

# Georgia Department of Human Resources Division of Aging Services

## Section 100

## Administrative Guidelines and Requirements for Area Agencies on Aging

### §102 Area Agency on Aging Administration and Operations

August 2003

#### §102 .1 Scope <sup>1</sup>

Area agencies on aging shall develop, implement, maintain and continuously improve organized and efficient administrative systems which can document and demonstrate accountability and compliance with all applicable federal, state, and local laws, rules, regulations and policies at all levels of the regional aging network. Area Agencies shall serve as public advocates for the development and enhancement of comprehensive, coordinated community-based service systems within each community throughout each planning and service area.

#### §102.2 Structure <sup>2</sup>

- (a) Organizational Structure. Area agencies shall develop and maintain an organizational structure that assures the effective administration of all aging program responsibilities, as provided by the Older Americans Act, and other applicable programs, and achieve all outcomes described in the Older Americans Act, §306, 42 U.S.C. 3026. The organizational structure shall be reflected through written job descriptions, staffing plans, and organizational charts, which shall be updated annually, or as needed, and submitted as a part of the Area Plan, in accordance with DAS requirements.
- (b) Titles. Each individual selected to perform the duties of the full-time director shall be identified on the staffing pattern and in job descriptions as either *Director, Area Agency on Aging, Manager, Area Agency on Aging* or other appropriate title which clearly associates the position with the Area Agency on Aging.
- (c) Staff Resources. All aging program positions shall be budgeted based on the projected percentage of time expected to be spent performing the duties of administration and management, and/or the time spent in direct service delivery, if applicable, as indicated in the area plan and subject to approval on an individual basis by the Division.

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<sup>1</sup> Refer to Appendix 102- A which incorporates Procedural Issuance 127, previously issued by the Division, which further expands on Area Agency and aging network structure, functions, roles and responsibilities. These issuances are superceded by incorporation into this manual chapter.

<sup>2</sup> Also see Appendix 102-A regarding the auspices of Area Agency operation.

**§102. 3 Records**

The Area Agency's provisions for development and maintenance of operational records shall include:

- (a) The Area Agency shall establish written procedures to assure proper development, maintenance and retention of all financial records, supporting documents, statistical records, and all other records related to agency performance.<sup>3</sup>
- (b) The Area Agency shall retain the records specified in §102.3(a) for a minimum of six years following the end of the fiscal year, and/or until any pending litigation, claims or audit findings, issuance of proposed disallowed costs, or other disputes have been resolved. Agencies with more than one site may maintain inactive records at a designated central location.
- (c) The Area Agency shall require that all subcontractors/ service providers adhere to §102. 3 (a) and (b), as applicable. Service providers will retain the required records at their sites or in other designated secure storage facilities.
- (d) The Area Agency shall assure that the Division, the Comptroller General of the United States, the State of Georgia, and the agent or representative of any other authorized entity has access to and the right to examine all records, books, papers, contracts, client records, computer files and related storage media, unless specifically prohibited by law, and other documents related to the contract.
- (e) The Area Agency shall require through appropriate contract language that all service providers adhere to §102.3(d).

**§102.4 Area Agency on Aging Accountability**

To demonstrate Area Agency accountability:

- (a) Area Agencies and their subcontractors shall meet programmatic and financial targets (units served, persons served, and unit costs, where applicable) as outlined in approved area plan documents and any additional requirements established by the Division, within the following rates of variance for expenditures and service levels, where applicable:
  - (1) First Quarter year-to-date = 25%, plus/minus 5%

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<sup>3</sup> Supporting documentation includes, but is not limited to, cooperative agreements, working papers, letters, memoranda, printed e-mail text, and minutes of meetings.

- (2) Second Quarter year-to-date = 50%, plus/minus 5%
  - (3) Third Quarter year-to-date = 75%, plus/minus 2.5%
  - (4) Fourth Quarter year-to-date = 100%, plus/minus 2.5 %.
- (b) Area Agencies shall meet targets for any quality, outcome, or other performance measures implemented or required by the Federal, State governments, and/or by the Division within an acceptable rate of variance. The Division reserves the right to consider reasonable explanations of historical spending patterns which would account for deviations from meeting targets for a given quarter.
- (c) All reports, budgets, budget revisions, contract amendments, and other required submissions to the Division shall be complete, accurate, and timely and provide sufficient documentation to verify such accuracy upon review by the Division, during any review, whether conducted at the Area Agency offices or through desk review, when such documentation is required to be submitted;
- (d) Each Area Agency shall maintain a timely reporting rate, on an annual basis, of 100% for financial reports, program performance reports, Long Term Care Ombudsman Program reports, Elder Abuse Prevention Program report, Elderly Legal Services Program Reports, waiting list data, and any other required reporting obligations as prescribed by the Division, unless it has requested and received a written extension, in accordance with §102.4.(f).
- (e) Area agencies shall file area plans and any required amendments, all responses to quality assurance reviews, budget revisions in a timely manner, unless an extension is granted, in accordance with §102.4(f).
- (f) Area agencies shall submit all requests for extensions in writing, by fax or by email, on or before the due date of the reports, amendments or revisions. The agency shall submit the request to the attention of the assigned Program Manager, with copies to the Division Director and Fiscal Contracts Administrator. All requests shall provide the following:
  - (1) Identification of the plan/report(s) for which the extension is requested;

- (2) an explanation of the need for the extension;
  - (3) the proposed date of receipt that the Division can expect to receive the plan/report.
- (g) Area agencies shall use any and all standard electronic and/or paper forms promulgated by the Department and Division for reporting or maintenance of supporting documentation. The Area Agency may request consideration of the use of alternate forms if all required data are captured.
- (h) The Division reserves the right to direct an Area Agency to prepare and submit a budget revision and/or contract amendment, which may result in a reduction in overall funding and reallocation or resources, based on the agency's and subcontractors' actual performance in meeting targets as established in §102.4(a) above. Failure to provide the directed amendment could result in the application of additional sanctions.

