

U.S. Department of Health and Human Services
Administration on Aging
Office of Management
Grants Management Division

A O A

FISCAL GUIDE

**OLDER
AMERICANS
ACT**

**TITLES
III AND VII**

APRIL 2004

**Fiscal Guide
OLDER AMERICANS ACT
TITLES III AND VII
APRIL 1, 2004**

GENERAL:

This Fiscal Guide is provided to fiscal staff of state and area agencies on aging and is intended to facilitate access to citations of fiscal issues in law, regulations, and program instructions for which the Administration on Aging requires compliance. Questions regarding fiscal policies should be addressed in writing to your AoA Regional Administrator.

The latest amendments to the Older Americans Act were signed into law by the President on November 13, 2000.

The most recent federal regulations (45 CFR Part 1321) were published in the Federal Register on August 31, 1988. These are still in effect unless superseded by provisions in the 2000 Amendments to the Act. Attached to this guide is a list of program instructions.

(1) PROGRAM PARTICIPANTS:

Program participation is available to older individuals and the spouses of participating older persons, certain volunteers and disabled persons, family caregivers, and certain grandparents and older individuals who are relative caregivers. See Sec. 307(a)(13)(A) and (I) of the Act for an explanation of services to certain volunteers and disabled persons “who have not attained 60 years of age”, and Sec. 102 (35) for the definition of older individuals.

Program participation under Title III Part E (Caregiver Support Program) is available to family caregivers of persons age 60 and over and to grandparents or older individuals who are relative caregivers of a child who is not more than 18 years of age. Sec. 373(a).

(2) SERVICE CONTRIBUTIONS:

(A) Each service provider under the Older Americans Act may develop a suggested contribution schedule. However, means tests may not be used for any services supported with funds under the act. No older person regardless of their level of income and/or assets may be excluded from participation. See Sec. 315(b)(3) and AOA Regulations, 45 CFR Part 1321.67(c).

(B) Opportunity for voluntary contribution - there can be no charge for services. However, as set forth in 45 CFR Part 1321.67(a)(1) and Sec. 315(b)(1), every service provider must offer the older person an opportunity to voluntarily contribute to the cost of the service. Sec. 315(b)(4)(A).

(C) Denial, as stated in 45 CFR Part 1321.67(d) and Sec. 315(b)(3), a service provider, may not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

(D) Cost Sharing- the state agency may implement cost sharing for certain services as set forth in Sec. 315(a). If the state agency permits cost sharing, it must be implemented statewide. The state agency may grant a waiver from cost sharing to an area agency as per Sec. 315(a)(6). Funds received from cost sharing are program income and subject to 45 CFR 92.21(f)(2).

(3) USE OF CONTRIBUTIONS:

Sec. 315 (a)(5)(C) and (b)(4)(E) state that the service contributions collected must be used to expand the services for which the contributions were given. Contributions cannot be used to meet the non-Federal share (match) requirement.

(4) WHEN TO SPEND PROGRAM INCOME

State and area agencies that are part of local government, are guided by 45 CFR Part 92.21 (f)(2) (latest revision dated October 1, 2000) and non-profit area agencies are guided by 45 CFR Parts 74.2 and 74.24 (latest revision August 25, 1994). However, there may be other forms (non-consumer contributions) of program income generated by programs funded under the OAA which are to be used per CFR citations. Regardless of the source, all forms of program income, whether consumer contributions or not, are expected to be spent

timely per these same citations and reported as such.

(5) MATCHING SHARE

(A) STATE PLAN ADMINISTRATION

The federal dollar may not pay for more than 75% of the total dollars spent for state plan administration. The citation for this, as well as for the amount available for state plan administration, is Sec. 308 of the Act. Title III expenditures for state plan administration includes the administration of programs, which are consistent with the Older Americans Act. Dollars taken for cost allocation under an approved allocation plan are part of state plan administration and fall within the ceiling of 5% or \$500,000, whichever is greater.

(B) AREA PLAN ADMINISTRATION

The federal dollar may not pay for more than 75% of total dollars spent for area plan administration. See Sec. 304(d)(1)(A) of the Act. Title III expenditures for area plan administration includes the administration of programs, which are consistent with the Older Americans Act.

