

ADA Compliance Motivators and Strategies

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Your approach to ADA compliance may be one of the most expensive or lucrative decisions you make for your business this year. If you have already made that decision, you may want to modify it when you understand that compliance involves a hierarchy of strategies. Here is how some organizations have approached ADA compliance:

Expensive ? . . . One large corporation was planning to renovate all of their corporate facilities to bring them into compliance with the ADA Guidelines. Several architects had given them proposals to do the work. These corporate facilities were classified as commercial facilities under the Title III regulations, therefore, no work was required unless they decided to alter their facilities for other reasons. Readily achievable barrier removal is only required in existing places of public accommodation. Sometimes the expenses are unjustified.

Expensive ? . . . One facility planner had trusted his Architect to design ADA compliant buildings without ever verifying that the Architect understood this responsibility. The architect had never read the ADA regulations affecting their facilities; he had been following the ADA Guidelines alone. Their expense was in putting an elevator in a building that had been designed without it. Unfortunately, civil engineers, landscape architect and contractors seem to know even less about the ADA, typically ignoring the ADA Guidelines entirely.

Expensive ? . . . With market shares in some industries balanced precariously on the whims of customers and clients, who can afford the negative publicity of a civil rights lawsuit based on discrimination against someone with a disability? Public support is overwhelmingly in favor of the ideals of the ADA with polls showing 90 plus percent of the general public believing the ADA is a good law.

Expensive ? . . . Then there was the organization who decided to hire a consultant to survey their facilities for barriers to people with disabilities and make recommendations for barrier removal. One firm had a particularly appealing fee proposal, and they got the contract. When the reports came back, the recommendations were depressing: ... over a million dollars worth of work needed. This consultant was ready to help them draw up the plans and execute the construction contracts to fix all the barriers. Then the client realized that many of the recommendations made were not required for existing buildings, only for new construction. The real cost for compliance in this very large facility might be less than \$100,000.

Sometimes, it can be well worth the effort to step back and look at your overall ADA compliance strategy before embarking on an expensive journey.

Lucrative ? . . . One hospital decided that they were spending too much money on workmen's compensation and disability benefits. Legal fees fighting some of these claims were costing over \$100,000 per year. They decided to implement an ADA compatible program to get these former employees back on the job. Within the first year, their investment in this training and

adding one new staff position had returned a five-fold return on their investment and disability-related lawsuits were cut in half.

Lucrative ? . . . Another company discovered that their experiment in adding automatic doors to two of their department stores (not required by the ADA Guidelines) generated more traffic through those stores than did their advertising campaign costing the same amount of money. They decided to add automatic doors to all of their stores.

Lucrative ? . . . One bank decided that they would take a pro-active approach to complying with the ADA and made some significant changes to their facilities, procedures and services to better accommodate people with disabilities. Since they were ahead of their competition in this effort, they expected to pick up some new accounts from people with disabilities whom they could serve better than their competitors. Then they realized that these people with disabilities had family members (lots of them) who changed their accounts over to their bank because they appreciated the accommodating approach and service attitude that this bank was showing.

Lucrative ? . . . The local manager of a large restaurant chain decided to hire an applicant with Down's Syndrome to work in his store. It seemed like a bit of a gamble, but this manager thought the applicant could handle the job with a little extra training. Years later, this same employee continued to show up faithfully every day to do her job. In an industry where employees usually last only six months, this company's employees with certain mental disabilities are turning over at only one tenth of that rate. The savings in retraining expenses (not to mention the improved attendance records) prove that this "gamble" was actually an excellent business decision.

Many factors should be considered when setting a strategy for corporate compliance with the ADA. This applies to facilities compliance, employment compliance and customer service. Some of the more obvious considerations include such things as corporate visibility, geographic areas of operation, current profitability, products and services offered, and the makeup of the company's work force and corporate values. All of these considerations will help point to the most appropriate corporate strategy to take in complying with the ADA.

Four strategies for compliance can be explained by the motivations behind them. Although no company will operate under one motivation exclusively, understanding the dominant driver will help any company to develop an ADA compliance strategy that can be adopted most efficiently and effectively with the fewest internal skirmishes in the process.

The **first** level of motivation, active in many organizations, is the simple **desire to minimize the risk** of lawsuits, federal intervention from complaints, and negative publicity. This strategy is perhaps the most common in small businesses and those companies under the severest economic circumstances. This is the lowest level in the hierarchy of ADA compliance strategies. This approach is similar to the freeway driver who uses a radar detector to allow him to drive 15 or 20 miles over the speed limit without getting caught. The desire is not so much to comply with the law, but not to get caught. In ADA compliance, companies taking this approach typically range from those who do nothing, to those who put a few signs up indicating that anyone who needs

assistance should ask for it. When someone with a disability complains to them about accessibility in their facility, they might respond by removing only the cheapest of the barriers mentioned in the complaint, and claiming that all others were not readily achievable due to difficult financial situations or other reasons. Companies who have this attitude as their motivation for responding to the ADA have no need for facility surveys or consultants, since they usually don't want to know where their problems are and since they do not plan to respond to them.