#### **§102.5 Contract Management Requirements**

- (a) Competitive bids. Area agencies shall follow procurement practices established by federal and state laws and regulations in awarding contracts. See also §§102.12-15, following regarding competitive and non-competitive solicitations.
- (b) Incorporation of Non-Profit Agency Contractors. All private non-profit agency contractors shall be incorporated as 501(c)(3) organizations. All contracts between the Area Agency and its service providers shall contain sufficient program and financial information to assure that all activities comply with the Area Plan, the Older Americans Act, federal regulations and the rules, regulations, and policies of the Department and Division.
- (c) Multi-year agreements. The Area Agency shall execute contracts for one year only, but may enter into multi-year agreements not to exceed the area plan cycle, by which the Area Agency may renew a contract, without initiating the competitive process each year. Area agencies wishing to enter into multi-year agreements shall assure that contract language clearly expresses that renewal of a contract is contingent upon satisfactory performance and continued availability of funding. Justification for a multi-year agreement includes, but is not limited to, the following:

- (1) More than one year is necessary to complete a project or provide a service;
  - (2) More than one year is necessary to justify substantial cost effectiveness or savings;
  - (3) A multi-year agreement is necessary to allow the provider opportunity to increase and demonstrate capacity to operate a particular service; or
  - (4) Results of performance evaluation justify continuation of the agreement and renewal of the contract with the existing provider.
- (d) Reconsideration Requests and Appeals. When there is competition for specific services, the bidder(s) not selected shall have the right to request reconsideration or appeal the award decision. The Area Agency shall establish policies and procedures for requesting reconsiderations/appeals and include this information in its Requests for Proposals (RFPs).
- (e) Execution of Contracts. The Area Agency shall demonstrate prudent execution of all agreements/contracts between the agency and public or private (for profit or non-profit) organizations receiving state and federal funds, by assuring that the agreements/contracts are adequate in language, content and substance, are executed fully and in a timely manner, and provide reasonable assurance that the expected outcomes can be accomplished.
- (f) Standard Contracts<sup>4</sup>. The Area Agency shall develop and use a standard contract format. The agency also shall develop procedures that assure that recipients of contracts are made fully aware of their responsibilities and obligations under an approved Area Plan. Upon approval of contracts under the Area Plan, the Area Agency shall maintain file copies of contracts, the criteria used to approve contracts, copies of the approved proposals and any subsequent amendments.
- (g) Contract Management Activities. Contract management activities encompass those Area Agency activities which shall occur after a contract has been executed. The Area Agency shall assure that each executed contract is

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<sup>4</sup> Area Agencies housed in Regional Development Centers may use contract formats provided by the RDCs as long as necessary modifications are made to reflect specific requirements of the aging program. Also see Appendix 102-B for minimum contract requirements.

performed, as written, by both the provider and the Area Agency.

- (h) Contract Management Staff. The Area Agency shall assign adequate staffing to assure that contracts are properly administered, monitored and reviewed on a continuing basis. At a minimum, one staff person shall be identified as the person with primary responsibility for overseeing and coordinating contract management activities.
- (i) Contract Close Out or Termination. The close out or termination phase of a contract begins when one or more of certain steps are initiated to bring the contract to an end and concludes with the final settlement of all contract matters. Termination and close out can occur at any time during the life of a contract, including the point at which a contract expires, whether or not it is to be renewed by the Area Agency. Close out may entail, but not be limited to, such steps as:
  - (1) Issuance of stop-work orders, termination notices, etc.
  - (2) Negotiation and adjudication of disputes and appeals;
  - (3) Negotiation and execution of releases;
  - (4) Final payment; and
  - (5) Other pertinent procedures.
- (j) Close Out or Termination Procedures. Close out or termination includes the following procedures:
  - (1) Upon termination (including expiration/non-renewal) of a contract, the Area Agency may require the provider to return any property specifically produced or acquired under the contract. The contract shall contain a clause providing for treatment of assets which shall apply in such a property transfer.
  - (2) The Area Agency shall pay the provider the agreed-upon price or amount of reimbursement, if separately stated, for goods and services accepted by the Area Agency, and for the amount agreed upon for:
    - (A) Completed work or services for which no separate price is stated;

- (B) Partially completed work and services;
  - (C) Other work and services accepted by the Area Agency; and
  - (D) The protection and preservation of property, unless the termination is for default, in which case the Area Agency shall determine the extent of liability of the contracting agency.
- (3) Failing to agree with such determination shall be considered a dispute concerning a question of fact with the meaning of the term "Disputes" as defined by the written contract document. The Area Agency may withhold from any amounts due to the provider for such completed work or services such sum as the Area Agency determines to be necessary to protect itself from loss resulting from outstanding liens or claims of former holders.
- (k) Provider Termination Responsibilities. Following receipt of a notice of termination or non-renewal, the provider shall:
  - (1) Stop work under the contract on the date and to the extent specified in the notice;
  - (2) Place no further orders or contracts for materials, supplies, services or facilities, except as may be necessary for completion of any portion of the work under the contract as is not terminated;
  - (3) Settle all outstanding liabilities and all claims arising from the termination;
  - (4) Transfer title to the Area Agency, and deliver in the manner, at the time, and to the extent, if any, directed by the Area Agency any property which is required to be furnished to the Area Agency;
  - (5) Complete performance of any of the work not terminated, including the continuation of services to clients for the duration of the time remaining under the contract;

- (6) Take such action as may be necessary, or as the Area Agency may direct, for the protection and preservation of any property related to the contract, which is in the possession of the provider, and in which the Area Agency has or may acquire an interest; and
- (7) Provide to the Area Agency copies of any and all records and files of clients served under the contract in the manner and at the time directed by the Area Agency, and any records related to the administration of the contract , as may be requested by the Area Agency.

**§102.6 Area Agency  
Monitoring and Evaluation  
of Service Providers**

In addition to the administration and management of contracts, Area Agencies shall develop and implement quality assurance systems to include the following activities.