(C) AREA PLAN FUNDING

The state agency has the authority to establish the percentage of the Title III allotment that an area agency may spend for area plan administration. The state agency may allow up to 10% statewide for area plan administration (Sec. 304 (d)(1)(A) of the Act). Funds may only be taken from Parts B, C1, C2 and E

(D) STATE AND LOCAL PUBLIC SOURCES TO MEET MATCHING SHARE FOR SERVICES

Funds to meet the non-federal share required by Sec. 304(d)(1)(D) in amounts exceeding the non-federal share required prior to fiscal year 1981 shall be from state sources (Sec. 309(b)(2)). Prior to 1981 the match for services was 10%. Currently the match requirement for services is 15%--an additional 5%. This additional 5%, which equals 1/3 of the total non-federal match requirement for services, must come from state sources (Sec. 309(b)(2)).

The state source for match requirement does not include Title III-E. The Federal share for Title III-E is 75% of total expenditures. The non-federal share may come from either state or local funds or both. Sec. 373(g)(2)(A) and (B). Local public sources as referenced in 309(b)(1) means tax-levy money or any other non-federal resource.

(E) POOLING OF MATCHING SHARE

Non-Federal match for Title III B, C-1 and C-2 services may be pooled (Sec. 305(d)(2)). Match for Title III B, C-1 and C-2 services may not be pooled with match for Title III-E, area plan and/or state plan administration. Area plan administration and state plan administration match may be pooled.

States that have excess match in Title III B and C may transfer that portion of the excess match that is used to match services allowed under Title III-E to meet the Title III-E match requirement.

(G) AUDIT OF EXPENDITURES

Section 304(d)(1) of the Act specifies that Federal dollars may not be used to pay for more than 75% of the title III funds expended for area plan administration and not more than 85% for the provision of services. All audits must verify the appropriate expenditure of both federal and non-federal funds. States are also encouraged to review the A-133 Audit Compliance Supplement at section III G for specific audit requirements.

(6) SOURCES OF AREA PLAN ADMINISTRATION:

Although the state agency may use the entire Title III allotment for services in computing the amount available for area plan administration, the funds may only be taken from Title III Parts B, C, subparts 1 and 2, and E. Sec. 303(c) and (c)(1)

Funds awarded under Title VII may not be used to compute the amount of funds available for area agency administration.

(7) OMBUDSMAN AND ELDER ABUSE:

(A) Title VII funds may not be used to compute state plan administration, nor is any match required for them. They may not be used for cost-allocation

purposes, where states have an approved formula.

(B) PI-03-05 deals with fiscal policy for Title VII: In the middle of page 11 of PI 94-02 it states: “all funding allotted for a particular Title VII chapter must be used to carry out the requirements and activities specified for that chapter in the Act. Funds should not be included in the calculation for state plan administration. The ombudsman expenditure report set forth in PI-03-05 is no longer required. However, it is incumbent on the state agency to meet the level of expenditure requirement specified in the Act (Sec. 307(a)(9)) and program instruction 03-05, i.e., the amount certified as expended for FY 2000.

(8) MAINTENANCE OF EFFORT FOR TITLE III:

(A) Sec. 309(c) of the Act and 45 CFR Part 1321.49 of the regulations. The maintenance of effort for Title III expenditures from state sources must not be less than the average of the three previous fiscal year certifications. Any amount of state resources included in the Title III maintenance of effort certification that exceeds the minimum amount mandated becomes part of the permanent maintenance of effort. Excess state match does not become part of the maintenance of effort unless the state certifies it as such.

(B) Ombudsman Program Minimum Funding Requirement. States must expend on their statewide Ombudsman Programs no less than they expended in Title III-B funds and Title VII funds for FY 2000 (Sec. 307(a)(9)). A state may not use ombudsman Title VII funds to supplant, replace, or in substitution for, any other Federal or state funding.

All the Title VII ombudsman funding allotted to a state for a specific year must be expended on direct costs of the Ombudsman Program.

