

DEPARTMENT OF SENIOR SERVICES
ADMINISTRATIVE CODE

CHAPTER 70-X-2
AREA AGENCIES ON AGING

TABLE OF CONTENTS

70-X-2-.01	Designation Of Area Agencies On Aging
70-X-2-.02	Area Agency On Aging Area Plans
70-X-2-.03	Area Agency On Aging Functions And Responsibilities
70-X-2-.04	Service Providers Under An Area Plan
70-X-2-.05	Area Agency Direct Provision Of Services Under An Area Plan
70-X-2-.06	Area Agencies On Aging (Repealed 7/10/09)
70-X-2-.07	Social And Nutrition Service Providers (Repealed 7/10/09)

70-X-2-.01 Designation Of Area Agencies On Aging.

(1) An Area Agency on Aging will be designated in each planning and service area as defined by Section 305 of the Older Americans Act.

(2) Actual designation occurs upon acceptance of the Area Agency's Area Plan and formal execution of the associated contract.

(3) The designated area agency is responsible for administration of Older Americans Act programs in its planning and service area with guidance from the U.S. Administration on Aging and the Department.

(4) The Department shall withdraw an area agency's designation in accordance with Section 305(b)(5)(c) of the Older Americans Act as amended, whenever, after reasonable notice and opportunity for a hearing, it is determined that:

(a) An area agency does not meet the requirements of 45 CFR 1321 and Section 305 and Section 306 of the Older Americans Act as amended; or

(b) An area plan or area plan amendments is not approved by the Department; or

(c) There is substantial failure in provisions or administration of an approved area plan to comply with provisions of the Older Americans Act of 1965, as amended, the applicable federal regulations, state statute, or administrative rule.

(5) If the affected area agency does not concur with the decision of the Commissioner regarding the designation or de-designation of an area agency, the appeal may be considered by and brought before the Administration on Aging for a ruling.

Author: Irene B. Collins, Commissioner

Statutory Authority: Code of Ala. 1975, §§38-3-8 to 38-3-9, Older Americans Act of 1965 as amended (Public Law 109-365), 45 C.F.R. §1321.

History: Filed May 20, 1992. **Repealed and New Rule:** Filed June 5, 2009; effective July 10, 2009.

70-X-2-.02 Area Agency On Aging Area Plans.

(1) Area Agencies on Aging shall develop a comprehensive and coordinated service delivery system for older individuals and to serve as the advocate and focal point for older persons in the Planning and Service Area. Area agencies shall give special emphasis to Older American Act target groups when addressing service needs.

(2) Area agencies shall prepare and submit area plans for approval by the Department.

(3) The area plan must accurately describe required activities, essential information and include attachments and exhibits as required by the Department's format. The format for the Area Plan will be provided to area agencies by the Department according to Departmental policies.

(4) Prior to submission of the area plan to the Department, the area agency shall provide, at a minimum, one public hearing to provide interested parties the opportunity for review and comment on the area plan. Such hearing or hearings shall be held after reasonable notice and opportunity for comment.

(5) Also required as integral to the Area Plan, is an annual update to the operating element which details annual fiscal information. The format and submission dates of the Annual Update may be revised by the Department for flexibility in annual planning.

(6) Changes to the Area Plan are to be made based on the following:

(a) The plan shall be amended at any time under the circumstances prescribed in Federal regulations.

(b) Amendments to the area plan will be effected by new or revised information submitted by the area agency and having said amendment approved by Department.

(c) Amendments to an approved Area Plan must be approved in writing by the Department, prior to implementation.

(d) Minor revisions and non-substantive changes to the plan as determined by the Department may be made at any time by the area agency in order to keep the plan current. Examples of a minor revision are changes in telephone numbers and addresses, personnel, and administrative details not affecting the quantity or quality of services to persons assisted by the programs administered. The area agency shall notify the Department of minor revisions at least quarterly.

(e) Whenever a change is contemplated by the area agency in any cost category or individual salary as budgeted in the Area Plan for area agency administration:

(i) Prior written approval from the Department is required if the contemplated change would result in a change in the original approved amount greater than ten percent.

(ii) Notification of such change shall be included in the next monthly financial report to the Department, if the change would not result in a change in the original amount greater than ten percent.

(iii) Revised Area Plan pages shall be forwarded to the Department in accordance with time frames established by the Department.