- (a) Area agencies shall conduct at least one annual on-site <sup>5</sup> fiscal and program monitoring of service provider agencies. Fiscal and programmatic monitoring shall be conducted concurrently if possible.
- (b) On an appropriate schedule as indicated by provider performance levels, Area Agencies shall conduct desk reviews, of fiscal (expenditures) and programmatic performance for all service providers and shall furnish formal, written feedback of performance status, and any required corrective action, at least quarterly, or more often as indicated, and at year-end.
- (c) Area Agencies will consider findings from consumer satisfaction measurement in the annual evaluation of provider performance and provide technical assistance for improvement of provider operations and/or service quality when indicated.

**§102.7 Targeting Service  
Delivery**

Area Agencies are charged with the responsibility of assuring that those persons in the community most in need of assistance are given priority consideration for receiving services and for reducing the individual and social barriers to economic and personal independence for older persons.

- (a) All Area Agencies shall comply with the provisions for targeting and outreach established by the Older Americans Act, as amended.

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<sup>5</sup> Reference HCBS Manual, Chapter 304, "Nutrition Services" §304.7(d)(1) and (2) for specific monitoring requirements for congregate meal sites and commercial food vendors.



- (b) Each Area Agency shall incorporate into all materials related to the procurement of services its specific strategies for meeting the needs of the targeted populations and shall incorporate appropriate language to include those strategies as a provision of the contract.
- (c) When funding is insufficient to provide services to all applicants, the Area Agency shall assure that the primary criterion for setting priorities for admission to services will be the degree of individuals' unmet need for the assistance and the associated risk of harm or likelihood of placement outside the home if services are not provided. Area Agencies shall maintain lists of applicants for service and shall manage admission to services to reduce to a minimum the time those most in need of assistance remain on the waiting lists.
- (d) Each Area Agency shall include in its area plan a strategy or strategies for providing language translation services will be made available to older persons with limited English proficiency. The strategies also shall address the provision of reader or translation services for the persons with low vision or other visual impairments and hearing impaired and deaf persons.

**§102.8 Allocation Methods**

Area Agencies shall document and periodically review the methods by which federal and state funds are allocated within the planning and service areas, to demonstrate alignment with targeting strategies and availability of funding, to the greatest extent possible.

**§102.9 Corrective Action Plans,  
Penalties and Sanctions**

It is the responsibility of the Area Agency to develop and implement policies and procedures for the development of a system of corrective action, including, when appropriate or necessary, the imposition of penalties and/or sanctions upon contractors and subcontractors for inadequate performance of the contract agreement, or non-compliance with service delivery requirements, standards, and applicable rules and regulations. (Reference Chapter 93, Contractor Compliance, Rewards and Sanctions.)

**§102.10 Identification of Area  
Agency on Aging Facilities**

Each Area Agency location shall be identified by appropriate signage which assures clearly visible access to persons who visit the physical location of the agency. Signage shall comport to any local ordinances which apply.

**§102.11 Emergency Planning and Management**

- §102.11.1 Related activities.** Area Agencies are responsible for identifying themselves to and consulting with local (county and regional) emergency management agencies; public utilities; law enforcement authorities; other community service providers; state, county and municipal governments; and any other entities or organizations which have an interest or role in meeting the needs of the elderly in planning for, during and after natural, civil defense or other man-made disasters. The Area Agency shall:
- (a) designate a staff person to have primary responsibility for emergency management planning and coordination;
  - (b) participate in state, regional, county and/or municipal planning activities with other human service agencies and entities and organizations charged with the responsibility of meeting the needs of disaster victims;
  - (c) assist in identifying “at risk” elderly in the planning and service area, including but not limited to current consumers of contracted services;
  - (d) require by contract provision that service providers develop plans for emergency management that fit the scope of their individual operations;
  - (e) assure by annual review that service providers’ policies, procedures and capabilities are adequate to meet the needs of the elderly in their areas prior to, during and after emergencies;
  - (f) provide periodic training to providers regarding emergency management resources and activities;
  - (g) upon request, provide information to the Division regarding the impact of emergencies on the elderly population in the planning and service area;
  - (h) provide authorized services to the elderly victims of disasters <sup>6</sup> ;
  - (i) collect data necessary to submit reimbursement requests for services provided during the emergencies, which may be covered by other sources of funding available outside the aging program contract for disaster assistance;

- (j) when appropriate, participate in initial meetings of FEMA and GEMA on-site teams to assist in establishing recovery operations.

**§102.11.2 Scope of emergency plans and activities.**

Area Agency plans will address four categories of activity: preparation, immediate response and stabilization, recovery and evaluation.

- (a) Preparation: Area Agency emergency plans will address at a minimum:
  - (1) the types of natural disasters prevalent in the planning and service area (those that reasonably can be anticipated);
  - (2) the Area Agency's capabilities and limitations in addressing such incidents;
  - (3) ongoing maintenance and updating of resource databases;
  - (4) Area Agency emergency policies and procedures, including:
    - (A) staff duties and responsibilities, including specific chain of command and alternates, if agency leadership is unavailable;
    - (B) alert procedures for working and non-working hours;
    - (C) procedures for providing for alternate communications channels and equipment;
    - (D) locations of operations centers and alternates when primary offices are affected;
    - (E) assuring availability of office supplies for alternate locations, staff identification badges, and the like.
    - (F) roles of various relief organizations operating in and primarily responsible for relief authority in the area;
    - (G) strategies for maintaining contact with staff, local organizations, and the Division if essential public services, such as communications and transportation, are limited or unavailable;

- (H) current disaster response systems and the Area Agency's linkages (for example, county law enforcement and public safety agencies, emergency management agencies;
  - (I) community education to alert first responders/other entities to special needs of the elderly and the Area Agency resources;
  - (J) identification and mapping, if feasible, of heavy concentrations of elderly, including those residing in institutions, and households in which seniors reside alone, including apartments, mobile homes.
  - (K) demographic profiles of elderly in the area for targeting of specialized recovery assistance.
- (b) Response: the initial reaction to ensure safety, hygiene/sanitation, and security, either in advance of an impending emergency or immediately following, including:
  - (1) initiation of planned communications strategies and determination of impact of disaster on staff;
  - (2) assignment of duties;
  - (3) contact with key providers;
  - (4) initiation of disaster-specific record-keeping, including but not limited to records of :
    - (A) staff time, including overtime;
    - (B) supplies used;
    - (C) documentation of contacts with seniors;
    - (D) type and amount of services provided;
    - (E) personal expenses;
    - (F) specific telephone logs.

