metroplex have 50 or more employees and should therefore maintain a transition plan and have a

designated ADA Coordinator. The median number of employees for all municipalities that responded was 32, while the average number of employees was 89.

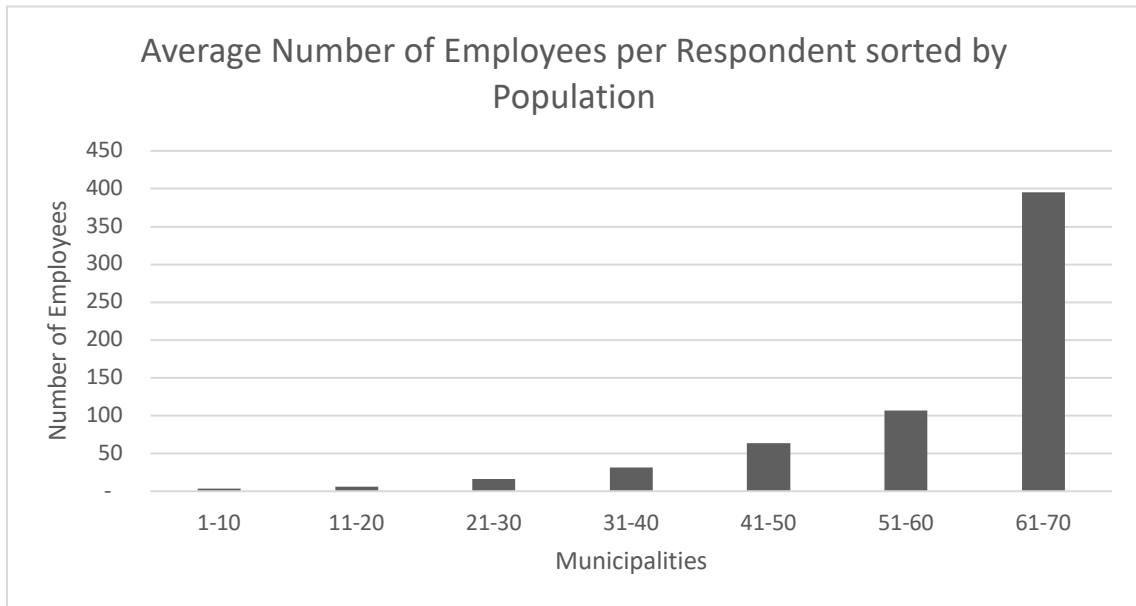


Figure 5

The information above indicates that most of the respondents to the survey would be considered “smaller” municipalities. The mean was significantly lower than the median in the categories of population, budget, and number of employees.

Municipalities with 50 or More Employees

Of the 70 respondents, 28 indicated that they had 50 or more employees. As previously discussed in this paper, any municipality with 50 or more employees must have a transition plan and also a designated ADA Coordinator. Of the 28 municipalities who responded to the survey that indicated they had 50 or more employees, only 9 indicated that they did in fact have a transition plan or were in the process of working on their municipality's transition plan. Two of the 9 were in the process of working on their transition plan. Only one of the municipalities indicated that they had created their transition plan more than 10 years ago. That one municipality had created its original transition plan in 1999. All the others had created their plans in 2014 or later.

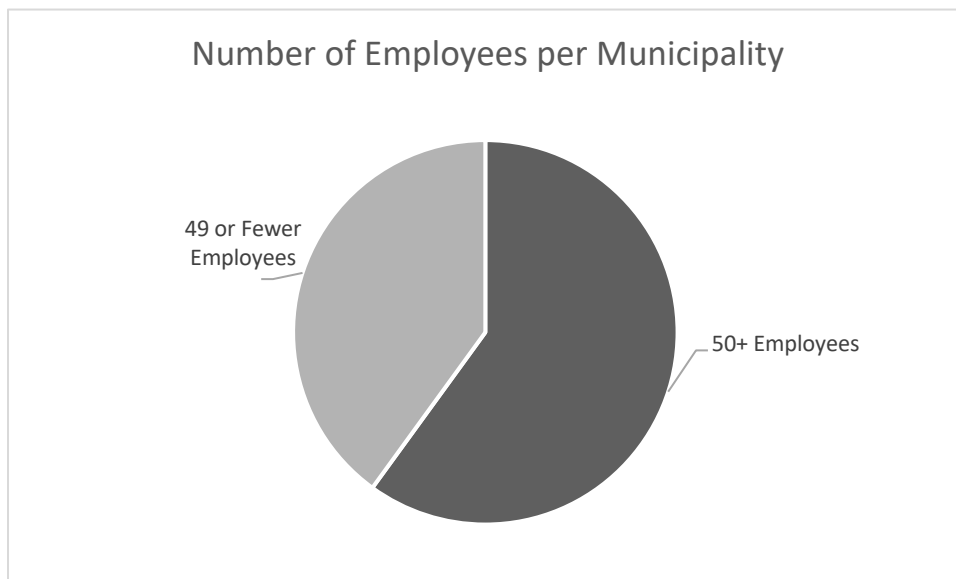


Figure 6

This information regarding the date of the creation of the transition plan is particularly interesting. The original ADA, signed in 1990, required municipalities to have a transition plan

if they employed 50 or more people. However, this data shows that many municipalities (67.9%) are not following that requirement by the ADA, and even if those that are (32.1%) were 24 years behind in the creation of a Transition Plan.

Four of the nine municipalities that reported having a transition plan had hired a third party to complete the transition plan. The amount that was paid for the third party to complete the transition plan varied greatly, with a high of \$502,000 and a low of approximately \$50,000.

The budget for the transition plans also varied greatly, with a high budget of \$40,000,000 and a low of \$49,000. The largest budget for a transition plan (\$40 million) was also for one of the largest municipalities that responded to the study. This municipality appeared to have one of the more thorough transition plans and also paid the highest amount for the third party to complete the plan. This transition plan, in particular, had forecasted out completing all Title II deficiencies by 2036. This long-term outlook is much further than the next municipality that indicated a completion date of their transition plan deficiencies by 2025. It is important to note that this municipality that reported a completion date by 2025 was approximately two-thirds the size of the municipality that reported a completion date of 2036.

The fact that the largest budgeted transition plan, belonging to one of the largest municipalities that responded to the survey, has the most work ahead of them to comply with Title II (simply in terms of years-to-go to reach full compliance) may once again support the notion that larger cities with more money and more facilities will need more resources to make those facilities more accessible. This specific municipality spent over \$500,000 on a third party to conduct their transition plan. This is a significant expenditure and only possible for the larger municipalities in this study to afford. The amount that this municipality spent on its transition plan is larger than the annual budgets of 12% of the municipalities that responded to this survey.

There were no municipalities with 49 or fewer employees who reported having a transition plan. Since having a transition plan is only required for municipalities with 50 or more employees, it was not surprising to see that no municipality voluntarily took that extra step for a number of reasons. First, as previously discussed, transition plans can be expensive. For some municipalities, every dollar is critically important, and spending money on matters not required by law could be considered a luxury. Second, many of these municipalities do not have public buildings or facilities, negating a need to conduct a self-evaluation or transition plan. And finally, many smaller municipalities may not want to highlight their deficiencies when it comes to compliance with Title II. Doing so may subject them to complaints or lawsuits by their residents and additional expenditures needed to correct the deficiencies. All of this indicates that municipalities are not inclined to exceed the minimum requirements of the ADA when it comes to creating a transition plan.

Of the 28 respondents with 50 or more employees, 9 also indicated that they had a designated ADA Coordinator. Of particular interest is that 7 of these 9 also had a transition plan. That would mean that only 7 of the 28 responding municipalities with 50 or more employees, or 25%, had both a transition plan and a designated ADA Coordinator, both requirements of the law. Again, extrapolating this data would indicate that only approximately 50 of the small and medium-sized municipalities in the DFW Metroplex are compliant with those two requirements of Title II of the ADA (having a transition plan and a designated ADA Coordinator).

It is interesting to note that municipalities responding to the survey that reported populations of 17,000 or more people had the highest percentages of completed transition plans and designated ADA coordinators. There were 12 municipalities that fell into this category of 17,000 or more in population. Of those 12, there were 7 that reported as having completed a

transition plan, and 8 had reported as having a designated ADA coordinator. This means that municipalities of 17,000 or more had a much higher rate of compliance in terms of transition plans and designated ADA coordinators (58% and 66%, respectively) than smaller municipalities.

The average number of employees for these 12 municipalities was 345. Again, this supports that larger municipalities with larger staffs will have the ability to designate one employee as an ADA coordinator and that ADA coordinator may be the factor to leads to the completion of an ADA transition plan. The average budget for this group of municipalities was just over \$89 million – much higher than the overall average budget of \$20.5 million.

Self-Evaluation

According to Section 35.105 of Title II of the ADA, all municipalities are required to conduct a self-evaluation of their accessibility needs. However, only municipalities with 50 or more employees are required to maintain the self-evaluation on file. Therefore, there really is no mechanism in place to require smaller municipalities to conduct, let alone maintain, a self-evaluation that would be accessible to the general public. Of the 70 respondents to the survey, only 15 of the municipalities indicated that they had conducted a self-evaluation of their accessibility needs. Of those 15, nine had fewer than 50 employees, keeping them exempt from the requirement to maintain the self-evaluation on file. Of the 6 municipalities that had 50 or more employees that had conducted a self-evaluation, only 2 had gone on to complete a transition plan.

