
Construction and renovation projects shall comply with facility requirements of the Americans with Disabilities Act of 1990 [see Readily Accessible Programs and Accessibility, below] and other applicable local, state, and federal requirements. *Art. 9102, Secs. 2 and 5(d), V.A.T.S.*

Readily Accessible Programs

No qualified individual with a disability shall, because the ESC's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the ESC or be subject to discrimination. *42 U.S.C. 12132; 28 C.F.R. 35.149; 29 U.S.C. 794; 34 C.F.R. 104.21*

The ESC shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The ESC is not, however, required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.

Compliance with these requirements may be achieved by:

1. Redesigning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 C.F.R. 104.23 and 28 C.F.R. 35.151.
8. Any other methods that would result in making services, programs, and activities accessible to individuals with disabilities.

Structural changes in existing facilities need not be made when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, the board shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 C.F.R. 35.150; 34 C.F.R. 104.22

Notice

The ESC shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services,

activities, and facilities that are accessible to and usable by persons with disabilities. *34 C.F.R. 104.22(f)*

Review of Plans

All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of \$50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. The ESC, as owner of the building or facility, may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the Department of Licensing and Regulation by the architect, interior designer, landscape architect, or engineer.

The ESC, as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least \$50,000, is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, modification, or alteration of the building or facility is completed. The inspection must be performed by the Department of Licensing and Regulation, an entity with whom the Commission of Licensing and Regulation contracts, or a person who holds a certificate of registration to perform inspections.

Gov't Code 469.101, 469.102(c), 469.105

Accessibility

Each facility or part of a facility constructed by, on behalf of, or for the use of the ESC shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities. *28 C.F.R. 35.151; 34 C.F.R. 104.23*

**Public and Private
Facilities and
Infrastructure
Partnerships**

“Responsible governmental entity” means a governmental entity that has the power to develop or operate an applicable qualifying project.

“Governmental entity” means a board, commission, department, or other agency of this state, and a political subdivision of this state that elects to operate under Government Code Chapter 2267 by the adoption of a resolution by the governing body of the political subdivision.

“Qualifying project” means any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, technology facility, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or any improvements necessary or desirable to real property owned by a governmental entity.

Gov't Code Ch. 2267.001(5), (10), (11)

Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with Chapter 2267. The guidelines must be reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity, and must comply with the requirements of Government Code 2267.052. *Gov't Code 2267.052*

A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project. A responsible governmental entity shall evaluate proposals and approve a qualifying project in accordance with Government Code 2267.053. *Gov't Code 2267.053*