- (5) preliminary assessment of scope of impact, including, but not limited to:
    - (A) geographic scope and numbers of affected elderly/other target populations and their short and long term needs;
    - (B) kinds of services needed, including impact on transportation resources;
    - (C) identification of service gaps
    - (D) provision of information to DAS.
  - (6) employment, training and deployment of field and outreach workers.
  - (7) follow-up contacts with all seniors/others initially assisted to determine additional needs which have developed, appropriateness of additional available resources, and need to advocate for additional resources.
- (c) Recovery: Sustained care over a longer period of time, for the purpose of assisting people in re-establishing as normal a life as possible. Recovery involves:
- (1) shifting from emergency response to providing answers to more complex, long-range and long term problems, including arranging for psychological/mental health services for disaster victims.
  - (2) providing access to increased resources that have become available;
  - (3) participation in long range planning and coordination with other agencies;
  - (4) maintaining contact and providing services, including meeting non-immediate needs identified during the response phase.
- (e) Evaluation. Analysis of the effectiveness of an emergency plan once deployed and provision of input and feedback to staff, volunteers and other community organization, following response and recovery phases. Evaluation results will drive improvements in emergency planning.

**§102.12 Conflicts of Interest** Area Agencies on Aging and their governing authorities shall avoid conflicts of interest , in fact and perception, and shall notify the Division of the occurrence or existence of potential conflicts.

- (a) An Area Agency shall ensure that neither a current employee, nor any current board member, aging advisory council member, representative of office of the long-term care ombudsman, paid or volunteer, holds any substantial financial interest, directly or indirectly, in the proceeds of any entity from which services or goods are contracted or otherwise procured, nor any long-term care facility, nor derives personal profit directly or indirectly, from any entity which would conflict in any manner or degree with the performance of responsibilities of the employee, board member, advisory council member, or any representative of the office of the state long -term care ombudsman, paid or volunteer.
- (1) No current employee, current board member, or advisory council member who exercises any functions or responsibilities in the review or reward of any contract or the procurement of services or goods on behalf of the Area Agency shall:
  - (A) participate in any decision relating to the contract or procurement of services or goods in which s/he has a direct or indirect substantial personal financial interest;
  - (B) have a substantial financial interest, directly or indirectly, in the contract or procurement of services or goods or the proceeds thereof.<sup>7</sup>
- (2) If applicable to Area Agency operations, no representative of the office of the state long term care ombudsman, paid or volunteer, working in a local program, directly or indirectly, shall:
  - (A) have direct involvement in the licensing or certification of a long-term care facility or of a provider of long-term care service;

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<sup>7</sup> Except, nothing in this subsection shall prohibit public officials of units of local government from serving on an Area Agency board or aging service advisory council, notwithstanding the fact that such unit of local government is receiving or may receive funds for the provision of services or goods under the terms of the contract or procurement.

- (B) have a family member residing in a long term care facility to which the representative is assigned or provides advocacy;
  - (C) have ownership or direct investment interest in a long-term care service;
  - (D) be employed by or participate in the management of a long-term care facility;
  - (E) receive directly or indirectly remuneration under a compensation arrangement with an owner or operator of a long term care facility.
- (b) Board members and advisory council members who may have conflicts of interest, in fact or perception, on any agenda item of a meeting shall refrain from comment on the item.
  - (1) The member shall disclose the potential conflict and shall refrain from voting on any such item.
  - (2) The actions of conflict of interest disclosure and voting abstention shall be recorded in the minutes of the meeting.
- (c) Area agencies shall include a requirement in all Requests for Proposal (RFPs) for services to the elderly and bid specifications that any potential conflicts of interest be identified and addressed in the proposal response.
  - (1) The notification shall include:
    - (A) the identity of the person or persons for whom a potential conflict of interest exists;
    - (B) the relationship to any current or former board member, current or former advisory council member, or current or former employee; and
    - (C) the nature of the potential conflict.
  - (2) The person or persons for whom the potential conflict of interest exists shall certify that s/he will abide by all rules established in this subsection.

**§102.13 Provision of Services  
by Area Agencies on Aging**

- (a) No supportive or nutrition services will be directly provided by an Area Agency on Aging<sup>8</sup>, except where in the judgment of the Division, the provision of those services is necessary to assure an adequate supply of the services, or where such services are directly related to an Area Agency's administrative functions, or where such services of comparable quality can be provided more economically by the respective agency.<sup>9</sup>
- (b) Criteria. The Division will consider the following criteria in determining the appropriateness of direct delivery of services:
  - (1) the adequacy of the current supply of services;
  - (2) whether the proposed services are those administrative or service functions that are considered to be integral to Area Agency administration<sup>10</sup>, including:
    - (A) Planning;
    - (B) Program Development;
    - (C) Coordination;
    - (D) Outreach;
    - (E) Advocacy;
    - (F) Service Intake and Applicant Screening;
    - (G) Information and Assistance, including Benefits Counseling;
    - (H) Case Management.<sup>11</sup>
  - (3) An evaluation of the ability of the agency to provide service(s) of comparable quality and more economically than by contractual arrangements, based upon responses to the competitive procurement process.

<sup>8</sup> These requirements apply to Area Agencies only to the extent that the laws and regulations governing their placement in units of general purpose local government, if applicable, allow for the direct delivery of services. Free-standing non-profit agencies designated as area agencies on aging may provide services directly, subject to their capacity to do so, but only to the extent that all other criteria for competitive procurement apply and are met.