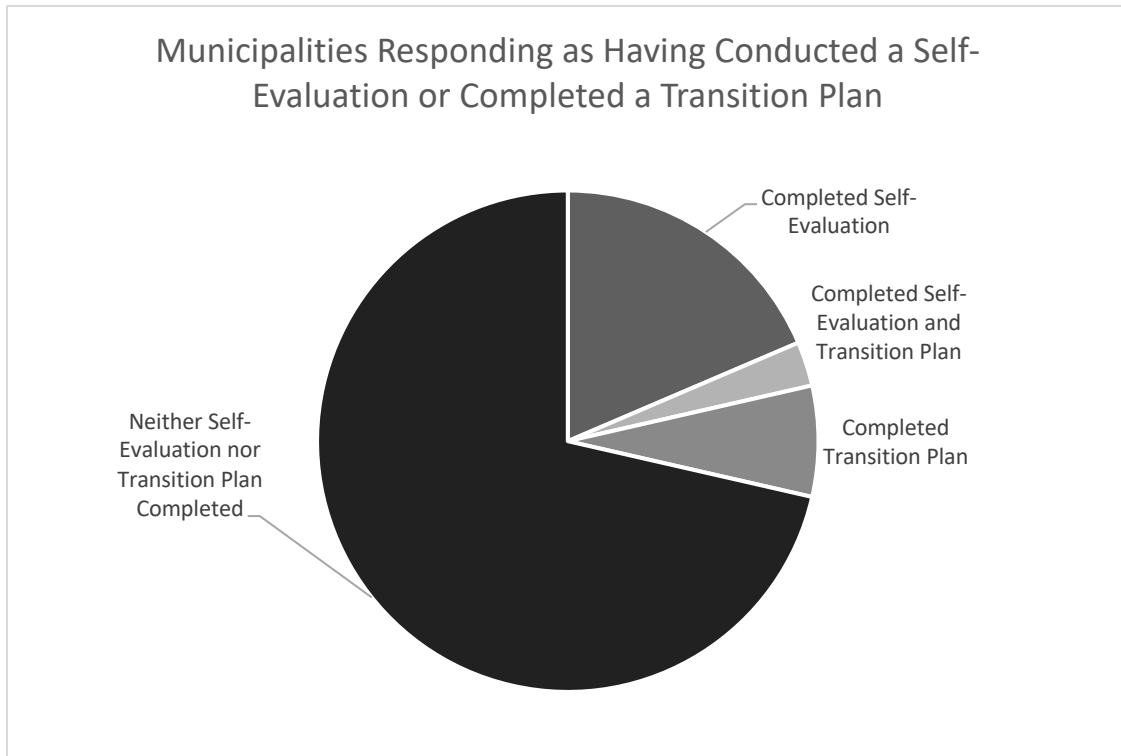


Figure 7

Having only 33.3% of the municipalities with 50 or more employees who had conducted a self-evaluation continue on and complete a transition plan may once again support the underlying assumption that 1) transition plans are expensive to conduct, and 2) they may require municipalities to expend additional scarce resources to correct deficiencies.

As previously mentioned, only 15 of the responding 70 municipalities had reported that they had conducted a self-evaluation to determine their Title II physical accessibility needs. Of those 15, 11 indicated that they had no significant accessibility needs for their municipality, while 4 indicated they had deficiencies that needed to be addressed. Those deficiencies included bathroom accessibility (3 municipalities), accessible entrances or sufficiently accessible egress (2 municipalities), walkways or ramps (2 municipalities), and parking, including signage (all 4 municipalities). Twelve of these 15 municipalities indicated that their City Hall (or equivalent)

structure was ADA compliant. More on this topic will be discussed in more detail in the next section of this paper.

Of the 70 respondents, 30 municipalities specifically indicated deficiencies in their compliance with Title II of the ADA. A majority of those deficiencies were bathrooms not fully accessible (14 respondents), lack of or non-compliant ramps or other surfaces (10 respondents), non-compliant doors or entryways (8 respondents), non-compliant or lack of accessible sidewalks (8 respondents), and lack of suitable accessible parking (6 respondents). Other responses included issues with playground equipment (2 respondents) and other miscellaneous issues such as podium or water fountain height or other space issues.

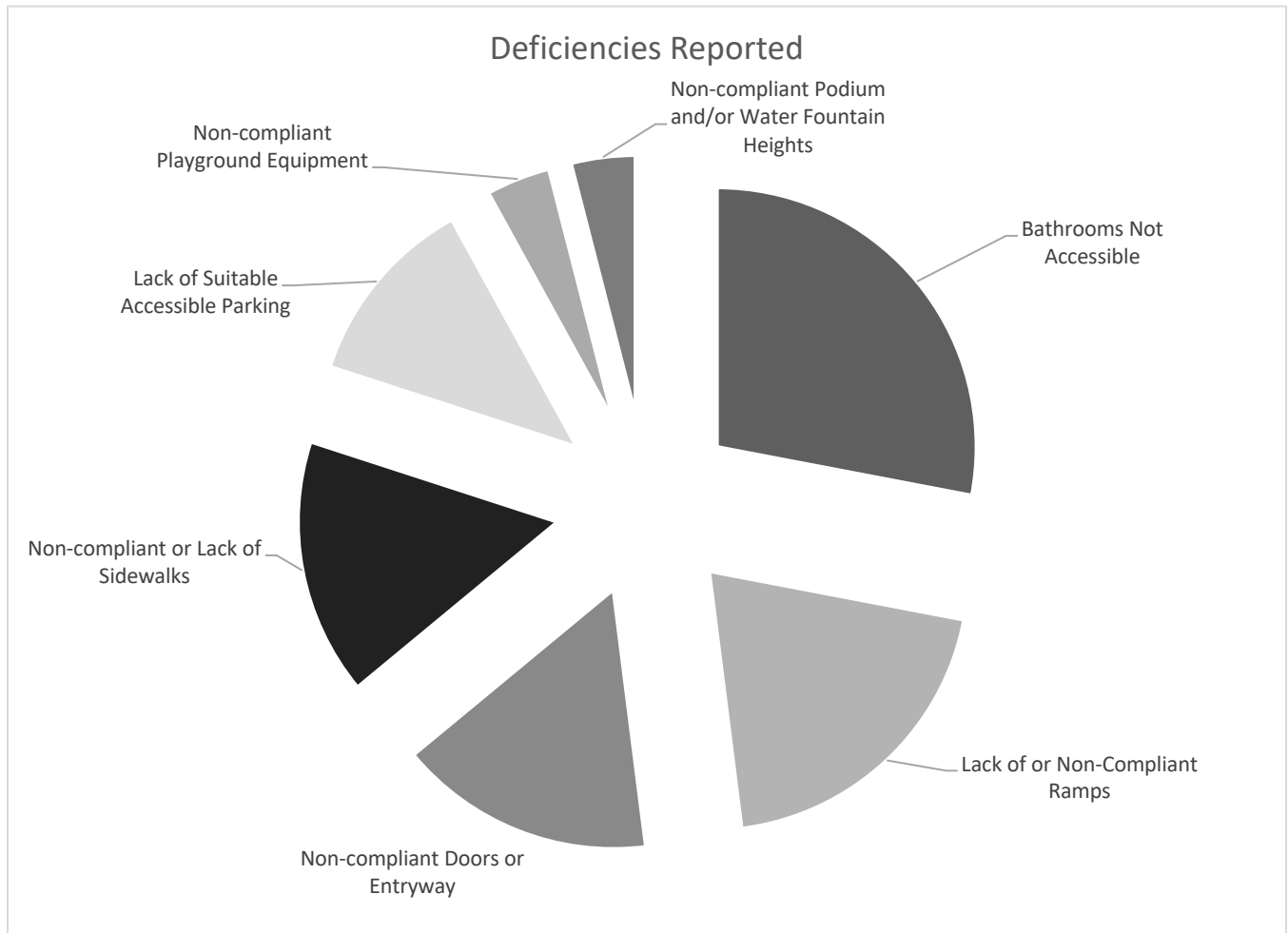


Figure 8

Of the 70 respondents, 21 described the obstacles their municipality has faced when complying with Title II of the ADA. Of those 21 respondents, 20 indicated that funding was an obstacle to compliance. The second most described obstacle was a lack of knowledge or staff to lead the municipality towards compliance with Title II. Six of the respondents indicated that staffing or knowledge was a major obstacle. Finally, one respondent indicated that retrofitting older buildings was an obstacle, indicating that it was not only financially challenging to make

necessary adjustments but perhaps aesthetically challenging to make modifications to some government buildings of historical value.

