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# Technical Advisory Committee

Monday, October 17, 2016

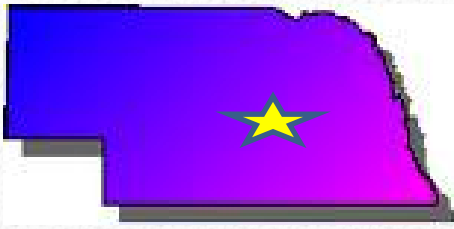
Regular Session

## Item H4

### Approval Recommendation of Final Draft ADA Self-Evaluation and Transition Plan

*In April 2016, the GIAMPO Policy Board approved the Certification of the Urban Transportation Planning Process for the Grand Island Area Metropolitan Planning Organization. The certification indicated that a ADA Self-Evaluation and Transition Plan is scheduled for adoption by November 22, 2016, so the GIAMPO will meet the provisions of the American with Disabilities Act of 1990 (42 USC 12101 et seq.) and 49 CFR. Parts 27, 37, and 38. The proposed ADA Self-Evaluation and Transition Plan for the GIAMPO was developed in accordance with the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.*

Staff Contact: Allan Zafft, MPO Program Manager



# Grand Island Area Metropolitan Planning Organization (GIAMPO)

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## *Title II of Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 Self-Evaluation and Transition Plan*

The preparation of this document has been financed in part through funds from the Federal Highway Administration, Federal Transit Administration, the U.S. Department of Transportation, under the Metropolitan Planning Program, Section 104(f) of Title 23 U.S. Code, and Nebraska Department of Roads. The contents of this document do not necessary reflect the official views or policy of the U.S. Department of Transportation.

*October 7, 2016 – DRAFT FOR REVIEW AND COMMENTS*

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## About the Grand Island Area Metropolitan Planning Organization

The Grand Island Area Metropolitan Planning Organization (GIAMPO), established in 2013, and serves as the formal transportation planning body for the greater Grand Island, Nebraska metropolitan area, carrying out the intent of 23 CFR 450. The Governor of Nebraska designated the GIAMPO as the official metropolitan planning organization (MPO) for the Grand Island Urbanized Area, as defined by the U.S. Bureau of the Census (U.S. Census Bureau).

Federal regulations require that each urbanized area, as a condition to receive any federal capital or operating assistance, have a continuing, cooperative, and comprehensive (3-C) transportation planning process. The GIAMPO is designated to carry out the 3-C process which results in transportation plans and programs that are consistent with the comprehensively planned development of the Grand Island metropolitan area.

The GIAMPO's structure is formed by two designated committees – Technical Advisory Committee (TAC) and Policy Committee. The TAC is a staff-level committee, which provides technical support and recommendations to the Policy Board. The Policy Board is the decision-making body comprised mainly of local elected officials and a representative from the Nebraska Department of Roads.

The City of Grand Island's City Engineer/Public Works Director serves as the MPO Director, with MPO staff reporting to the Engineering Division of the Public Works Department. At this time the MPO Program Manager is the only staff member, receiving support from others in the Public Works and Planning Departments. Therefore, references to the GIAMPO in this document will also refer to the City of Grand Island unless otherwise noted.

### Metropolitan Planning Area

The GIAMPO is responsible for transportation planning activities within a geographic area identified as the Metropolitan Planning Area (MPA). The GIAMPO's MPA is comprised of the City of Grand Island, Village of Alda, portions of Hall County, and a portion of west Merrick County.

## Introduction and Statement of Commitment

As a recipient of federal funding, the GIAMPO must comply with a variety of federal and state legislative regulations. Regarding matters of nondiscrimination on the basis of disability, the GIAMPO falls under two federal laws, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

The ADA prohibits discrimination on the basis of disability. Title II of ADA applies specifically to all activities of state and local governments, including metropolitan planning organizations and requires that government entities give people with disabilities equal opportunity to benefit from all of the programs, services and activities that may be offered.