<sup>9</sup> Older Americans Act, as amended 2000, §307(a)(8).

<sup>10</sup> Area agencies may provide these services directly without a specific waiver request.

<sup>11</sup> Based on a March 7, 2003 opinion rendered by Georgia Attorney General Thurbert E. Baker, Area Agencies on Aging based in Regional Development Centers may provide case management services directly without creating a conflict with state laws governing the operations of Regional Development Centers.



- (c) When applications may be submitted. An Area Agency may submit a request to provide a service directly:
  - (1) with an area plan or area plan amendment or update;
  - (2) when it is necessary to comply with service requirements of the Older Americans Act;
  - (3) when emergency situations warrant submission of an application to maintain service delivery. If an emergency exists which threatens the health and welfare of a significant portion of the elderly population, such as a breach of contract, unlawful activity, severe mismanagement or lack of availability of any other provider for the service, the Area Agency shall, after notifying the Division and receiving interim approval, take immediate action to provide the needed services.
- (d) Documentation. The Area Agency must submit adequate documentation, including, but not limited to a completed proposal, to the Division in support of the request to supply services directly. Documentation will conform to any requirements established by the Division.
- (e) Action by the Division. The Division will approve requests to provide services directly --
  - (1) In cases in which an Area Agency requests approval to provide services at the beginning of a new plan cycle, or at the beginning of a subsequent year of that planning cycle, the Division will review all documentation and prepare a letter to the agency providing notification of approval or disapproval of the request. All documentation will become a part of the area plan or area plan update.
  - (2) In cases in which an Area Agency requests approval to provide services on an emergency basis for a negotiated period during a given fiscal year, the Division will review all documentation and prepare a letter to the Area Agency providing notification of approval or disapproval. All documentation will become a part of the area plan or area plan update.

**§102.14 Competitive Procurement  
Process**

(a) General requirements

- (1) The Division requires that in the procurement of services there be a solicitation and that it be designed to achieve full and open competition for the procurement.
- (2) The competitive process requires the use of performance based contracts. The contract will:
  - (A) provide for a unit rate for services reimbursed through a unit cost; or for a fixed ceiling price, for services reimbursed through line item budgets; and
  - (B) state the requirement that the Uniform Cost Methodology be used to calculate costs for all services on an annual basis, and under what conditions costs will be allowed within a fixed ceiling price contract.
- (3) Contract principles defined in 45 CFR, Part 74; 45 CFR, Part 92; Title 41, Code of Federal Regulations; and the Federal Acquisition Regulations (FAR), Part 6, provide the basis for the principal contracting processes and are to be followed in procuring services, as well as any state procurement requirements which may apply.

(b) Criteria to assure a competitive process

- (1) At least once prior to the beginning of a new area plan cycle, the Area Agency shall solicit potential providers by advertising in the newspaper designated as a legal organ<sup>12</sup> in the planning and service area, as defined in O.C.G.A..9-13-142, and optionally in newspapers of statewide circulation and other newspapers with regional and local circulation.
  - (a) The agency shall announce all solicitations at least thirty (30) days prior to the deadline for acceptance of responses.

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<sup>12</sup> A legal organ is defined as a newspaper having 85 percent paid, audited circulation for a period of at least one year, as designated by the county sheriff, probate judge and Superior court clerk.

- (b) Media announcements shall be made within the appropriate planning and service area in a manner that enables current and potential providers to be notified.
  - (c) The public notice shall:
    - (A) Identify each program/service to be funded;
    - (B) Specify the date by which responses must be submitted for consideration; and
    - (C) Advise how copies of the solicitations may be obtained.
- (2) The Area Agency shall provide potential bidders with the unit cost, if applicable, at which the Area Agency has provided and will provide services, for those services provided directly, and enough data from the unit cost analysis for potential bidders to determine whether they will commit to a letter of intent to bid, if a Request for Proposal is issued.
- (3) If two or more potential providers (including the Area Agency) are identified as a result of §102.13(b)(1), [advertising for solicitation] the Area Agency shall follow provisions of §102.13(a)(3) [minimum federal and state requirements for procurement ]. If the Area Agency has determined through the solicitation process that there is only one potential provider of the service, it may proceed with a negotiated procurement as for a sole-source, non- competitive contract.
- (4) If the Area Agency has determined through the solicitation process that there are no potential providers other than the Agency itself, it may provide the service directly, as authorized by §102.12. The Area Agency shall maintain documentation of all solicitation activities leading to the determination that no competition exists.
- (5) If the Area Agency is one of two or more potential providers of a service, it shall respond to its own RFP, as specified in §102.15.

**§102.15 Response by the Area Agency  
to Requests For Proposals**

- (a) An Area Agency shall respond to its own RFP when there is competition to provide a service in the following manner:
  - (1) If the Area Agency *has been* the direct provider of service, it shall place its pricing for unit cost services or line item budget for the services, along with the intent to propose, in the RFP, to assure that other agencies/ organizations wishing to submit proposals may determine whether they will be able to submit proposals which will be competitive with that of the Area Agency.
  - (2) When another agency or organization submits a proposal in competition with the Area Agency, the agency shall assemble a fair and impartial evaluation team to review and rate the responsiveness of each proposal.
    - (A) Membership on the panel by Area Agency Advisory Council and/or Board members shall constitute *no more than* 49 percent of the total.
    - (B) The evaluation team shall be chaired by a impartial and disinterested party, not affiliated with the Area Agency or any of the proposers.
  - (3) If the Area Agency uses a format which separates the technical and price proposals, those documents shall not identify the organization submitting the proposal in any way in the proposal or on the binder or external packaging.
    - (A) If these conditions exist, proposals which do identify the submitting organization shall be deemed unresponsive and shall not be considered for possible contract award.
    - (B) The management portion of the proposal shall be the only portion that identifies the submitting organization.