Area Agencies must expend on Ombudsman Program activities not less than the total amount of Title III funds received under Sec. 304(d)(1)(B) of the Act and expended by the area agency in carrying out the Ombudsman Program under Title III in FY 2000 (Sec. 306 (a)(9)).

The sources for meeting the minimum annual expenditure requirements may come from sources other than Title III-B.

9) REPORTING REQUIREMENTS FOR TITLES III AND VII SF269:

(A) States must spend their allocations for the purposes for which Congress awarded them, within the limits of transfers permitted by the Older Americans Act.

(B) Whether awarded on the same Notice of Grant Award (NGA), or on separate NGAs, a separate SF 269 for both Title III and Title VII must be submitted. The due dates for these reports are 30 days after the end of the 2nd and 4th quarters, April 30 and October 30, until submission of the final report, which can be no longer than two years after the year in which the funds were awarded. Pls 95-01 and 95-02 discuss submission of the SF269 reports for Titles III and VII. Both reports must be submitted on an accrual basis.

(C) All figures reported in the AOA supplemental forms to the SF-269 should be cumulative, not periodic, figures for the fiscal year being reported. Amounts should be rounded to the nearest dollar.

(D) All cash and in-kind match is to be reported on the SF 269 report. The amount reported on the SF 269 report does not compromise the state in its maintenance of effort certification, which only requires the minimum amount mandated (plus any extra matching funds previously included in the certification).

(E) Program income must be reported on the SF 269 for the Federal Fiscal Year in which it is earned. Program income is reported on lines 10q through 10t on the SF 269. Dispersed program income must be reported on the SF 269 for the Federal year in which it is earned. All program income earned in a Federal fiscal year must be dispersed prior to submission of the final SF 269.

(10) OBLIGATIONS AND LIQUIDATIONS:

All funds must be obligated by the state by September 30 of the federal fiscal year in which they are awarded to the state. If any funds are awarded as a reallocation, the notice of grant award will specify that the state has an extra year in which to obligate those funds. All obligations must be liquidated within two years after the year in which the funds were awarded to the state (e.g., funds awarded in federal fiscal year 2003 must be liquidated by September 30, 2005, and a final SF 269 report for 2003 funds must be submitted no later than

October 30, 2005 with the status as of September 30,2005). All funds not liquidated by that date must be reported on line 10p of the SF 269 report as unobligated, and are subject to deobligation (see PI 89-07).

Under extenuating circumstances or justifiable cause, the Federal government may grant a waiver to a state to extend the date for liquidation (45 CFR 92.23(b)).

If Title VII funds are awarded on the Title III notice of grant award, these funds should not be included on line 10o of the Title III SF 269 report. Title VII funds should not be reflected as ~~A total funds authorized@~~ on a Title III SF 269. (See 9A above regarding the reporting of Title VII funds.)

(11) TRANSFERS BETWEEN TITLE III Parts B and C Subparts 1 and 2:

Title III Parts B and C, Subparts 1 and 2, are the only parts between which transfers may be made.

A state may elect to transfer not more than 40% of its part C funds between subpart 1 and 2. (Sec. 308(b)(4)(A)) A state may request approval from the Assistant Secretary to transfer up to an additional 10%. (Sec. 308(b)(4)(B))

A state may elect to transfer not more than 30% between part B and part C. (Sec. 308(b)(5)(A)) A request for a waiver to transfer amounts over the 30% limitation must be made in accordance with Sec. 316 of the Act.

(12) AREA AGENCY ON AGING CONTRACTING WITH PROFIT-MAKING GRANTEES:

Area agency contracts with profit making grantees are subject to the approval of the state agency, per Sec. 212 of the Act.

(13) CONTRACTING REQUIREMENTS:

All procurement transactions must be conducted in a manner providing full and open competition (45 CFR Part 92.36). Sole source contracting limitations are included in this section of the regulations.

(14) RETENTION OF AUDIT RECORDS:

The state and area agencies on aging must keep audit records for three years after submission of a final SF 269 report, or until all audit issues are resolved and the audit is closed, whichever is later (45 CFR Part 92.42).