As the federally designated metropolitan planning organization, the GIAMPO must adhere to the standards set forth in Title II, which include both physical accommodations (accessibility to buildings and meetings) and in policies, practices and procedures. Under Title II, the GIAMPO is required to make

reasonable accommodations in order to provide access with people who have hearing, vision or speech impairments. Likewise, the GIAMPO is required to make reasonable modification to policies, practices and procedures where necessary to avoid discrimination.

The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment and in the employment practices of federal contractors. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in Title I of the ADA.

Section 504 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that receives federal financial assistance.

The GIAMPO is required to perform the following:

- Apply ADA Law
- Apply Section 504 law
- Appoint an ADA/504 Coordinator
- Provide an agency nondiscrimination statement
- Perform an agency self-evaluation
- Develop a Transition Plan
- Make auxiliary aids available for use
- Provide assurance of compliance

The GIAMPO is committed to complying with both the letter and spirit of the requirements set forth in Title II of the ADA and Section 504 of the Rehabilitation Act (hereafter ADA/504).

## **Methodology for Self-Evaluation**

This document was developed by the GIAMPO ADA and Section 504 Compliance Coordinator, in consultation with a Compliance Team, who assisted in the physical evaluation of MPO’s premises, and in the evaluation of the GIAMPO’s policies and practices. Team members reviewed and made recommendations to the Self-Evaluation document, as well as to the separately developed Transition Plan (found in the appendix, beginning on page 11).

Mr. Marlan Ferguson – City of Grand Island City Administrator, City of Grand Island and GIAMPO ADA and Section 504 Compliance Coordinator

Ms. Nicki Stoltenberg - City of Grand Island Assistant to the City Administrator

Mr. Craig Lewis – City of Grand Island Building Inspections Director

Mr. John Collins, P.E. – City of Grand Island City Engineer/Public Works Director and GIAMPO MPO Director

Mr. Allan Zafft, AICP – GIAMPO MPO Program Manager

This Self-Evaluation is in two parts: (1) an evaluation of the GIAMPO’s policies and practices and, (2) an evaluation of the GIAMPO’s premises. This document describes the policies and procedures that the



GIAMPO uses to comply with ADA/504. In the event that deficiencies are identified, steps that will be undertaken to correct said deficiencies as detailed in the appended Transition Plan.

### **Public Comment for ADA Self-Evaluation and Transition Plan**

In accordance with the MPO’s own policies and procedures, and in compliance with the requirements of the above-referenced legislation, the public is given a fifteen-day opportunity for review and comment of the draft ADA Self-Evaluation and Transition Plan. The public comment period is from October 20, 2016 to November 4, 2016. Notice is placed in the area newspaper and on the GIAMPO website on October 19, 2016. The draft ADA Self- Evaluation and Transition is made available to the public in accordance with the GIAMPO Public Participation Plan and at the locations listed below.

Public Works Department Office  
City Hall  
100 East First Street  
Grand Island, NE 68801

Edith Abbott Memorial Library  
211 North Washington Street  
Grand Island, NE 68801

GIAMPO Website Site  
<http://grand-island.com/your-government/public-works/metropolitan-planning-organization>

### **Evaluation of the MPO’s Policies and Procedures**

Following is a description of the MPO’s policies and practices that may affect people with disabilities.

#### **ADA and Section 504 Compliance Coordinator**

The GIAMPO’s ADA and Section 504 Compliance Coordinator is charged with the following tasks:

- Collaborate and coordinate ADA/504 compliance efforts with the heads of major division and departments.
- Serve as a point of contact and liaison to the public on ADA/504 compliance issues. Contact information is provided on the City of Grand Island’s website.
- Monitor the MPO’s policies, procedures, practices and processes with respect to ADA/504 compliance.
- Oversee the filing of complaints of discrimination based on disability
- Coordinate with the Nebraska Department of Roads (NDOR) and/or the Federal Highway Administration (FHWA) on an investigation of complaint
- Monitor and update the implementation of the MPO’s ADA/504 Self-Evaluation and Transition Plan.
- Provide or coordinate the provision of requested auxiliary aids and reasonable accommodations to individuals with disabilities.
- Perform ADA/504 program, process or compliance reviews; inspect facilities for accessibility.