- (C) The evaluation team shall not be made aware of the identity of any bidders until after the technical and price proposals have been evaluated and ranked.
- (4) If the Area Agency is the recipient of the reward, it shall meet the same contractual provisions, standards and costs that any non-Area Agency provider would be required to meet.
- (5) In the event that the contracting authority selects the Area Agency as the provider *over the recommendation of the evaluation team*, it must justify its selection in a public meeting held locally, and provide written documentation to the Division Director of the rationale for this selection. The Division Director, or his/her designee, shall have the discretion to uphold or override the decision of the Area Agency Board/contracting authority, or cause the RFP to be reissued.

#### **§102.16 Administrative Appeals**

The Area Agency shall provide service recipients and provider organizations with opportunity to appeal administrative decisions as follows:

- (a) Area Agency Provider Contracts: Area Agencies shall establish and publish the process by which any organization denied a Area Agency contract through a competitive bidding process may appeal the decision.
- (b) Recipients of Service: Area Agencies providing direct services, or their contract providers, shall develop and publish the process by which opportunity for a hearing is accorded any individual who is denied or terminated from service, or who wishes to contest a reduction in service levels.

#### **§102.17 Area Plans**

Each Area Agency shall submit an Area Plan for the duration of the current four-year cycle (or for a plan cycle which may be established in the future) to the Division by the close of business on the date established by the Division. Each agency will submit an update to the plan annually by the date established by the Division. The Area Plan and updates shall be submitted in a uniform format provided by the Division to meet the requirements of the Older Americans Act, and all other pertinent federal and state regulations, and shall be used as the operating and strategic plan for the Area Agency. The Area Agencies shall use the Aging Information Management System (AIMS) as the

mechanism to record required fiscal, programmatic and provider data related to the development and administration of Area Plans. The Area Plan is considered to be an annex to the Department of Human Resources' contract with Regional Development Centers/Area Agencies on Aging.

**§102.18 Area Agency Budget  
Revisions and Contract Amendments**

- (a) After receiving approval of an initial annual budget, the Area Agency shall provide to the Division a budget revision, as applicable:
  - (1) to process transfers of funds among and between parts eligible parts of the Title III program;
  - (2) to reflect increases or reductions in state or federal funding;
  - (3) if there is a projected change in spending which exceeds 10% or ten thousand dollars (\$10,000) within state or federal fund source budgets.
- (b) Area Agencies shall submit a request for a contract amendment when:
  - (1) there is a change (increase or decrease) in the level of funding for any contracted fund source which changes the annual scope of work; or
  - (2) changes in unit costs for services which were not anticipated prior to contract execution result in an increase or decrease in service levels; or
  - (3) there are changes in services to be offered, service providers and/or sites, subsequent to contract execution; or
  - (4) there are changes in the number of units to be provided and persons served as a result of adjustments to unit costs or other cost factors.
- (c) Area Agencies shall implement such budget management strategies and measures as are necessary to avoid lapsing state and federal funds, including the timely and appropriate revision of Area Agency and subcontract budgets and the amendment of provider subcontracts at any point during the fiscal year when it becomes evident that there is significant risk of lapsing funds. Also see §102.4.

**§102.19 Grants  
and Contracts<sup>13</sup>**

- (a) Grants and contracts for services funded by Area Agencies shall reflect directly the vision, mission, goals and objectives of the area plan.
- (b) Grants and contracts shall include:
  - (1) specific, measurable program/service objectives that are consistent with area and state plan goals and objectives; and
  - (2) costs that are appropriate and reasonable and comply with federal and state fiscal policies.
  - (3) specific language which conveys the Department's/Division's contract requirements to the subcontractor/grantee.

**§102.20 Reporting Requirements**

- (a) Reporting forms. Each Area Agency shall submit to the Division such reports as specified by the Division, in such format and on such schedule as established by the Division, in fulfillment of all federal and state requirements.
- (b) Verification of Service Provider Reports. The Area Agencies shall conduct ongoing verification of the accuracy and adequacy of service providers' reports in accordance with the terms of the performance-based contracts.
- (c) Reporting Deficiencies. If reports are late, incorrect, or incomplete, the Division reserves the right to withhold reimbursement in part or in full, in accordance with contract requirements, until complete, correct reports are submitted. Requests for reimbursement for services provided shall be supported by programmatic reports which document that the amount of services provided correspond to the amount of reimbursement being requested. The Division will issue payment based on additional or corrected submissions in the regular payment cycle of the following month.
- (d) Aging Information Management System (AIMS). The AIMS is the official mechanism for reporting all fiscal and programmatic transactions of service providers and Area Agencies. Area Agencies complete data entry into AIMS each month to generate and submit paper copies of required reports to the Division not later than the

<sup>13</sup>

Also see Appendix 102-B, regarding minimum contract requirements.

fifteenth (15<sup>th</sup>) working day of the month following the completion of the prior month's activities.

- (e) Annual Close out Reporting. Area Agencies have the option of filing a "thirteenth period" or close out report if necessary bring up actual year-to-date expenditures at the end of a fiscal year. All such reports shall be filed with the Division not later than the 15<sup>th</sup> working day of August each year following the close of the prior fiscal year.

#### §102.21 Civil Rights

Area Agencies and contract providers shall uphold all state and federal law pertaining to civil rights and shall provide all services and functions funded by the Division, affected by policy of the Division, or provided by contract with the Division, without discrimination on the basis of race, color, national origin, age, gender, physical or mental impairment or on any other basis prohibited by law.

#### §102.22 Financial Management<sup>14</sup>

- (a) Regulations. Area Agencies and service providers shall comply with the financial management requirements of 45 CFR, Section 74 and Section 92, as applicable.
- (b) Timing of Expenditures. Expenditures for a program shall not be made before the beginning date of the contract, nor after the ending date, except for accounts payable and other written obligations. These obligations shall be paid within sixty (60) days of the end of the fiscal year.
- (c) Standards. RDCs/AAAs shall meet the following standards for financial management systems, as prescribed by federal regulations:
  - (1) financial reporting;
  - (2) accounting records;
  - (3) internal controls;
  - (4) budgetary control;
  - (5) allowable costs;
  - (6) source documentation;
  - (7) cash management.