(7) Subject to the availability of Federal and State funds and budget authority, the Department will subgrant with the area agency based on the submitted Area Plan for the Federal and State amounts indicated in the approved State Plan on Aging. Instructions for submitting payment requests and expenditure reports will follow Department policy.

(8) In the event an area agency, after written notice of deficiency, fails to comply in a timely manner with the terms of the area plan, contract or grant/subgrant agreement with the Department, the Department shall withhold distribution of a part

of the total of contract or grant/subgrant funds designated for the area agency in proportion to the amount of services not furnished by the area agency as a result of the area agency delay. The Department shall promptly release any funds withheld, after corrective action has been taken or upon acceptance of a corrective action plan submitted by the area agency. If the area agency desires to appeal the decision to withhold funds, it may seek review in accordance with the Administrative Procedures Act and these Department Regulations.

(9) Withdrawal of an area agency designation will be done in conformity with Federal Regulations governing the Older Americans Act program and in accordance with the Administrative Procedures Act.

Author: Irene B. Collins, Commissioner

Statutory Authority: Code of Ala. 1975, §§38-3-8 to 38-3-9, Older Americans Act of 1965 as amended (Public Law 109-365), 45 C.F.R. §1321

History: Filed May 20, 1992. **Repealed and New Rule:** Filed June 5, 2009; effective July 10, 2009.

70-X-2-.03 Area Agency On Aging Functions And Responsibilities.

(1) Within the planning and service area an area agency shall:

(a) Serve as an effective and visible advocate and focal point for older persons of the planning and service area, and

(b) Develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

(2) Each area agency shall agree to the following responsibilities:

(a) Establish and maintain an Advisory Council. Membership of the Advisory Council shall be composed of persons residing within the planning and service area.

(b) Establish and maintain an adequate staff to administer the Area Plan.

(c) Plan social, health, nutrition and in-home services to meet the current and projected needs of older persons

of the planning and service area, within the limits of available funds.

(d) Contract with service providers to assist socially or economically needy older persons, using priorities for services with special emphasis on target populations outlined in the Older Americans Act of 1965, as established locally by needs assessment information.

(e) Area Agencies on Aging shall have procedures for handling complaints from persons who complain that service has been denied, terminated or reduced improperly under any programs funded by the Older Americans Act. The procedures shall include at a minimum an opportunity to submit facts and information orally or in writing to support the complaint and a written decision from the area agency containing the reasons for its decision. Area Agencies on Aging shall require service providers funded under the area plan to have procedures for handling such complaints. The area agency shall have the final decision authority regarding client complaints.

(f) Provide programmatic technical assistance to service providers and monitor and assess services provided under the area plan. Monitoring by the area agency shall determine the provider's compliance with state and federal law and rules.

(g) Provide financial management services, technical assistance and financial monitoring of the operations of the service providers and maintain accountability for all funds awarded by contract, subgrant or memorandum of understanding by the Department.

(h) Provide training and staff development necessary for the implementation of the area plan.

(i) Accurately prepare and, in a timely manner, submit programmatic and fiscal reports required by Departmental policies.

(j) Coordinate with other programs for older persons to assure a comprehensive service delivery system.

(k) Have in place a conflict of interest policy for advisory council members, staff and service providers.

Author: Irene B. Collins, Commissioner

Statutory Authority: Code of Ala. 1975, §§38-3-8 and 38-3-9 Older Americans Act of 1965 as amended (Public Law 109-365), 45 C.F.R. §1321.

History: Filed May 20, 1992. **Repealed and New Rule:** Filed June 5, 2009; effective July 10, 2009.

70-X-2-.04 Service Providers Under An Area Plan.

(1) Any public or private non-profit agency or organization is eligible to receive a subgrant or contract for services funded under the Older Americans Act. A regional or local agency of the State, however, is not eligible to perform as a service provider. An area agency shall not provide direct services unless the Department grants a waiver under Section 307(a)(8)(A) of the Older Americans Act and XX-X-2-.05. Any proposed contract between an area agency and a profit making organization to provide services under an Area Plan must receive approval from the Department prior to contract execution.