## **Public Participation**

The GIAMPO's Public Participation Plan was developed and adopted in November 2015 under the requirements of Moving Ahead for Progress in the 21st Century Act (MAP-21). This act requires a metropolitan planning organization (MPO) to develop and use a documented participation plan that defines a process for providing citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.

## **Public Meetings and Opportunity for Comment**

All meetings held by the GIAMPO are open to the public. Many GIAMPO meetings are held in the Grand Island City Hall. The meeting rooms are fully accessible.

When meetings are conducted in other venues, the GIAMPO strives to assure that the facility is accessible, externally and internally.

Individuals requiring physical or sensory accommodations including interpreter service, hearing impaired devices, large print, or recorded materials are asked to contact the City of Grand Island, 100 East First Street, Grand Island, NE (308) 385-5444, extension 140, at least 48 hours in advance of the meeting a person(s) wishes to participate in so city staff can strive to make the meetings accessible to any and all citizens of the community.

## **Compliant Procedures for the General Public**

The GIAMPO has established a process for investigating and resolving complaints alleging disability discrimination related to the GIAMPO services, programs and its office. Regulations implementing provisions of Section 504 and Title II of the ADA can be found at 49 CFR Parts 27 and 37, and 28 CFR Part 35. The following complaint procedures are patterned after the Federal Highway Administration Procedures Manual for Processing External Complaints of Discrimination, found [here](#).

All Complaints filed with the GIAMPO are forwarded to NDOR which will forward the complaint to FHWA. FHWA will then decide which agency will investigate the complaint.

The GIAMPO's ADA and Section 504 Compliance Coordinator is responsible for overseeing the filing of complaints of discrimination based on disability.

## **Complaint Substance and Format**

A complaint is a written or electronic statement concerning an allegation of discrimination on disability that contains a request for the receiving office to take action. Complaints should be in writing and signed and may be filed by mail, fax, or in person.

Complaints may be submitted to GIAMO as follows:

- By telephone at 308-385-5444, extension 140. The ADA and Section 504 Compliance Coordinator will talk to the complainant and obtain detailed information relating to the complaint. Information obtained from the telephone interview will be recorded in writing and read to the complainant.
- In writing to the ADA and Section 504 Compliance Coordinator, 100 East First Street, P.O. Box 1968, Grand Island, NE 68802-1968
- By fax at 308-385-5486
- In person at, 100 East First Street, Grand Island, NE 68801. Normal office hours are from 8:00 a.m. until 5:00 p.m., Monday through Friday. It is advisable to call 308-385-5444, extension 140 in advance to schedule an appointment.

A complaint must contain at least the following information:

- The complainant's name and a way to contact the complainant;
- A written explanation of what has happened;
- The basis of the complaint of discrimination by disability
- The identification of the respondent, e.g., agency/organization alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred; and,
- The date(s) of the alleged discriminatory act.

While the above indicates a complaint should be in writing and signed, the GIAMPO will accept complaints in alternate formats from persons with disabilities, upon request. For example, the complaint may be filed on a computer disk, by audio tape, or in Braille, or the complainant may call the agency and provide the allegations by telephone. The agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for signature.

Complaints in languages other than English will be translated and responded to in the language in which they were written.

The following are examples of items that are not considered complaints, unless the item contains a signed cover letter specifically asking that the GIAMPO take action concerning the allegations:

- An anonymous complaint;
- Inquiries seeking advice or information;
- Courtesy copies of court pleadings;
- Courtesy copies of complaints addressed to other local, State, or Federal agencies;
- Newspaper articles; and,
- Courtesy copies of internal grievances.