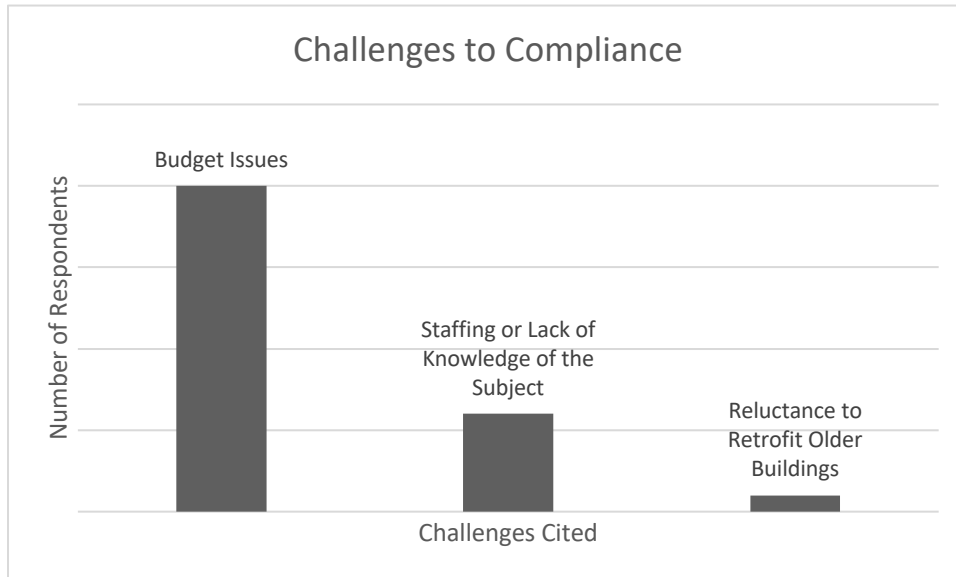


Figure 9

Data Discrepancies

Data focusing on the levels of compliance for certain categories of Title II compliance varied dramatically, and the accuracy of the respondents' answers is questionable. For example, 46 respondents indicated that they had not conducted a self-evaluation or completed a transition plan. Of those 46 municipalities, 25 quantified their level of compliance regarding their public parks. Of those, 16 indicated that their public parks were in 100% compliance with Title II, and an additional three municipalities reported compliance of 90% or greater with their public parks.

These responses may lead one to ask how a municipality knows they have reached a level of 90% or higher compliance when they have not conducted a self-evaluation or a transition plan. This may once again result from a municipality believing that they are in compliance simply because they are not aware of any deficiencies. And they are not aware of any deficiencies because they have not looked for them through the use of a self-evaluation or transition plan.

It is interesting to note that only one of the aforementioned 25 municipalities reported as having a designated ADA Coordinator. This may once again reinforce that a lack of awareness of the deficiencies and a lack of resources that are being used to address ADA matters may coincide.

Qualitative Analysis

As previously mentioned, five municipalities agreed to interview to describe in more detail the challenges faced by their municipality in terms of compliance with Title II of the ADA. Each one of these municipalities requested anonymity when agreeing to conduct the survey. Due to the COVID-19 pandemic, the interviews were conducted either by phone or via email.

Of the five municipalities that agreed to the interview, four had reported having 50 or more employees, meaning they would be required to have a designated ADA Coordinator and a transition plan on file. However, of those four, only one had a transition plan and a designated ADA Coordinator. With the exception of one, the five municipalities that agreed to the interview would be in the top half of the municipalities in terms of budget, population, and the number of employees.

One of the municipalities that agreed to answer additional questions indicated that their municipality had no challenges when complying with the ADA. However, they had not conducted a self-evaluation, had not completed a transition plan, and did not have a designated ADA Coordinator. Again, this may indicate that the municipality may not know of their deficiencies. The interviewee did indicate that all government offices were leased and were built within the previous two years and were therefore compliant with Title II of the ADA. This would make sense as every building constructed after the signing of the original ADA would need to meet these requirements.

Three of the other municipalities (two of which have 50 or more employees) reported as not having conducted a self-evaluation or a transition plan and did not have a designated ADA

Coordinator. One of those respondents indicated that ADA matters are handled by the Human Resources department. The interviewee indicated that ADA matters regarding Title II compliance, such as a transition plan or self-evaluation, have not been brought to the attention of the Human Resources department, so they have therefore not been discussed.

One of the other municipalities in this group, which reported having less than 5 employees, indicated an interest on behalf of their community to obtain more information on completing a self-evaluation or a transition plan but stated that the staff size of the municipality made it difficult to address these types of issues. Having so few employees limits their ability to address any non-critical matters. The interviewee also indicated that money was a major factor preventing them from conducting a self-evaluation.

Again, due to the number of employees at this municipality, they would not be required by the ADA to maintain a self-evaluation or transition plan on file and would not be required to designate an ADA Coordinator. But the interviewee indicated that compliance with Title II was important to their community. The interview also stated that for smaller municipalities with a small staff, clearer instructions and guidelines in the ADA would be beneficial to them when striving for a more accessible and inclusive environment.

Another interviewee who reported as having more than 50 employees but had not completed a self-evaluation or transition plan indicated a strong desire to do so and become compliant with Title II. This interviewee was not aware of these requirements of the ADA but described their intentions to bring those matters to the city manager. This would once again indicate that the ADA has fallen short of providing a clear and concise language for municipalities when it comes to compliance. This particular interviewee reinforced that position by stating that more “simple language” would assist staff members who do not have specific

ADA training to better understand the requirements of the ADA. When the ADA is too difficult or too time-consuming to understand, many smaller municipalities will not put in the time necessary to understand the intricacies of compliance.

This interviewee also described a major hurdle that their municipality had to overcome when attempting to comply with Title II. The interviewee told the story of recent modifications to the municipality's civic center. The modifications called for the addition of an elevator to allow for physical access to the second floor. This modification required that the building be expanded to allow for space for the elevator shaft and entrance. For a small municipality, this resulted in a tremendous financial expenditure for the municipality. The interviewee indicated that their municipality had many older buildings and that this level of modification was not financially possible for all of them. As a result, the municipality made programmatic modifications by moving city events to more accessible buildings to avoid needing to physically modify every building. While this solution was not ideal, it was the only financially viable option.

Two of these interviewees who had indicated that financial considerations were a major obstacle to compliance with Title II indicated that they were unaware of any resources available to assist them in terms of making structural modifications to become compliant.

The final municipality in this group that agreed to the interview employed more than 50 people, had a transition plan on file, and had a designated ADA Coordinator. The interview was conducted with the ADA Coordinator, and this individual was very knowledgeable about the requirements of Title II. However, the interviewee indicated that their municipality had only recently completed their transition plan (within the past 5 years) and only recently designated an employee as the ADA Coordinator (within the past 5 years). So, while this municipality is in compliance with Title II, it shows that compliance with the ADA is extremely slow.

This interviewee indicated that financial issues were the biggest challenge to Title II of the ADA. However, the interviewee did not indicate that more money in the municipality budget was the answer. Instead, the interviewee stated that there needs to be more awareness in terms of the existence of grants that may be available to municipalities to help them comply with Title II.

The interviewee also indicated that a lack of knowledge of the subject was a hindrance to the municipality's compliance with the ADA for a long time. The interviewee stated that perhaps more networking opportunities for ADA Coordinators would allow them to share best practices or tips for compliance with Title II. The interviewee also stated that better and more efficient messaging from the federal government would provide clearer and more actionable information for local municipalities. Finally, the interviewee stated that the federal government should attempt to show more of a partnership with local municipalities instead of the "us versus them" mentality that they have taken since 1990. This may lead to more municipalities seeking help and guidance from the federal government in terms of accessibility and Title II compliance matters instead of hesitation to contact the federal government out of fear of exposing deficiencies.

CHAPTER FIVE:

Implications to City Managers

City planners and managers, community leaders and developers should be discussing Title II of the ADA and accessibility issues at the earliest stages of their planning projects. As mentioned previously, there are two modern theories related to accessibility: Barrier-Free and Universal Design. While Barrier-Free designs would still comply with Title II of the ADA, Universal Design would foster a more inclusive and accessible environment for all. Therefore, discussions regarding incorporating Universal Design in the early stages of property development or renovations, whether public or private, could ensure the most economically efficient way of providing the most accessible environment possible.

The ADA has provided the ADA Standards for Accessible Design, also known as ADA Standards. These standards apply to all Title II aspects of the ADA, as well as certain aspects of other Titles that are not applicable to this research study. Additionally, the standards do not apply to bus stops and other transit stops, as those fall under similar standards provided by the US Department of Transportation (Department of Justice's ADA Standards for Accessible Design, 2010). The standards, however, provide municipalities with the tools they need to ensure compliance with aspects of Title II of the ADA.

There are several considerations for city planners and designers to take into account when striving for compliance with the ADA. Accessibility should be discussed by planners and developers when considering projects related to public transportation, sidewalks, public parks, playgrounds, and public buildings.

Facilities, sidewalks, and other public structures built after 1990 are required to “follow specific architectural standards” to ensure accessibility (Jasper, 1998, pg. 2), while facilities built

prior to this time may be required to make adjustments to allow for compliance. When city planners and designers decide to alter a building or facility for accessibility purposes, they are often faced with the challenge of balancing the aesthetics of the building with inclusion for their users. Add budgeting constraints to that already challenging equation, and one can see how intimidating this prospect may be. Wheelchair ramps are a prime example of this option.

Building owners may opt to use temporary wheelchair ramps to allow for accessibility and to become compliant with the ADA. However, these temporary ramps are not permanent fixtures to the building and therefore do not convey the inclusiveness of the modification. These types of retrofit options may enable compliance, but they are not welcoming to many with mobility challenges and may harm the aesthetics of many buildings. Since many buildings have some historical significance to the local community (and/or were built prior to 1990), this approach of using unsightly temporary wheelchair ramps may not be ideal for keeping up the aesthetics of the area. At the same time, major modifications or modifications made to match the time period of the building may be exceedingly expensive.

The ADA allows municipalities to be exempt from compliance if the modifications would create an “undue hardship” on the municipality. The ADA defines undue hardship as “an action requiring significant difficulty or expense, when considered in light of” other factors, such as “the nature and cost of the accommodation” and the “financial resources of the facility or facilities involved” (The Americans with Disabilities Act, Title I, Section 10 (A) and (B)). In general, this means that if an accommodation is deemed to be too costly for the municipality, it does not need to be done.