(2) Any eligible agency or organization desiring to apply for a contract under the Area Plan may request an application from the area agency after a request for proposal(s) has been issued. The area agency shall respond within ten working days and enclose an application. The application will contain complete instructions, forms and specific documentation requirements to be completed by an applicant. The area agency shall utilize competitive bidding procedures in procurement contracts in accordance with State and Federal regulations.

(a) Applicants may apply for funding based on procedures established at the area agency.

(b) An applicant seeking Older Americans Act funding for the purpose of acquisition, alteration, or renovation of existing facilities, including mobile units, and construction of facilities to serve as multipurpose senior centers, shall make requests to the area agency. The area agency will render technical assistance concerning procedures and required documentation.

(3) Applicants may seek technical assistance regarding the application process from the area agency at any time.

(a) To be considered responsive, a formal application for funding must be, at a minimum:

(i) Signed by the senior officer of the applicant agency's governing body or designee.

(ii) Provide an acceptable commitment for required non-federal financial participation (matching requirement).

(iii) Contain assurances of compliance with applicable Federal Regulations.

(4) A non-responsive application shall be rejected by the area agency; or, at the discretion of the area agency, an applicant may be permitted to withdraw the application and resubmit it after correction of deficiencies.

(5) In the event an applicant is dissatisfied with the action taken by the area agency, the applicant may request a hearing of the area agency.

(6) If the application is accepted for funding, the service provider will be further instructed by the area agency regarding establishment of project operation and start of service.

(7) Contracts or grants/subgrants between the Department, and the area agency, lead agency or core service providers shall follow Department contracting and financial management procedures.

(8) Service providers funded under the Area Plan shall adopt procedures for handling complaints from persons who assert that service has been denied, terminated or reduced improperly under any programs funded by the Older Americans Act. The complaint procedure must permit at least an opportunity to present orally or in writing the reasons why the service should not be changed and that the provider will furnish to the complainant a written explanation of the nature and reasons for the provider's action. Complaints which remain unresolved by a service provider shall be referred to the area agency by written report from the service provider no later than 30 days following the complainant's notice, with detailed information regarding efforts to resolve the complaint.

Author: Irene B. Collins, Commissioner

Statutory Authority: Code of Ala. 1975, §§38-3-8 and 38-3-9 Older Americans Act of 1965 as amended (Public Law 109-365), 45 C.F.R. §1321.

History: Filed May 20, 1992. **Repealed and New Rule:** Filed June 5, 2009; effective July 10, 2009.

70-X-2-.05 **Area Agency Direct Provision Of Services Under An Area Plan.**

(1) Area agencies may apply for a waiver to provide direct services of Older American Act programs. Any request for a waiver shall follow Older Americans Act of 1965 requirements.

Applications for waivers shall be made in writing to the Department Commissioner no less than 60 days prior to the first day of the fiscal year for which the waiver is requested. If the Department Commissioner does not approve the request for a waiver within 30 days from the date of the request, such a request shall be deemed denied. If the Commissioner approves such a request, the grant of a waiver shall be effective for one fiscal year only.

(2) Requests for renewal of a waiver to provide direct services of Older Americans Act programs shall be made no less than 60 days prior to the termination of the waiver. If the Commissioner does not approve the request for renewal of a waiver within 30 days from the date of the request, such a request shall be deemed denied. If the Department Commissioner approves such a request, the grant of a renewal of a waiver shall be effective for one fiscal year only. Any further requests for renewals shall be made in accordance with XX-X-2-.05(1).

Author: Irene B. Collins, Commissioner

Statutory Authority: Code of Ala. 1975, §§38-3-8 and 38-3-9 Older Americans Act of 1965 as amended (Public Law 109-365).

History: Filed May 20, 1992. **Repealed and New Rule:** Filed June 5, 2009; effective July 10, 2009.

70-X-2-.06 **Area Agencies On Aging.** **(Repealed)**

Author: Oscar D. Tucker

Statutory Authority: P. L. 83-79; 45 C.F.R., Part 1321.

History: Filed May 20, 1992. **Repealed:** Filed June 5, 2009; effective July 10, 2009.

70-X-2-.07 **Social And Nutrition Service Providers.**
(Repealed)

Author: Oscar D. Tucker

Statutory Authority: P. L. 83-79; 45 C.F.R., Part 1321.

History: Filed May 20, 1992. **Repealed:** Filed June 5, 2009; effective July 10, 2009.