(15) PRIORITY SERVICES:

Sections 307(a)(2)(C) and 306(a)(2) require that a state agency designate the minimum percentages of an area agency's Title III-B allotment that must be spent on access, in-home, and legal services. The area agency must spend those designated percentages unless, the state agency grants a waiver based on a demonstration by the area agency that services being furnished are sufficient to meet the need for such services (Sec. 306(b)).

(16) NUTRITION SERVICES INCENTIVE PROGRAM:

(A) Allocation Formula:

The NSIP cash or commodity allocation to a State is a proportional share of the annual appropriation based on the number of eligible Title III meals served in the prior year. Sec. 311(b)(1).

(B) Awarding of Funds:

AoA distributes an allotment to a State of approximately 75% of the appropriation during the first quarter of the federal fiscal year. Another allotment will be made available in the third quarter. The remainder of the allotment will be provided during the fourth quarter after adjustments.

(C) Commodities:

A State may elect to receive a portion of its NSIP allotment in commodities. The USDA is responsible for the distribution of commodities. The amount of NSIP cash a state will receive is the State's total NSIP allocation less the value of commodities elected.

(D) Awarding of Funds:

AoA distributes an allotment to a State of approximately 75% of the appropriation during the first quarter of the federal fiscal year. Another allotment will be made available in the third quarter. The remainder of the allotment will be provided during the fourth quarter after adjustments.

(E) Use of NSIP Cash:

NSIP cash must be used to purchase U.S. agricultural commodities and other foods of U.S. origin for nutrition projects. NSIP funds must be used to expand meals served to older adults. Sec. 311(d)(2). NSIP funds may not be used for administration nor can they be transferred.

(F) Cash Disbursement by State Agency

State Agencies must establish policies and procedures for the distribution and use of NSIP cash received. The cash must be promptly and equitably disbursed to the recipients of grants or contracts for nutrition projects under Title III. Sec. 311(d)(2)

(G) Reporting Requirements

State agencies must report the number of NSIP meals served through the annual state performance report (SPR-NAPIS). The state must submit a SF269 on the same schedule it submits its Title III SF269 to the appropriate AoA Regional Office.

(H) Matching Requirement

There is no matching requirement for NSIP funds.

ATTACHMENT 1

SELECTED REFERENCES FROM THE OLDER AMERICANS ACT

Sec. 212 CONTRACTING AND GRANT AUTHORITY

None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency (or in the case of a grantee under title VI, subject to the recommendation of the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Assistant Secretary), with a profitmaking organization to carry out the provisions of this Act and of the appropriate State plan.

Sec. 301 PURPOSE; ADMINISTRATION

(d)(1) Any funds received under an allotment as described in section 304(a), or funds contributed toward the non-Federal share under section 304(d), shall be used only for activities and services to benefit older individuals and other individuals as specifically provided for in this title.

(d)(2) No provision of this title shall be construed as prohibiting a State agency or area agency on aging from providing services by using funds from sources not described in paragraph (1).

Sec. 303 AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

(c) Grants made under part B, and subparts 1 and 2 of part C, of this title may be used for paying part of the cost of -

(c)(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

(c)(2) the development of comprehensive and coordinated systems for supportive services, congregate and home delivered nutrition services under subparts 1 and 2 of part C, the development and operation of multipurpose senior centers, and the delivery of legal assistance.

Sec. 304 ALLOTMENT; FEDERAL SHARE

(a)(5) State allotments for a fiscal year under this section shall be proportionally reduced to the extent that appropriations may be insufficient to provide the full allotments of the prior year.

(b) Whenever the Assistant Secretary determines that any amount allotted to a State under part B or C, or subpart 1 of part E, for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make such allotment available for carrying out such purpose to one or more other States to the extent the Assistant Secretary determines that such other State will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

(c) If the Assistant Secretary finds that any State has failed to qualify under the State plan requirements of section 307 or the Assistant Secretary does not approve the funding formula required under section 305(a)(2)(C), the Assistant Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Assistant Secretary shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under Section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

(d)(1) From any State's allotment, after the application of section 308(b), under this section for any fiscal year –

- (d)(1)(A) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;
- (d)(1)(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate for conducting an effective ombudsman program under section 307(a)(9) shall be available for conducting such program;

- (d)(1)(C) not less than \$150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B, shall be available for conducting outreach demonstration projects under section 706; and
- (d)(1)(D) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 85 percent of the cost of supportive services, senior centers, and nutrition services under this title provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

(d)(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Assistant Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

Sec. 306 AREA PLANS

(a)(9) Provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(9), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2000 in carrying out such a program under this title.