There are certainly times that making accommodations would create financial hardships. As previously mentioned, making significant modifications to historical buildings can

be an expensive endeavor. But if municipalities want to remain in compliance with the law and provide an inclusive environment for their residents, they should attempt to address accessibility matters. The choices made or proposed by municipalities to be compliant with the ADA for older buildings could include one of the following, or a combination of the following: 1) minimal structural adjustments, 2) programmatic adjustments, or 3) full structural changes to ensure greater accessibility. The approach chosen by the municipality will be affected by budgetary reasons, political pressure, the number of people with disabilities in the community, the existing structures, and the date on which the existing structures were built.

The least intrusive and most cost-effective options readily available for municipalities to ensure ADA compliance are programmatic adjustments. Programmatic adjustments can be as simple as moving a specific program from an area that is not accessible to an area that is accessible. For example, if a municipality's government meetings were held in a building that was not accessible, a structural adjustment would require the building to be made wheelchair accessible. However, a programmatic adjustment would allow the municipality to move the meetings to a facility that is already ADA accessible. The ADA does not require that all buildings be made accessible but instead that all programs of the government be made accessible (d'Oliveira, 1998). So, if the government programs are accessible, the physical accessibility of other government buildings may not need to be addressed.

While municipalities are likely to utilize already ADA-accessible buildings instead of making structural changes, it is important to note that there is flexibility in terms of the requirements of compliance. As previously mentioned, the ADA provides that "public entities are not required to take actions that would result in undue financial and administrative burdens" (Jasper, 1998, p.2). If a municipality can demonstrate to the federal government that making its

programs accessible would cause undue financial harm to the municipality, it may be able to avoid costly adjustments completely and remain in compliance.

A second option available to municipalities would be making minimal structural adjustments to allow for physical accessibility (Cicero, 2018). Temporary wheelchair ramps are a prime example of this option. Municipalities may opt to use these temporary wheelchair ramps to allow for accessibility and to become compliant with the law. However, the ramps are not permanent fixtures to the building and therefore do not convey the inclusiveness of the modification. Other short-term fixes, such as placing a ramp over an existing stairway, are often unsightly and frowned upon by the community. These types of retrofit options may enable compliance but do so at the cost of the aesthetics of many buildings. Since many government buildings have some historical significance to the local community (and were built prior to 1990), this approach may not be ideal if the city wishes to maintain the buildings' aesthetics.

The third option available would ensure compliance with the Act and provide for a more fully accessible community. This option would include structural modifications to government buildings built prior to 1990 or new buildings that would be fully ADA compliant. Such modifications would ensure compliance and maintain the aesthetic integrity of the building. This would also be the costliest option, as modifications would be period-specific (since the buildings would have been erected prior to 1990) and permanent. With the added costs, however, would be the benefit of a seamless transition and use of the buildings by individuals both with and without disabilities (Coleman, 2012).

This leaves cities and municipalities with a tough choice. Do they strive for full inclusion, sometimes at great expense, both financially and in terms of building aesthetics, or do

they attempt to be exempt from the ADA by claiming an undue financial hardship? This is an incredibly difficult choice for municipalities to make.

To ensure that cities are not faced with these challenging choices down the road, it is imperative to incorporate ADA Standards into the initial design elements or as early as possible. For new developments in North Texas cities like Frisco, Little Elm, and Prosper, new construction must meet ADA Standards. So, the question for those city planners and designers is the extent or level of accessibility desired. Do they attempt to incorporate Universal Design aspects to ensure maximum accessibility or simply minimally accessible standards? Universal Design aspects may be more expensive initially but would again ensure a more welcoming environment for all.

On the other hand, older cities like Lancaster, Desoto, and Forest Hill may have fewer financial resources. As such, their deliberations may be much different than that of newer development in Frisco. These smaller cities may also have higher prevalence rates of disability, as previously discussed. So instead of determining which level of ADA compliance they would like to strive for, their questions may be more focused on what level of compliance they can afford.

It is not uncommon to see many municipality buildings in smaller, rural areas with temporary wheelchair ramps or more unsightly modifications to become ADA compliant. Is this simply due to a lack of financial resources, a lack of understanding of the ADA, or an unawareness of the needs of their local population? These are questions that have been the basis for this research.

Summary and Conclusions

This research attempted to provide a more current view of the challenges faced by local municipalities of the Dallas/Fort Worth metropolitan area when attempting to comply with Title II of the Americans with Disabilities Act. Few studies had been conducted over the years attempting to quantify the levels of compliance by municipalities, and of those few studies conducted, none involved municipalities in Texas, and most were decades old. Since the ADA has now been in existence for more than three decades, knowing the level of compliance by municipalities is critically important to understand how far we as a society need to go to ensure a more accessible physical environment. Understanding this information will provide residents, city managers and planners, property developers, and other stakeholders the tools needed to make our environment more accessible for all.

The goal of the research was to understand better those challenges faced by small and medium-sized municipalities of the North Texas area. This sample size was chosen for two main reasons. First, there are many more small and medium-sized municipalities in North Texas than there are large municipalities. As previously discussed, this research defines small and medium-sized municipalities as those with 100,000 people in the population and smaller. There are 197 municipalities in North Texas that fit this criterion – many more than the 15 municipalities that have a population of 100,000 people or more.²³

Second, larger municipalities have larger budgets and larger staff to address ADA compliance matters. Smaller municipalities, many with fewer than five employees, may not have the budget, manpower, or knowledge to address such ADA matters. Since an

²³ US Census Bureau records.

overwhelming number of municipalities in this area fall into this category, I found this challenge to be particularly important to understand.

The data suggest that the municipalities of the Dallas/Fort Worth Metropolitan area continue to fall short of achieving full compliance with Title II of the ADA. The data revealed that 75% of municipalities with 50 or more employees reported as not having completed a transition plan or having a designated ADA Coordinator. These are two basic features defining Title II compliance. And while conducting a transition plan may be an expensive endeavor (as indicated above), designating one employee of the municipality as an ADA Coordinator costs nothing. Yet only 12.8% of the respondents had done so.

The research suggests that this low number of designated ADA Coordinators is not a result of apathy towards Title II. Instead, the survey respondents collectively indicated that it has more to do with a lack of awareness or understanding of the requirements of the law. The respondents indicated that a lack of knowledge of the law, and a lack of staff to address ADA matters, were primary obstacles. The ADA is a voluminous and technical law, and for many municipalities that are struggling to maintain aging infrastructure Title II is either not a priority or not understood. This is a continuation of the results from the previous studies referenced, where each of those studies referenced “vagueness”, or a lack of understanding of the law, as factors that hindered their compliance. Some of these studies were conducted more than 20 years ago, and a majority of responding municipalities in the DFW area are still dealing with the same issues in terms of simply understanding and applying the law.

In addition to municipalities’ struggles to understand the requirements of the ADA, many simply did not know where to turn for help. Many municipalities may be unwilling to contact the federal government for fear of highlighting their deficiencies in Title II compliance. This

may also explain why 67 of 70 municipalities requested anonymity when completing the survey. Had these municipalities completed the survey and publicly stated that they are not compliant with the ADA, they may be subjecting themselves to civil penalties by the federal government or public discourse from their local citizens. Staying anonymous alleviates that concern.

Additionally, the data suggests that many municipalities prefer to “not know what they don’t know”, meaning that by not conducting a self-evaluation, they are completely unaware of any deficiencies they may have. Again, knowing the deficiencies would mean knowing the amount of financial expenditures needed to address those deficiencies. A solution to this would be to provide municipalities with grants in order to complete self-evaluations and then provide guidance or resources to assist with compliance. If the federal government believes that accessible infrastructure is critical to our society, then federal grants should be made available. Not only do the grants need to be made available, but local municipalities also need to be aware of these grants. Grants do no good if the people they are intended to benefit do not know of their existence. And with the low number of designated ADA coordinators, I believe that knowledge of ADA-related grants and resources would be an issue.

Having a designated ADA coordinator may alleviate some of these concerns and issues for municipalities. Similar to the previous studies, not having a designated ADA coordinator was a key factor for non-compliance for many municipalities. An ADA coordinator would, in theory, be able to dedicate time to researching and understanding ADA and compliance issues. Additionally, an ADA coordinator may reach out to non-profits or other agencies in an effort to obtain grants or resources to assist with compliance. And finally, an ADA coordinator may push the city council, town manager, or mayor to conduct a self-evaluation or transition plan to

identify areas where the municipality can improve its accessibility. This would, in theory, lead to much higher rates of compliance with Title II in the long term.

Several responding municipalities in this research project demonstrated their need to rationalize their lack of Title II compliance by indicating that they have no deficiencies. Many very small municipalities with very limited budgets are operating out of self-preservation and do not have the luxury to research other ways to expend their resources. Being unaware of major budgetary needs may keep some of these small cities and towns from severe financial distress.