### **Timeframe for Filing Complaints**

Complaints must be filed within 180 days of the last date of the alleged discrimination. The filing date of the complaint is the earlier of: (1) the postmark of the complaint, or (2) the date the complaint is received by any office authorized to receive complaints.

An extension may be granted under any of the following circumstances:

- The complainant could not reasonably be expected to know the act was discriminatory within the 180-day period, and the complaint was filed within 60 days after the complainant became aware of the alleged discrimination;
- The complainant was unable to file a complaint because of incapacitating illness or other incapacitating circumstances during the 180-day period, and the complaint was filed within 60 days after the period of incapacitation ended;
- The complainant filed a complaint alleging the same discriminatory conduct within the 180-day period with another Federal, State or local civil rights enforcement agency, and filed a complaint with DOT within 60 days after the other agency had completed its investigation or notified the complainant that it would take no further action;
- The complainant filed, within the 180-day period, an internal grievance alleging the same discriminatory conduct that is the subject of the DOT complaint, and the complaint is filed no later than 60 days after the internal grievance is concluded;
- Unique circumstances generated by DOT action have adversely affected the complainant; or
- The discriminatory act is of a continuing nature.

Some complaints will be referred to the GIAMPO by other agencies. In the event the referring agency has possessed the complaint for an inordinately long period of time and the complainant filed his or her complaint with that agency within the 180-day timeframe the GIAMPO will automatically grant an extension.

### **Processing and Investigating Complaints**

Upon initial receipt, a complaint will always be date stamped by the receiving office, or the date of receipt will otherwise be recorded. The date of receipt by the receiving office is crucial for determining timeliness.

The complaint will be reviewed within 10 calendars days of receipt to determine whether it contains all the necessary information required for acceptance. If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance. If the complaint is incomplete, the complainant will be contacted in writing or by telephone to obtain the additional information. The complainant will be given 15 calendars days to respond to the request for additional information.

A request for information will be mailed to the respondent, along with a copy of the complaint, upon acceptance of the complaint.

The investigation will be confined to the issues and facts relevant to the allegations in the complaint, unless evidence shows the need to extend the issues. The standard of proof applied in making a determination of noncompliance will be one of preponderance of evidence. The preponderance of evidence as a standard of proof in civil cases is evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

An investigative report will be maintained which documents activity related to the complaint. The investigative report will contain, at minimum:

- The identity of each complainant and each respondent, including contact information;
- The nature and basis of the complaint;
- Copies of all requests for information, along with responses to the requests;
- A log of all important dates relevant to the complaint, including, but not limited to, the date that the complaint was filed, the dates of all correspondence with complainant or respondent, the dates of all interviews with complainant or respondent, and the date of the disposition (or the date that the complaint was forwarded to NDOR or FHWA for further action);
- The disposition and/or recommendations for action; and
- Other pertinent information.

Although the regulations do not specify a timeframe for the investigation of ADA complaints, the NDOR Civil Rights Office strives to have ADA complaints investigated and finalized within 90 days of receipt of the complaint.

### **Dismissal of a Complaint**

NDOR has authority to dismiss ADA complaints against its subrecipients. A complaint may be dismissed for the following reasons:

- The complaint is untimely filed;
- The complainant fails to respond to repeated requests for additional information needed to process the complaint;
- The complainant cannot be located after reasonable attempts;
- There is no statutory or alleged basis for the complaint, NDOR and/or FHWA lack jurisdiction in the matter, or the complainant does not allege any harm with regard to current programs or statutes;
- The complaint has been investigated by another agency and the resolution of the complaint meets USDOT/FHWA regulatory standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT's standards;
- NDOR and/or FHWA obtain credible information at any time indicating that the allegations raised by the complainant have been resolved, or are moot and there are no class-wide allegations or implications. In such a case, NDOR and/or FHWA will attempt to ascertain the apparent resolution. If NDOR and/or FHWA determine that there are no current allegations appropriate for further complaint resolution, the complaint will be closed;
- The complainant decides to withdraw the complaint;