- (a)(13)(E) on the request of the Assistant Secretary or the State, for the purpose of monitoring compliance with the Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals.

(e)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.

- (e)(3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

Sec. 307 STATE PLANS

(a)(7)(A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.

(a)(9) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2000.

Sec. 308 PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

(a)(1) Amounts available to States under subsection (b)(1) may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for supportive services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of state-wide significance relating to the initiation, expansion, or improvement of services assisted under this title.

(a)(2) Any sums available to a State under subsection (b)(1) for part of the cost of the administration of its State plan which the State determines is not needed for such purposes may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

(a)(3) Any State which has been designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Assistant Secretary, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

(b)(1) If for any fiscal year the aggregate amount appropriated under section 303 does not exceed \$800,000.000 then –

- (b)(1)(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$300,000; and
- (b)(1)(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$75,000;

shall be available to such State to carry out the purposes of this section.

(b)(2) If for any fiscal year the aggregate amount appropriated under section 303 exceeds \$800,000,000, then –

- (b)(2)(A) except as provided in clause (ii), the greater of 5 per-cent of the allotment to a State under section 304(a)(1) or \$500,000; and
- (b)(2)(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$100,000;

shall be available to such State to carry out the purposes of this section.

- (b)(4)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), with respect to funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), the State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer not more than 40 percent of the funds so received between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Assistant Secretary shall approve any such transfer unless the Assistant Secretary determines that such transfer is not consistent with the objectives of this Act.

- (b)(5)(A) Notwithstanding any other provision of this title, of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 303, the State may elect to transfer not more than 30 percent for any fiscal year between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.

(b)(6) A State agency may not delegate to an area agency on aging or any other entity the

authority to make a transfer under paragraph (4)(A) or (5)(A).

(b)(7) The Assistant Secretary shall annually collect, and include in the report required by section 207(a), data regarding the transfers described in paragraphs (4)(A) and (5)(A), including –

- (b)(7)(A) the amount of funds involved in the transfers, analyzed by State;
- (b)(7)(B) the rationales for the transfers;
- (b)(7)(C) in the case of transfers described in paragraphs (4)(A) and (5)(A), the effect of the transfers of the provision of services, including the effect on the number of meals served, under-
 - (i) subpart 1 of part C; and
 - (ii) subpart 2 of part C; and
- (b)(7)(D) in the case of transfers described in paragraph (5)(A) –
 - (i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and
 - (ii) the effect of the transfers on the provision of services provided under -
 - (I) part B; and
 - (II) part C, including the effect on the number of meals served.

(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Assistant Secretary determines will not be required for that year for the purposes described in sub-section (a)(1) shall be available to provide services under part B or part C, or both, in the State.

Sec. 309 PAYMENTS

(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

(b)(2) Funds required to meet the non-Federal share required by section 304(d)(1)(D), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be from State sources.

(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan

approved under Section 307 are less than its average annual expenditures from such sources for the period of 3 fiscal years preceding such year.

Sec. 310 DISASTER RELIEF REIMBURSEMENTS

(a)(1) The Assistant Secretary may provide reimbursements to any State (or to any tribal organization receiving a grant under title VI), upon application for such reimbursement, for funds such States makes available to area agencies on aging in such State (or funds used by such tribal organization) for the delivery of supportive services (and related supplies) during any major disaster declared by the President in accordance with the Robert T. Stafford Relief and Emergency Assistance Act.

Sec. 311 NUTRITION SERVICES INCENTIVE PROGRAM

(b)(1) The Secretary of Agriculture shall allot and provide in the form of cash or commodities or a combination thereof (at the discretion of the State) to each State agency with a plan approved under this title for a fiscal year, and to each grantee with an application approved under title VI for such fiscal year, an amount bearing the same ratio to the total amount appropriated for such fiscal year under subsection (e) as the number of meals served in the State under such plan approved for the preceding fiscal year (or the number of meals served by the title VI grantee, under such application approved for such preceding fiscal year) bears to the total number of such meals served in all States and by all title VI grantees under all such plans and applications approved for such preceding fiscal year.