The ADA has done more to improve the physical environment of our society than any other piece of law in American history. However, even 31 years later, the data suggests that we still have a long way to go. Many small and medium-sized municipalities in North Texas are not compliant, not aware of their deficiencies, and not attempting to determine what those deficiencies may be. This would lead one to believe that maintaining the same course would mean that in another 30 years, the Dallas/Fort Worth Metroplex would still fall short of full Title II compliance. This research showed that some municipalities in the area go to great lengths and are willing to expend tremendous resources to become compliant while others simply struggle to understand the law. The financial challenges faced by municipalities of all sizes are real and are difficult to address. But the lack of awareness or understanding of the law and its requirements should be one that is more easily overcome. The federal government can remove this lack of knowledge and awareness as an obstacle to small and medium-sized municipalities in an effort to promote a more accessible physical environment for all.

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Appendix A - DFW Metro Disability Statistics by County

	<u>Total Population</u>	<u>With a disability</u>	<u>Percent with a disability</u>
United States	322,249,485	40,637,764	12.6%
Texas	28,243,191	3,221,165	11.4%
Collin County	1,002,454	71,507	7.1%
Dallas County	2,619,843	242,257	9.2%
Denton County	855,963	68,370	8.0%
Ellis County	178,288	23,190	13.0%
Hunt County	95,686	14,596	15.3%
Johnson County	168,904	15,018	8.9%
Kaufman County	127,531	16,872	13.2%
Parker County	136,857	15,611	11.4%
Rockwall County	99,743	7,159	7.2%
Tarrant County	2,068,666	199,602	9.6%
Wise County	67,532	12,733	18.9%

Appendix B - DFW Metro Disability Statistics by City

Municipality	Total Population	With a disability	Percent with a disability
Addison	15,583	692	4.4
Aledo	3,810	361	9.5
Allen	99,025	6,367	6.4
Alma	359	72	20.1
Alvarado	3,959	468	11.8
Alvord	1,165	120	10.3
Anna	12,204	865	7.1
Annetta	3,011	138	4.6
Annetta North	598	65	10.9
Annetta South	534	25	4.7
Argyle	3,988	338	8.5
Arlington	391,046	38,714	9.9
Aubrey	3,313	327	9.9
Aurora	1,498	209	14.0
Azle	12,002	1,821	15.2
Balch Springs	25,293	2,829	11.2
Bardwell	623	92	14.8
Bartonville	1,839	137	7.4
Bedford	48,949	6,054	12.4

Blue Mound	3,398	400	11.8
Blue Ridge	1,012	110	10.9
Boyd	1,360	279	20.5
Briar	4,685	763	16.3
Briaroaks	563	45	8.0
Bridgeport	5,663	689	12.2
Burleson	44,408	3,809	8.6
Caddo Mills	1,728	164	9.5
Campbell	738	112	15.2
Carrollton	132,948	9,170	6.9
Cedar Hill	48,487	4,467	9.2
Celeste	873	153	17.5
Celina	9,216	717	7.8
Chico	1,282	346	27.0
Cleburne	28,998	3,407	11.7
Cockrell Hill	4,268	298	7.0
Colleyville	26,037	1,852	7.1
Combine	1,832	222	12.1
Commerce	8,944	1,385	15.5
Cool	180	52	28.9
Cooper	2,147	471	21.9
Coppell	41,490	2,135	5.1
Copper Canyon	1,232	140	11.4

Corinth	21,158	1,864	8.8
Corral City	6	-	-
Cottonwood	222	23	10.4
Crandall	3,491	268	7.7
Cresson	864	135	15.6
Cross Roads	1,198	80	6.7
Cross Timber	355	34	9.6
Crowley	15,178	1,716	11.3
Dallas	1,309,211	126,205	9.6
Dalworthington Gardens	2,452	253	10.3
Decatur	6,383	821	12.9
deCordova	2,860	379	13.3
Denton	131,205	13,081	10.0
DeSoto	52,537	6,295	12.0
DISH	419	51	12.2
Double Oak	3,065	204	6.7
Duncanville	39,446	5,100	12.9
Edgecliff Village	3,002	395	13.2
Ennis	18,930	2,011	10.6
Eules	54,927	5,121	9.3
Everman	6,224	875	14.1
Fairview	8,665	816	9.4

Farmers Branch	35,538	2,784	7.8
Farmersville	3,425	554	16.2
Fate	11,705	687	5.9
Ferris	2,612	290	11.1
Flower Mound	73,073	4,656	6.4
Forest Hill	12,913	1,716	13.3
Forney	19,342	1,614	8.3
Fort Worth	845,496	87,614	10.4
Frisco	165,165	8,482	5.1
Garland	237,333	22,766	9.6
Garrett	1,062	87	8.2
Glenn Heights	12,572	1,302	10.4
Glen Rose	2,414	402	16.7
Godley	1,142	77	6.7
Granbury	8,900	1,460	16.4
Grand Prairie	190,717	16,244	8.5
Grandview	2,124	278	13.1
Grapevine	52,265	4,793	9.2
Grays Prairie	270	59	21.9
Greenville	26,167	3,683	14.1
Gun Barrel City	6,057	1,168	19.3
Hackberry	1,805	92	5.1
Haltom City	44,139	4,496	10.2

Haslet	1,661	168	10.1
Hawk Cove	522	105	20.1
Heath	8,410	496	5.9
Hebron	239	17	7.1
Hickory Creek	4,442	623	14.0
Highland Park	9,145	556	6.1
Highland Village	16,294	1,053	6.5
Hudson Oaks	2,344	173	7.4
Hurst	38,712	4,630	12.0
Hutchins	3,548	462	13.0
Irving	238,088	16,657	7.0
Italy	1,858	286	15.4
Josephine	1,243	120	9.7
Joshua	7,106	710	10.0
Justin	3,541	436	12.3
Kaufman	6,566	881	13.4
Keene	6,195	501	8.1
Keller	45,855	3,677	8.0
Kemp	882	125	14.2
Kennedale	7,943	788	9.9
Knollwood	537	64	11.9
Krugerville	1,600	173	10.8
Krum	4,973	427	8.6

Lake Bridgeport	410	91	22.2
Lake Dallas	7,832	994	12.7
Lakeside	1,524	238	15.6
Lakewood Village	479	62	12.9
Lake Worth	4,734	699	14.8
Lancaster	38,755	3,984	10.3
Lavon	3,061	221	7.2
Leonard	2,229	330	14.8
Lewisville	104,402	8,523	8.2
Lincoln Park	78	10	12.8
Little Elm	42,857	2,552	6.0
Lone Oak	683	108	15.8
Lowry Crossing	1,502	149	9.9
Lucas	7,217	579	8.0
Mabank	3,151	474	15.0
McKinney	172,407	12,016	7.0
McLendon- Chisholm	2,589	246	9.5
Mansfield	67,085	5,964	8.9
Maypearl	781	107	13.7
Melissa	8,492	562	6.6
Mesquite	143,642	16,409	11.4

Midlothian	23,908	2,401	10.0
Milford	732	144	19.7
Milsap	258	59	22.9
Mineral Wells	14,652	2,527	17.2
Mobile City	134	17	12.7
Murphy	20,528	1,433	7.0
Nevada	814	49	6.0
Newark	1,326	252	19.0
New Fairview	1,273	220	17.3
New Hope	643	54	8.4
Neylandville	76	7	9.2
Northlake	2,524	163	6.5
North Richland Hills	69,470	8,153	11.7
Oak Grove	779	100	12.8
Oak Leaf	1,486	192	12.9
Oak Point	3,878	482	12.4
Oak Ridge (Cooke)	177	17	9.6
Oak Ridge (Kaufman)	529	89	16.8
Ovilla	3,800	383	10.1
Palmer	2,053	279	13.6

Pantego	2,518	451	17.9
Paradise	492	81	16.5
Parker	4,534	421	9.3
Pecan Acres	5,664	865	15.3
Pecan Hill	744	102	13.7
Pelican Bay	1,620	347	21.4
Pilot Point	4,160	288	6.9
Plano	283,816	20,303	7.2
Ponder	1,973	191	9.7
Post Oak Bend	420	47	11.2
Princeton	9,765	851	8.7
Prosper	19,103	1,039	5.4
Providence Village	7,053	260	3.7
Quinlan	1,546	332	21.5
Red Oak	12,217	1,205	9.9
Rendon	13,595	1,447	10.6
Reno	2,811	548	19.5
Rhome	1,737	306	17.6
Richardson	113,842	10,417	9.2
Richland Hills	7,884	1,277	16.2
Rio Vista	1,039	128	12.3
River Oaks	7,683	1,121	14.6

Roanoke	7,899	739	9.4
Rockwall	42,775	4,133	9.7
Rosser	249	33	13.3
Rowlett	61,792	5,107	8.3
Royse City	11,735	976	8.3
Runaway Bay	1,784	286	16.0
Sachse	25,133	2,681	10.7
Saginaw	22,840	2,587	11.3
Saint Paul	1,017	102	10.0
Sanctuary	305	41	13.4
Sanger	8,023	670	8.4
Sansom Park	5,146	537	10.4
Scurry	505	54	10.7
Seagoville	14,343	2,351	16.4
Shady Shores	2,828	276	9.8
Southlake	30,840	1,706	5.5
Springtown	2,850	587	20.6
Sunnyvale	6,284	616	9.8
Talty	2,302	201	8.7
Terrell	17,043	2,747	16.1
The Colony	42,197	3,226	7.6
Trophy Club	11,777	682	5.8
Union Valley	367	44	12.0

University Park	24,954	994	4.0
Van Alstyne	3,627	637	17.6
Venus	2,436	149	6.1
Watauga	24,430	2,532	10.4
Waxahachie	33,453	3,685	11.0
Weatherford	28,721	4,098	14.3
Westlake	974	35	3.6
Weston	305	36	11.8
Westover Hills	533	54	10.1
West Tawakoni	2,189	457	20.9
Westworth Village	2,597	240	9.2
White Settlement	16,906	2,563	15.2
Willow Park	5,092	332	6.5
Wilmer	3,832	541	14.1
Wolfe City	1,409	297	21.1
Wylie	49,108	3,882	7.9
<i>Average</i>	<i>31,310</i>	<i>2,935</i>	<i>11.5</i>
<i>Median</i>	<i>3,855</i>	<i>468</i>	<i>10.4</i>

*Data obtained from the 2018: ACS 1-Year Estimates Subject Tables, United States Census Bureau.