- The same complaint allegations have been filed with another Federal, State, or local agency, or through a respondent's internal grievance procedures, including due process proceedings, and NDOR and/or FHWA anticipates that the respondent will provide the complainant with a comparable resolution process under comparable legal standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT's standards;
- The FHWA refers a complaint over which USDOT has jurisdiction to another agency that also has jurisdiction but may be better suited to conduct the investigation;
- A complaint, because of its scope, may require extraordinary resources. In such instances, NDOR and/or FHWA may consider treating such a complaint as a compliance review. Similarly, a compliance review may be the most effective means of addressing multiple individual complaints against the same respondent; or,
- If NDOR and/or FHWA selects this option, it should discuss the decision with the complainant(s), close the complaint, and initiate the review as soon as possible. NDOR and/or FHWA should provide the complainant(s) with a copy of the resolution documents upon completion of the compliance review.

### **Contact Information**

Complaints and substantiating information should be sent to:

Marlan Ferguson  
 City Hall  
 100 East First Street  
 P.O. Box 1968  
 Grand Island, Nebraska 68802-1968

## **Evaluation of the GIAMPO Premises**

The GIAMPO is located on the second floor (Public Works Department) in Grand Island City Hall at 100 East First Street, Grand Island, NE. The building is located on the corner of North Pine Street and East First Street. Mr. Craig Lewis, City of Grand Island Building Inspections Director, performed a walkthrough of the GIAMPO premises in September 2016. Below are the results of the evaluation.

### **Parking**

Handicap parking spaces are located near the main entrance to the building. Between this entrance and the handicap parking spaces is an accessible route.

### **Access to the building, offices and meeting rooms**

The main entrance to the building is accessible. All conference rooms and restrooms are accessible. The GIAMPO staff offices are accessible.

### **Doorways and hardware**

All internal and external doorways are accessible. All door hardware is designed for use by people with disabilities and is in good working order.

## **Reception areas**

The GIAMPO reception area is accessible by both visitors and employees. The reception counter is 44 inches high—too high to be accessed by people who use wheelchairs, however accessible service areas are within the suite.

## **Offices**

The GIAMPO staff offices are constructed to permit access and use.

## **Internal navigation**

The GIAMPO staff office hallways are accessible and generally free of obstacles.

## **Communication**

Office telephones are within easy access, or can be readily put within access.

The GIAMPO's webpage allows individuals to increase the font size of the website text.

## **Conference rooms**

The GIAMPO conference rooms are accessible.

## **Conclusions**

The GIAMPO considers this Self-Evaluation an ongoing process. As deficiencies are identified, they will be recorded and added to the Transition Plan, along with recommended remedies and a time frame for making the recommended improvements.

The GIAMPO reviews its public documents, including this one, on an annual basis. Any changes to programs, policies, or practices are noted and the document is revised as needed.

# Appendix

## Title II of Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973

### Transition Plan

#### Introduction

As a recipient of federal funding, the GIAMPO must comply with a variety of federal and state legislative regulations. Regarding matters of nondiscrimination on the basis of disability, the GIAMPO falls under two federal laws, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

Transportation legislation (FAST Act) requires that MPOs conduct a self-evaluation of its programs and facility accessibility, and to prepare a Transition Plan that describes any deficiencies, remedies, time-frame for carrying out remedies and approximate costs. In September 2016, the GIAMPO conducted a self-evaluation of (1) its policies and practices and, (2) its physical premises.

This Transition Plan was developed as a result of the self-evaluation.

#### Deficiencies Identified in Evaluation of the GIAMPO Policies and Practices and Physical Premises

Deficiency	Remedy	Approx. Cost	Time Frame
Reception area counter is too high for anyone using a wheelchair.	Provide accessible service counter within the GIAMPO suite.	TBD	TBD