<sup>14</sup>

Also see Chapter 104, Area Agency Fiscal Requirements.



**§102.23 Allowable Costs**

Allowable costs are defined in the Older Americans Act; OMB Circular A-87, "Cost Principles for State, Local Governments and Indian Tribal Governments;" and OMB Circular A-122, "Cost Principles for Non-Profit Organizations." These cost principles shall apply to the expenditure of federal funds and local funds which are reported as match for federal funds. In-kind contributions shall benefit the program for which they are reported as match. No expenditure shall be used as match if it has been or will be counted as match for another award of federal or state funds.

**§102.24 Audits of Area Agencies and Service Provider Organizations**

All Area Agencies and service providers (government and non proprietary organizations) receiving more than three hundred thousand dollars (\$300,000 ) in federal funds per year shall be audited according to the provisions of the Single Audit Act of 1996 and OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations."

**§102.25 Area Agency on Aging Advisory Councils**

- (a) Establishment of Council. The Area Agency shall establish an advisory council in accordance with the Older Americans Act, as amended, and all pertinent federal regulations. The Council is established to represent the interests of constituent groups within the various communities in the planning for and provision of community based services. The Council also supports the Area Agency in evaluating community concerns and needs.
- (b) Council Meetings. In addition to the federal requirements, the Council shall convene in full session at least twice each year and committees of the Council shall meet at least four times each year.
- (c) Ethnic Minority Representation. The Council shall include at least one representative from each racial or ethnic minority community located within the planning and service area. For purposes of this section, a community is a unified group of African American, Asian/ Pacific Island, Hispanic, Native American, or other individuals sharing common origin, history, culture or interests living in a particular geographic area.
- (d) Conflict of Interest. Staff paid through the Area Agency's contract with the Division, or members of the immediate families of paid staff members, shall not serve on the Council.

- (e) By-laws. The Council shall operate according to by-laws adopted by the Council. Such by-laws shall include, but not be limited to:
  - (1) Name of Council;
  - (2) Council responsibilities;
  - (3) Selection and composition of members;
  - (4) Term of membership;
  - (5) Council meetings.
  - (6) Election, duties and term of office of officers;
  - (7) Committees of the Council and their responsibilities;
  - (8) Provisions for adoption and amendment of by-laws.
- (f) The Area Agency shall provide such staff and other support to the Advisory Council as is feasible and necessary for the Council to accomplish its statutory mandates and other activities on behalf of the Area Agency and its constituents.

**Effective Date:**

Upon issuance.

**Appendix 102-A**

**Overview of Key Roles and Functions of the Aging Service Network  
and  
Area Agencies on Aging**

**(previously published as DAS Procedural Issuance 127, October 21, 1998,  
"Area Agency on Aging Guidelines")**

**§102-A-1 The Aging Services  
Network**

- (a) Definition of the Aging Services Network
  - (1) Organizations/agencies which administer the Older Americans Act and other programs which render services to elderly persons.
  - (2) Representatives of all levels of government: Federal, regional, State, and local.
  - (3) Public and private organizations which develop systems and provided direct services.
  - (4) Organizations/agencies which relate to other state and local programs through advocacy, coordination and program development.
- (b) Components of the Aging Services Network
  - (1) Executive/Legislative
    - (A) United States Congress: enacts Federal Legislation.
    - (B) Office of the President: signs legislation into law.
  - (2) Federal Administration on Aging
    - (A) Commissioner/Assistant Secretary \_responsible at the Federal level for advocacy, development of national public policy, the allocation administration of Older American Act funds, and program evaluation and reporting.
    - (B) Regional Offices: responsible for providing technical assistance to and oversight of State programs; serves as liaison between states and AoA.
  - (3) State Unit on Aging (SUA)
    - (A) The state organizational unit designated by the Governor

- (B) Responsible for providing leadership in statewide planning; program development; training and technical assistance; advocacy; coordination; programmatic and fiscal monitoring and evaluation; oversight of administration of Area Plans.
  - (C) Responsible for the development of an Intrastate Funding Formula which is approved by the Administration on Aging and which is used to allocate funding to Area Agencies on Aging.
  - (D) Responsible for the development and promulgation of additional necessary state policies and procedures.
  - (E) Responsible for the designation of planning and service areas (PSAs) and Area Agencies.
  - (F) In Georgia: the Department of Human Resources (DHR) Division of Aging Services (DAS).
- (4) Area Agencies on Aging
- (A) Responsible for local planning, program development and coordination, advocacy, monitoring, area plan administration, and resource development.
  - (B) Responsible for area plan development process: identification of the needs of older persons in the area; evaluation of existing services and gaps; development of objectives and priorities; and identification of the services which will be provided to meet the needs of elderly citizens.
  - (C) Responsible for developing contracts with local providers, using a competitive procurement process, which will result in the delivery of services ( unless the Area Agency has received a waiver from the SUA to provide services directly).

- (D) Responsible for working with local leaders, the private sector and local elected officials to develop a comprehensive coordinated service delivery system.
- (E) Responsible for establishing and coordinating the activities of an Advisory Council which will provide input on development and implementation of the Area Plan; assist in conducting public hearings; review and comment on all community policies, programs and actions affecting older persons in the area.

(5) Service Providers

- (A) Responsible for the delivery of services funded by various sources, including the Area Agency.
- (B) Responsible for the collection of data and the submission of appropriate programmatic and fiscal reports to the Area Agency.
- (C) Responsible for submitting to the Area Agency updated proposals for service delivery on the basis determined by the procurement process.
- (D) Responsible for advocacy for the elderly at the community level.
- (E) Responsible for the routine evaluation of service quality through a continuous quality improvement process.

(6) Older Consumers and their Caregivers:

- (A) Responsible for complying with any eligibility requirements associated with the services/programs.
- (B) Provide input on service needs and feedback on the quality of care provided to both providers and the Area Agency.
- (C) Potential advocates for the interests of the elderly and their support systems.