Appendix C - Sample Survey

1) Administrative:

- a) What is the population of your municipality?
- b) How many people are employed (full-time and part-time) for your municipality?
- c) What is the annual budget for your municipality?

2) ADA Coordinator:

- a) Does your municipality have a designated ADA Coordinator? YES/NO
- b) If so, has your ADA Coordinator completed any formal training related to their position, such as completing the ADA Coordinator Training Certification Program (ACTCP)?
YES/NO
- c) Is your ADA Coordinator solely responsible for ADA related matters? YES/NO
- d) If not, what is this person's primary responsibility?
- e) What percentage of this person's time is spent on ADA related matters?
- f) Does your ADA Coordinator have sole authority over ADA compliance matters?
- g) Is your ADA Coordinator involved in any of the following municipality decision-making processes?
 - i) Permitting process
 - ii) Variance requests
 - iii) New project development reviews

3) Transition Plan

- a) Has your municipality created a Transition Plan?
- b) If so, what year was the plan originally adopted by the municipality?
- c) Has the Transition Plan been updated?

- d) If so, when?
- e) Did your municipality hire a third party to prepare the Transition Plan?
- f) If so, what was the cost?
- g) What is the budget of the most recent Transition Plan?
- h) What year do you anticipate completion of your ADA Transition Plan?

4) Physical Accessibility of Public Property:

- a) Is your city hall (or seat of your local government) building ADA compliant?
 - i) If not, please briefly describe the deficiencies.
- b) Is/are your public library (or libraries) ADA compliant?
 - i) If not, please briefly describe the deficiencies.
 - ii) If not, what percentage of your public libraries are compliant?
- c) Is/are your public recreational facilities (such as public pools or community centers) ADA compliant?
 - i) If not, please briefly describe the deficiencies.
 - ii) If not, what percentage of your public recreational facilities are ADA compliant?
- d) Is/are your public parks ADA compliant?
 - i) If not, please briefly describe the deficiencies.
 - ii) If not, what percentage of your public parks are ADA compliant?
- e) Please briefly describe any obstacles your municipality has faced in regard to compliance with Title II of the ADA.

5) Public Sidewalks:

- a) What percentage of your public sidewalks are under your municipality jurisdiction are ADA compliant?

- b) What is your biggest obstacle to having 100% accessible sidewalks?
 - c) When do you anticipate being fully compliant with the ADA in terms of public sidewalks?
- 6) Would you be willing to sit down for an in-person interview to discuss your municipalities efforts to become more accessible and comply with the ADA? The results of the interview may be kept confidential if you so choose.

Appendix D: Letter to Municipality ADA Coordinators

John Powers

PhD Candidate

University of Texas at Arlington

College of Architecture, Planning and Public Affairs

Email: john.powers@mavs.uta.edu

Subject: Survey Response Requested

Dear XXXXXXXX,

My name is John Powers and I am a PhD candidate at the University of Texas at Arlington studying disability and public policy. Specifically, my focus is on Title II of the Americans with Disabilities Act (ADA). My dissertation is focused on helping to better understand the challenges faced by local municipalities in the DFW Metroplex when striving for compliance with Title II. I am writing to ask for your support in completing a survey in which the results will be used in my dissertation.

According to the 2018 American Community Survey, your city (or town) has approximately X, XXX residents with a disability. My research is focused on helping municipalities strive for higher rates of compliance with Title II of the ADA in the most efficient and effective manner. Your assistance in completing this survey will help me not only complete my studies at UTA but may also help other municipalities in the Metroplex be more inclusive for all residents of the area.

In an effort to better understand the challenges associated with compliance with Title II of the ADA, and hopefully present solutions to local municipalities, I humbly ask for your

support by completing THIS SURVEY LINK (link will be to a Survey Monkey site). I am hopeful that the survey will not be too time consuming for you or another representative from your municipality. If possible, please complete the survey by XX/XX/XXXX.

If you wish, I would be happy to share the results of my research with you and your team. I am hopeful that, with your support, we can strive for a more accessible region for every resident of the city of XXXXXXXX.

Thank you for your time and consideration. Please contact me at the email above, or 817-470-2346 should you have any questions or need any additional information. You may also contact my dissertation advisor, Dr. Ardeshir Anjomani, at anjomani@uta.edu.

Regards,

John Powers

Appendix E: Data Anonymized

	Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
AA	501-1,000	1-500	1	\$100,000-\$499,999	No							
AB	501-1,000	1-500	5	\$500,000-\$999,999	No							
AC	501-1,000	501-1,000	10	\$100,000-\$499,999	No							
AD	501-1,000	501-1,000	1	\$100,000-\$499,999	No							
AE	501-1,000	501-1,000	1	\$100,000-\$499,999	No							
AF	501-1,000	501-1,000	1	\$100,000-\$499,999	No							
AG	501-1,000	501-1,000	11	\$500,000-\$999,999	No							
AH	501-1,000	501-1,000	1	\$100,000-\$499,999	No							
AI	501-1,000	501-1,000	2	Unknown	No							
AJ	501-1,000	501-1,000	6	\$1,000,000-\$4,999,999	No							
AK	501-1,000	501-1,000	7	\$500,000-\$999,999	No							
AL	501-1,000	501-1,000	4	\$1,000,000-\$4,999,999	No							
AM	501-1,000	501-1,000	6	\$1,000,000-\$4,999,999	No							

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TTI Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
AA	No			No	Bathrooms not accessible, no ramp on office door (ramp available on 2nd door into Council hall but no access to office due to a step)	NA	N/a
AB	No			Yes		NA	
AC	No			Yes		NA	
AD	No			Yes			n/a
AE	Yes		Bath and entrance and parking	Yes	Building does not belong to the city		none
AF	No			Yes			
AG	No			Yes		100	
AH	Yes		We need an additional handicapped parking space	Yes			
AI	Yes		None	Yes		0	No library
AJ	No			Yes		NA	
AK	No						
AL	No			Yes			
AM	No			No	Bathrooms not accessible, front door not wide enough for wheelchair, entire building is not wheelchair accessible	NA	

	Municipality Designator	Rec. Facilities Compliance	R.F. Deficiencies	Parks Compliance	Parks Deficiencies
AA	100				
AB	NA			Not sure	N/A
AC	NA			NA	
AD			n/a	100	
AE			none		none
AF					
AG	10			NA	
AH					
AI	1		No Pools	0	No Parks
AJ	NA				
AK					
AL					
AM	NA			0	no parking, no ramps, no access for wheelchairs

	Municipality Designator	Sidewalk Compliance	SW Deficiencies	Obstacles to TII Compliance	
AA					
AB		100	100 but very few sidewalks		N/A
AC		NA		None. We do our absolute best to accommodate any person with a disability.	
AD					
AE					none
AF					
AG		0	What few areas have sidewalks, they are old and crumbling and not wide enough for wheelchairs	Funding is the biggest obstacle and until now, they haven't had a staff member who thinks about ADA compliance as much as I do.	
AH					
AI		0			
AJ		NA			
AK					
AL					None
AM		NA			Money

Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
AN	1,001-1,500	4	\$1,000,000-\$4,999,999	No							
AO	1,001-1,500	7	\$100,000-\$499,999	No							
AP	1,001-1,500	2	\$1,000,000-\$4,999,999	No							
AQ	1,001-1,500	16	\$1,000,000-\$4,999,999	No							
AR	1,001-1,500	2	\$500,000-\$999,999	No							
AS	1,001-1,500	7	\$500,000-\$999,999	No							
AT	1,001-1,500	4	\$1,000,000-\$4,999,999	No							
AU	1,001-1,500	18	\$1,000,000-\$4,999,999	No							
AV	1,501-2,000	47	\$10,000,000-\$24,999,999	No							
AW	1,501-2,000	2	\$500,000-\$999,999	No							
AX	1,501-2,000	9	\$1,000,000-\$4,999,999	No							

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TII Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
AN	Yes	City Hall has handicap parking, accessible restrooms, and a ramp	Yes	We have a ramp to the front door and handrails in the bathrooms	NA	We do not have a library. The only city facility is town hall	
AO	No	We just did a total remodel of town hall and ADA compliance for all facets of construction were met.	Unknown	Bathrooms don't have hand rails			
AP	Yes	Side egresses and bathrooms will need alterations.	Yes	Side egresses need gradual inclines and bathrooms need modifications for wheelchairs	0	None. We have no libraries.	
AQ	No		No			No library	
AR	Yes		No				
AS	No		Yes				
AT	Yes		Yes		0		0
AU	No		Yes		100		
AV	No		No	accessibility issues with doors	NA		NA
AW			Yes		100		
AX	No		Yes				