The **second** level of motivation is based on the **desire to comply with the law**. This desire may be backed by a minimal or a substantial commitment to investment in compliance. If the core motivation is to comply with a law that is perceived to be basically fair, the approach is very different from the first level of motivators. Those organizations who wish to comply with the law are best served by calling in an accessibility specialist, or an organization like an independent living center who represents people with a variety of disabilities, to review barriers to people with disabilities in their facilities. The consultant will document those barriers in a way that they can be removed, in phases, if necessary. Some organizations will be able to dedicate one person full-time to studying the law and its regulations and guidelines, and coordinating their compliance efforts. After a month or two of studying the regulations and technical assistance materials affecting their organization, a company with their own coordinator may need very little help to interpret the law. However, even in these cases, it is probably wise to have a true specialist review the key interpretations and general approach to compliance developed by this staff member. Review during the early stages of compliance approach development may be one of the most cost-effective investments a company can make in the entire effort.

Consultants may also be hired to survey an organization's facilities for barriers and make recommendations for their removal. Consultants who offer only to survey for barriers without making recommendations may be doing an injustice to the client, since the person in the field is, if properly trained, most qualified to suggest cost-effective and efficient means of removing barriers. Accessibility Consultants who are truly specialists will have developed their own methods for surveying and making recommendations that are far more efficient and cost-effective than what might be developed internally.

Following the surveys for barriers, the organization should set priorities for barrier removal according to the requirements of the regulations affecting the organization. The regulations are very clear about how this process should occur and what factors should be considered.

The **third** level of motivation is a **desire to spend the effort required to do what makes good business sense**. This approach is usually taken by companies who are willing to invest the time to study the options before they act. If this is the organization's motivator, it is wise to bring together a task force which includes, at a minimum, a representative from facilities, personnel, legal, finance (or administration), customer service and marketing. Early strategy development should be based on compliance with the law, as well as corporate image and customer demographics. The department store mentioned above made their decision to install automatic doors based on marketing sense rather than the ADA, since ADAAG does not even require automatic doors in new facilities. Similar accommodations that might make excellent business

sense, but are beyond what is required under the ADA, include offering optional curbside, drive up or home delivery in addition to removing facilities barriers to people with disabilities. Similarly, toilet room and curb ramp modifications undertaken to improve access for people who use wheelchairs also significantly improve access for people who push strollers. In fact, many unisex toilet rooms are now being built as Family toilet rooms. The three primary benefits that should be considered under the third level of motivation are first, the benefits of new customers who have disabilities and who directly benefit from the accommodations. The second benefit is from the public relations advantage gained by accommodating people with disabilities. The general public supports the goals of the ADA by a margin of more than ten to one. Not only do people with disabilities benefit and begin to use the services of accommodating businesses, but also their relatives and friends may become more frequent clients and customers. The third benefit is that individuals who do not have disabilities but who also benefit from the accommodations will be better able to use the facilities and, therefore, more likely to patronize the business. These include people like mothers with small children who benefit from curb ramps, proper ramp slopes, larger toilet rooms and toilet stalls, as well as lower controls, operating mechanisms and dispensers, which allow children to use the facilities with less help. Also benefiting from accommodations for people with disabilities are individuals who have temporary injuries, or are weakened from sickness. These are not classified as disabilities, and therefore not included in the 43 million beneficiaries figure, but may include any one of us at any time. People who have their hands and arms full of packages benefit more from easily operated hardware and lighter force door closers and, of course, many elderly people will benefit from the accommodations made for people with disabilities, even though they may not be technically classified as disabled.

The **fourth** major motivating factor behind making accommodations for people with disabilities, is **the desire to do what is “right”**. These are the companies who believe “what goes around comes around” and who are willing to follow their instincts even when pure justification for their actions can't be shown beforehand. This motivating attitude is most prevalent in very profitable organizations, but it may also appear in any organization where focus on employees and clients is at a high level, or where a key individual has close contact with someone with a disability.

The attitude motivating an organization to comply with the ADA should be clearly understood before setting up an ADA compliance strategy. Those with the higher levels of motivation may need to spend most of their efforts on surveys and physical barrier removal, while those operating under the lower levels of motivation may be better off spending a good portion of their efforts on training. Staff who understand the needs of people with disabilities and know how to work through difficult situations to find alternative methods to provide access, without offending their customers, may be the best first line of defense against formal complaints and lawsuits in entities where the money to remove barriers is just not available.

Also, in the Title III Regulations from the Department of Justice, there are many listed considerations to explain what might be readily achievable. Places of public accommodation should also consider these factors in setting their compliance strategy. If it is only readily achievable to remove a few barriers, it would not make sense to spend all of the available

compliance money on deciding what needed to be done. A proper balance between training, study, planning and action should always be maintained in any ADA compliance program.

In the end, it may be possible for an organization working under any of the four attitudes with a given economic picture to make a good faith effort to comply with the ADA. A clear understanding of the options and a well-ordered approach may be the most critical factors in determining whether a good faith effort is achieved, perhaps more so than just the amount of money spent.