**§102-A-2 Unique Roles of the  
Area Agency on Aging**

- (a) Catalyst: The primary entity in the community which addresses aging issues.
- (b) Planner: Assesses, analyzes, facilitates and continuously improve the existing service system.
- (c) Coordinator: Encourages and facilitates linkage of local service providers and resources, enhancing individual capacities to provide services.
- (d) Advocate: Assures access for older persons to comprehensive systems of care in the community through educating policy makers and the community on the needs of the elderly.

**§102-A-3 Structure and Auspices  
of Area Agencies in Georgia**

- (a) Private non-profit organization: single purpose and self-sustaining organization which administers aging service programs only and which has a free-standing boards of directors.
- (b) Separate organizational unit within a Regional Development Center: a subdivision of the larger regional planning entity which shares some administrative resources with other subdivisions, but the staff of which are dedicated to administration of aging programs/services.
- (c) Area Agencies shall be developed and maintained based on an organizational structure which shall effectively administer the Older Americans Act Programs and responsibilities and achieve those outcomes prescribed in the Older Americans Act, §306, as well as appropriately administer any other programs or activities funded for the purpose of service delivery to the elderly.
- (d) The organizational structure shall be reflected through job descriptions, staffing plans and organizational charts and shall be included in the Area Plan submitted in accordance with requirements established by the Division of Aging Services (DAS).
- (e) Staffing plans and patterns must be adequate to assure the consistent performance of the basic functions of Area Agency administration as described in this chapter.

**§102-A-4 Missions of the  
Area Agency on Aging**

- (a) Broad mission statement of the Older Americans Act: "To provide assistance in the development of new and improved programs to help older persons"... "through community planning and services, training, research and development."
- (b) Mission statement of the Georgia Department of Human Resources: "To assist older Georgians in achieving healthy, independent, and self-sufficient lives."
- (c) Each Area Agency must develop its own mission statement and goals based on its individual structure and auspice, following the mandates of the Older Americans Act and taking into consideration the mission of the Department of Human Resources.



**Appendix 102-B**  
**Minimum Contract Requirements**

**Minimum Contract Requirements --** At a minimum documents issued by an RDC/AAA to award service contracts should include language to:

- (a) Indicate all parties to the contract;
- (b) Define the effective date(s) of the contract;
- (c) State the purpose of the contract;
- (d) Reference all applicable laws and regulations;
- (e) Describe the services to be provided and any related conditions (i.e., quantity, quality, etc.);
- (f) Specify the compensation (attach a budget), including a detailed description of costs, and the amount, method of payment, and required match to be provided;
- (g) Indicate that the contractor assures its capability to perform the specified services;
- (h) List the types of information and data that may be required of the contractor and the records that must be maintained;
- (i) Describe the review, monitoring, and audit rights of the grantee and authorized state and federal agencies or authorities;
- (j) Prevent any unlawful benefits from accruing to individuals associated with the contractor as a result of the contract;
- (k) Assure that equal employment opportunities will exist and that no discrimination on the basis of age, race, color, religion, sex, handicap, or national origin will result;
- (l) Provide for a method of modifying, suspending, or terminating the contract, if necessary;
- (m) Include the indemnification clause of the state agency;
- (n) Include standard assurances, such as Older Americans Act, Americans with Disabilities Act, civil rights, confidentiality, HIPAA compliance, etc.;
- (o) Describe the disposition requirements for any equipment purchases authorized through each contract or subgrant; and
- (p) Address other conditions, as appropriate.

**Appendix 102-C**  
**Emergency Management Service**  
**and**  
**Reimbursement Procedures**

### **102-C-1     Emergency Management Services**

Area Agencies on Aging and their subcontract service providers are authorized to provide the following services to manage the emergency needs of the elderly:

- expansion of information and assistance services on a 24-hour basis, including escort assistance;
- special outreach activities to encourage elderly disaster victims to apply for federal emergency disaster assistance centers (DACs) as soon as they are established;
- special transportation for elderly disaster victims to DACs, doctors, clinics, shopping and such essential travel in the event that vehicles are not readily available. Since FEMA funds may be available to fund this service, the Area Agency will consult with the on-site federal coordinating officer prior to expending Older Americans Act or state funds on this service;
- assistance by case managers acting as disaster assistance advocates to older persons in the DACs in the benefits application process, including follow up to assure older victims receive approved grants and services and are protected from unscrupulous contractors for housing and other repairs;
- handyman and chore services, including clean-up, in the event that FEMA cannot provide these services in sufficient volume through volunteer efforts;
- licensed appraiser services to assist elderly disaster victims in arriving at realistic estimates of losses incurred;
- legal services, only when scope of the primary elderly legal assistance program must be expanded to address insurance and disaster grant assistance settlements;
- assistance to move elderly disaster victims from temporary housing back to their own places of residence;
- other Older Americans Act services, including meals, when assessments indicate that disaster related needs are unresolved by federal, state, or voluntary disaster assistance programs.

### **102-C-2 Reimbursement Procedures for Emergency Services**

Reimbursement for the services specified in the preceding section of Appendix 102-C are authorized by the Older Americans Act, §310, as amended. Area Agencies shall forward requests for reimbursement to the Division within 30 business days of the date that disaster recovery operations are completed. Area Agencies will prepare develop the reimbursement requests as follows:

- Sort the expenses for which reimbursement is requested into categories by service, as listed in the preceding section.
- Provide a narrative for each category, which documents the number of units provided and the number of elderly served. This will be the cover page for each set of reimbursement documentation materials.
- Enclose the billing documentation, such as paid bills and invoices, with the narrative for each category of service provided.
- Attach a description of the cause and scope of the disaster.
- Attach the certificate of non-duplication of services provided by the FEMA office, if it is available.

The Division will review all reimbursement requests, seek any additional information or clarification needed, and forward to the Administration on Aging for payment.