	Municipality Designator	Rec. Facilities Compliance	R.F. Deficiencies	Parks Compliance	Parks Deficiencies
AN					
AO	NA			We have 1 park with 1 handicap parking space, no other accessible accommodations.	
AP		we have no other public facilities		We have no public parks	
AQ					
AR	50	No wheelchair ramp access	1	We have no public parks at this time.	
AS		no RF		99	
AT	0		0	No parks in town	
AU	100		100		
AV	0		NA	NA	
AW	NA		NA		
AX					

	Municipality Designator	Sidewalk Compliance	SW Deficiencies	Obstacles to TII Compliance
AN				upgrades to facilities. In Cresson we strive to keep up with improvements to make our City Hall accessible to all citizens.
AO	NA			Budget limitations and lack of knowledge
AP				We have no sidewalks, no sanitary sewer system, we do not provide any public utilities, we do not a police dept or fire dept or public works dept.
AQ				
AR	100			None.
AS				
AT	100			None. We don't have recreational facilities
AU	90			
AV	98			NA
AW	NA			NA
AX	100			

Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
AV	1,501- 2,000	13	\$1,000,000-\$4,999,999	No							
AZ	1,501- 2,000	18	\$1,000,000-\$4,999,999	No							
BA	1,501- 2,000	17	\$1,000,000-\$4,999,999	No							
BB	2,001- 3,000	4	\$500,000-\$999,999	No							
BC	2,001- 3,000	29	\$1,000,000-\$4,999,999	No							
BD	2,001- 3,000	7	\$500,000-\$999,999	No							
BE	2,001- 3,000	2	\$1,000,000-\$4,999,999	No							
BF	2,001- 3,000	3	\$100,000-\$499,999	No							
BG	3,001- 4,000	15	\$1,000,000-\$4,999,999	No							

AY	No								Municipality Designator
AZ	No								Has Dedicated ADA Coordinator
BA	No								ADA Coord. Formal Training
BB	No								Non-ADA Responsibilities of ADA Coord.
BC	No								Per. Of Time on ADA Matters for ADA Coord.
BD	No								ADA Coord. Has Sole Authority over ADA Matters
BE	No								Non-ADA Matters the ADA Coord is Involved In
BF	No								
BG	No								

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TII Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
AV	No			Yes			
AZ	No			Yes		NA	
BA	No			Yes		1	Don't have any
BB	Yes			Yes	Our EXISTING city hall is not compliant in all areas. We are building a NEW city hall which is compliant. We have an ADA ramp in existing building which was installed because we hold elections in our building. Bathrooms are not accessible, and wheelchair ramps are not efficient in all areas.		
BC	No			No	no wheel chair ramp immediately in front of office, must go down the sidewalk wheelchair ramps are not efficient in all areas.		the City of Talty does not have any public buildings.
BD	No			No		0	
BE	No			Yes		10	
BF	No			No	We do not have a city hall		We do not have a public library.
BG	No			Yes		NA	

	Municipality Designator	Rec. Facilities Compliance	R.F. Deficiencies	Parks Compliance	Parks Deficiencies
AV					
AZ	100			100	
BA	1	Don't have any		98	n/a
BB					
BC	99	we only have a community room which is rarely used by the public. It does have an accessible door (although I have not verified the door stop's compliance. The restrooms are ADA compliant.		80	This is hard to put a percentage on because although we have sidewalks in most areas, I do not know if the width is compliant for wheelchairs. We do have handicap parking.
BD	0	The City of Talty does not have any public recreational facilities		0	The City of Talty does not have any public parks
BE	NA			NA	
BF	0	We do not have a public recreational facilities.		0	We do not have public parks.
BG	NA			100	

	Municipality Designator	Sidewalk Compliance	SW Deficiencies	Obstacles to TII Compliance
AV	40			Lack of significant funds to make large changes.
AZ	100			None
BA	31			mostly funds
BB				
BC	80			ADA Compliance is extremely expensive when attempting to retrofit existing buildings. We have the desire but not the funding (at least not today).
BD	0			
BE	100		We have many areas that do not have sidewalks	
BF	0			We own no property.
BG	100			

	Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
BH	3,001-4,000	60	\$5,000,000-\$9,999,999	No								
BI	3,001-4,000	45	\$1,000,000-\$4,999,999	No								
BJ	3,001-4,000	26	\$5,000,000-\$9,999,999	No								
BK	4,001-5,000	31	\$5,000,000-\$9,999,999	No								
BL	4,001-5,000	19	\$5,000,000-\$9,999,999	No								
BM	4,001-5,000	55	\$1,000,000-\$4,999,999	Yes	1999	No		No		\$ 100,000	2024	
BN	4,001-5,000	60	\$5,000,000-\$9,999,999	No								
BO	4,001-5,000	61	\$5,000,000-\$9,999,999	No								
BP	5,001-6,000	33	\$5,000,000-\$9,999,999	No								

	Municipality Designator	Has Dedicated ADA Coordinator	ADA Coord. Formal Training	Non-ADA Responsibilities of ADA Coord.	Per. Of Time on ADA Matters for ADA Coord.	ADA Coord. Has Sole Authority over ADA Matters	Non-ADA Matters the ADA Coord is Involved In
BH	No						
BI	No						
BJ	No						
BK	No						
BL	No						
BM	No						
BN	No						
BO	Yes	No	Yes	25%	Yes		None
BP	No						

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TTI Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
BH	Yes	One sidewalk was correctly installed but does not function with parking in private driveways. Golf course needed designated parking.	Yes			We do not have a library anymore, when we did it was 100% ADA accessible.	
BI	No		Yes	No current ADA inspection since remodel	100	Narrow aisles	
BJ	No		No		0	No library	
BK	No		Yes		0	NA we do not have a library	
BL	No		Yes		0	No public library	
BM	No		Yes		80	wheel chair access	
BN	No		Yes		100		
BO	No		No	Bathroom accessibility	100		
BP	No		Yes		NA		

	Municipality Designator	Rec. Facilities Compliance	R.F. Deficiencies	Parks Compliance	Parks Deficiencies
BH	NA			100	
BI	100		n/a	100	n/a
BJ	0		NA	0	Not sure
BK	0	We do not have recreational facilities		50	play equipment is not made for ADA but parking lot has handicap parking
BL	0	No pools or recreation center			
BM	85	wheel chair access		99	none
BN	100			100	
BO	NA			100	
BP	NA			100	

	Municipality Designator	Sidewalk Compliance	SW Deficiencies	Obstacles to TII Compliance	
BH		85	Conflict if cars are parked in private drives on 3 streets for 2 blocks each	None - contractors are required to comply	
BI		75		n/a	
BJ		50		support	
BK		0			
BL					
BM		90		Money for projects	
BN		100		None	
BO		100		Experience in the subject and budget	
BP					

Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
BQ	5,001- 6,000	48	\$10,000,000-\$24,999,999	No							
BR	5,001- 6,000	70	\$1,000,000-\$4,999,999	No							
BS	5,001- 6,000	45	\$1,000,000-\$4,999,999	No							
BT	5,001- 6,000	40	\$1,000,000-\$4,999,999	No							
BU	6,001- 7,000	82	\$10,000,000-\$24,999,999	No							
BV	6,001- 7,000	135	\$10,000,000-\$24,999,999	No							

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TII Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
BQ	No	No	No major findings, there was small items such as pipes not wrapped under sink. Currently working on building new facilities and making sure they comply with ADA	No	100+ year old building. Ramps are at the end of the block. Door threshold is not compliant, no access to the second floor beyond stairs.	90	Handrails in bathroom wrong location, pipes not wrapped in bathrooms currently resolving
BR	Yes	Yes	Yes	Yes	Yes, Mostly. Front door not ADA Compliant. Does not have electric access and door pulls too hard.	90	Handrails in bathroom wrong location, pipes not wrapped in bathrooms currently resolving
BS	No	No	No	No	Compliant. Does not have electric access and door pulls too hard.	NA	
BT	Yes	Yes	Yes	Yes		0	No Library
BU	No	No	No	No	Currently our bathrooms and one of the entrance doors are not accessible	0	Currently the bathrooms and entrance are not accessible.
BV	No	No	No	Yes		100	

		Municipality Designator	Sidewalk Compliance	SW Deficiencies	Obstacles to TII Compliance
BQ			100	100	lack of funding is the primary issue. Most facilities would need to be completely remodeled.
BR			100		Funding
BS					
BT					
BU			50	Most sidewalks have ramps but are narrow in some areas. Additionally, many older neighborhoods do not have sidewalks at all.	
BV			5	Curb ramps: slopes. Many locations in City are too steep to comply with ADA without reconstruction of blocks of streets (at street crossings).	Funding. To provide ADA compliant cross slopes at many intersections would require rebuilding of several blocks of streets which is not feasible. The City is hilly with many street grades in excess of 2%.

Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
BW	7,001-8,000	65	\$10,000,000-\$24,999,999	No							
BX	7,001-8,000	54	\$25,000,000-\$49,999,999	No							
BY	8,001-10,000	75	\$10,000,000-\$24,999,999	No							
BZ	8,001-10,000	144	\$10,000,000-\$24,999,999	No							
CA	8,001-10,000	39	\$5,000,000-\$9,999,999	No							
CB	10,001-15,000	139	\$25,000,000-\$49,999,999	No							
CC	10,001-15,000	112	\$10,000,000-\$24,999,999	No							
CD	10,001-15,000	90	\$10,000,000-\$24,999,999	No							
CE	15,001-20,000	177	\$10,000,000-\$24,999,999	Yes							
CF	15,001-20,000	100	\$10,000,000-\$24,999,999	No							

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TI Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
BW	No			Yes		97	NA
BX	No			Yes		NA	
BY	No			Yes		100	
BZ	No			Yes		100	
CA	No			Yes			No Lib
CB	No			Yes		100	No challenges
CC	No						
CD	No			Yes		100	
CE		Engage with 3rd party for planning purposes, inspections are licensed and trained for ADA		Yes	All city buildings are built after 1991 and ADA compliant	NA	
CF	No			No	Halls/bathrooms too narrow. In process of building new City Hall/Public Safety complex, which will be ADA compliant	NA	

	Municipality Designator	Rec. Facilities Compliance	R.F. Deficiencies	Parks Compliance	Parks Deficiencies
BW	100	NA	100	NA	
BX	NA		NA		
BY					
BZ	100		100		
CA		No RF	100	We only have 1 park	
CB	75	Bathroom accessibility in some facilities, door hardware	100		
CC					
CD	98		100		
CE	100		90	All deficiencies are formally identified and are programmed for corrective action, which will include ingress/egress - parking lots and amenities like construction picnic tables.	
CF	NA		100		

	Municipality Designator	Sidewalk Compliance	SW Deficiencies	Obstacles to TIF Compliance	
BW		76			NA
BX		100			None
BY					Budgetary constraints
BZ		99			
CA		100			
CB		100			
CC					
CD		50			Funding for sidewalks
CE		90	curb ramps		no obstacles to date.
CF					

	Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
CG	15,001- 20,000	54	\$5,000,000-\$9,999,999	Yes	In draft	No		Yes		\$ 49,000	2021	
CH	20,001- 25,000	140	\$50,000,000-\$99,999,999	Yes	2017	Yes	With each phase of self evaluation	Yes	\$ 173,000	\$ 65,000		
CI	20,001- 25,000	177	\$25,000,000-\$49,999,999	No								
CI	25,001- 30,000	280	\$50,000,000-\$99,999,999	No								
CK	25,001- 30,000	408	\$25,000,000-\$49,999,999	No								
CL	25,001- 30,000	550	\$100,000,000- \$200,000,000	No								

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall/TM Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
CG			Self evaluation phases completed so far include programs, policies and procedures, parks, buildings, phase 1 of 2 intersections, future evaluations include phase 2 of 2 intersections and 2 phases for sidewalks	Yes			
CH	Yes			No	ramp scopes, signage, podium heights	0	parking signage, counter heights, etc.
CI	No			Yes		90	Several door handles need to be replaced by the staff and the staff restroom is not ADA compliant
CI	No			Yes	Town hall is newly renovated, not aware of any ADA deficiencies	100	The town's library is newly constructed and does not have any ADA deficiencies that I'm aware of.
CK	No			Yes		NA	
CL	Yes		We are in the process of finalizing our transition plan, which identifies areas of improvement.	Yes			

Municipality Designator	Population	# of Employees	Annual Budget	Has Transition Plan	Year T.P. Originally Adopted	Has T.P. Been Updated?	Year T.P. Updated	Did Third Party Complete T.P.?	Cost of Third Party T.P.	Budget for Most Recent T.P.	Anticipated Completion Date of T.P.
CM	40,001-50,000	300	\$100,000,000-\$200,000,000	Yes	2020	Yes	2020	Yes	\$50,000 approximate	\$ 50,000	2025
CN	40,001-	400	\$50,000,000-\$99,999,999	No							
CO	50,001-100,000	690	\$100,000,000-\$200,000,000	Yes	2014	Yes	Every 12 to 15 months	No			
CP	50,001-100,000	296	\$50,000,000-\$99,999,999	Yes							
CQ	50,001-	400	\$100,000,000-	Yes	2016	No		Yes	\$ 502,450	\$ 40,000,000	2036
CR	50,001-100,000	450	\$100,000,000-\$200,000,000	Yes	2018	Yes	Annually	No			

	Municipality Designator	Has Dedicated ADA Coordinator	ADA Coord. Formal Training	Non-ADA Responsibilities of ADA Coord.	Per. Of Time on ADA Matters for ADA Coord.	ADA Coord. Has Sole Authority over ADA Matters	Non-ADA Matters the ADA Coord is Involved In
CM	Yes	No	Yes	9%	Yes		
CN	Yes	Yes	Yes	1%	Yes	Employee claims	
CO	Yes	Yes	Yes	18%	No		
CP	Yes		Yes				
CQ	Yes	ADCTCP	Yes	50%	Yes	New project development	
CR	Yes	No	Yes	10%	No		

	Municipality Designator	Self-Evaluation Conducted?	Findings of S.E.	Is City Hall TTI Compliant?	C.H. Deficiencies	Library Compliance	Library Deficiencies
CM				No	bathrooms	100	Under renovation to be ADA compliant currently
CN	Yes	Nothing was found to be out of		Yes		95	Completed remodel and upon inspection noted a few items needing correction, such as water fountain height and resistance when opening main doors to building
CO				Yes		93	
CP	Yes			No	Multiple	80	Doors, protruding objects, seating
CQ				No	Doors	100	nonefully compliant
CR							

Appendix F: Title II of the Americans with Disabilities Act Amendments Act of 2008

SUBCHAPTER II - PUBLIC SERVICES

Part A - Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 12131. Definitions

As used in this subchapter:

(1) Public entity

The term "public entity" means

- (A) any State or local government;
- (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- (C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) of title 49).

(2) Qualified individual with a disability

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Sec. 12132. Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

Sec. 12133. Enforcement

The remedies, procedures, and rights set forth in section 794a of title 29 shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of section 12132 of this title.

Sec. 12134. Regulations

(a) In general

Not later than 1 year after July 26, 1990, the Attorney General shall promulgate regulations in an accessible format that implement this part. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 12143, 12149, or 12164 of this title.

(b) Relationship to other regulations

Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) of this section shall be consistent with this chapter and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 794 of title 29. With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under section 794 of title 29.

(c) Standards

Regulations under subsection (a) of this section shall include standards applicable to facilities and vehicles covered by this part, other than facilities, stations, rail passenger cars, and vehicles covered by part B of this subchapter. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204(a) of this title.

Part B - Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

Subpart I - Public Transportation Other than by Aircraft or Certain Rail Operations

Sec. 12141. Definitions

As used in this subpart:

- (1) Demand responsive system

The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) Designated public transportation

The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 12161 of this title)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) Fixed route system

The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) Operates

The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) Public school transportation

The term "public school transportation" means transportation by school bus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) Secretary

The term "Secretary" means the Secretary of Transportation.

Sec. 12142. Public entities operating fixed route systems

(a) Purchase and lease of new vehicles

It shall be considered discrimination for purposes of section which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following July 26, 1990, and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) Purchase and lease of used vehicles

Subject to subsection (c)(1) of this section, it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system to purchase or lease, after the 30th day following July 26, 1990, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Remanufactured vehicles

(1) General rule

Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following July 26, 1990; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended; unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) Exception for historic vehicles

(A) General rule

If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) Vehicles of historic character defined by regulations

For purposes of this paragraph and section 12148(a) of this title, a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

Sec. 12143. Paratransit as a complement to fixed route service

(a) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs that are sufficient to provide to such individuals a level of service

- (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or
- (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) Issuance of regulations

Not later than 1 year after July 26, 1990, the Secretary shall issue final regulations to carry out this section.

(c) Required contents of regulations

(1) Eligible recipients of service

The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section

(A)

- (i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and

(B) Bi-level dining cars

On any train in which a bi-level dining car is used to provide food service

- (i) if such train includes a bi-level lounge car purchased after July 26, 1990, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and
- (ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) Commuter rail transportation

(1) One car per train rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 12164 of this title, as soon as practicable, but in no event later than 5 years after July 26, 1990.

(2) New commuter rail cars

(A) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after July 26, 1990, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(B) Accessibility

For purposes of section 12132 of this title and section 794 of title 29, a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with

disabilities, including individuals who use wheelchairs, shall not be construed to require

- (i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;
- (ii) space to fold and store a wheelchair; or
- (iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) Used rail cars

It shall be considered discrimination for purposes of section 1132 of this title and section 794 of title 29 for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(d) Remanufactured rail cars

(1) Remanufacturing

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(2) Purchase or lease

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) Stations

(1) New stations

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to build a new station for use in intercity or

commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(2) Existing stations

(A) Failure to make readily accessible

(i) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(ii) Period for compliance

(I) Intercity rail

All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after July 26, 1990.

(II) Commuter rail

Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after July 26, 1990, except that the time limit may be extended by the Secretary of Transportation up to 20 years after July 26, 1990, in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) Designation of key stations

Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) Plans and milestones

The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) Requirement when making alterations

(i) General rule

It shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) Alterations to a primary function area

It shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains

serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) Required cooperation

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for an owner, or person in control, of a station governed by subparagraph (a) or (b) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this chapter.

Sec. 12163. Conformance of accessibility standards

Accessibility standards included in regulations issued under this subpart shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this title.

Sec. 12164. Regulations

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this subpart.

Sec. 12165. Interim accessibility requirements

(a) Stations

If final regulations have not been issued pursuant to section 12164 of this title, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily

accessible to and usable by persons with disabilities as required under section 12162(e) of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) Rail passenger cars

If final regulations have not been issued pursuant to section 12164 of this title, a person shall be considered to have complied with the requirements of section 12162(a) through (d) of this title that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 12204(a) of this title) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this subpart and are in effect at the time such design is substantially completed.