(d)(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

Sec. 312 MULTIPURPOSE SENIOR CENTERS:

RECAPTURE OF PAYMENTS

If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title –

- (1) the owner of the facility ceases to be a public or non-profit private agency or organization; or
- (2) the facility ceases to be used for the purposes for which it was acquired (unless the Assistant Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

Sec. 313 AUDIT

- (a) The Assistant Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.
- (b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services.

Sec. 315 CONSUMER CONTRIBUTIONS

- (a) COST SHARING –

(a)(1) **IN GENERAL** – Except as provided in paragraphs (2) and (3), a State is permitted to implement cost sharing for all services funded by this Act by recipients of the services.

(a)(2) **EXCEPTION** – The State is not permitted to implement the cost sharing described in paragraph (1) for the following services:

(a)(2)(A) Information and assistant, outreach, benefits counseling, or case management services.

(a)(2)(B) Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services.

(a)(2)(C) Congregate and home delivered meals.

(a)(2)(D) Any services delivered through tribal organizations.

(a)(3) **PROHIBITIONS** – A State or tribal organization shall not permit the cost sharing described in paragraph (1) for any services delivered through tribal organizations. A State shall not permit cost sharing by a low-income older individual if the income of such individual is at or below the Federal poverty line. A State may exclude from cost sharing low-income individuals whose incomes are above the Federal poverty line. A State shall not consider any assets, savings, or other property owned by older individuals when defining low-income individuals who are exempt from cost sharing, when creating a sliding scale for the cost sharing, or when seeking contributions from any older individual.

(a)(4) **PAYMENT RATES** – If a State permits the cost sharing described in paragraph (1), such State shall establish a sliding scale, based solely on individual income and the cost of delivering services.

(a)(5) **REQUIREMENTS** – If a State permits the cost sharing described in paragraph (1), such State shall require each area agency on aging in the State to ensure that each service provider involved, and the area agency on aging, will-

(a)(5)(A) protect the privacy and confidentiality of each older individual with respect to the declaration or nondeclaration of individual income and to any share of costs paid or unpaid by an individual;

(a)(5)(B) establish appropriate procedures to safeguard and account

- for cost share payments;
- (a)(5)(C) use each collected cost share payment to expand the service for which such payment was given;
- (a)(5)(D) not consider assets, savings, or other property owned by an older individual in determining whether cost sharing is permitted;
- (a)(5)(E) not deny any service for which funds are received under this Act for an older individual due to the income of such individual or such individual's failure to make a cost sharing payment;
- (a)(5)(F) determine the eligibility of older individuals to cost share solely by a confidential declaration of income and with no requirement for verification; and

(b) VOLUNTARY CONTRIBUTIONS

(b)(1) **IN GENERAL** – Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this Act provided that the method of solicitation is noncoercive.

(b)(3) **PROHIBITED ACTS** – The area agency on aging and service providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute to the cost of the services.

(b)(4) **REQUIRED ACTS** – The area agency on aging shall ensure that each service provider will –

- (b)(4)(A) provide each recipient with an opportunity to voluntarily contribute to the cost of the service;
- (b)(4)(D) establish appropriate procedures to safeguard and account for all contributions; and
- (b)(4)(E) use all collected contributions to expand the service for which the contributions were given.

Sec. 321 PROGRAM AUTHORIZED

(c) Funds made available under this part shall supplement, and not supplant, any Federal,

State, or local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide services described in subsection (a).

Sec. 339A PAYMENT REQUIREMENT

Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 311.

Sec. 373 PROGRAM AUTHORIZED

(g) AVAILABILITY OF FUNDS. –

(g)(1) USE OF FUNDS FOR ADMINISTRATION OF AREA PLANS, - Amounts made available to a State to carry out the State program under this subpart may be used, in addition to amounts available in accordance with section 303(c)(1), for costs of administration of area plans.

(g)(2) FEDERAL SHARE –

(g)(2)(A) IN GENERAL – Notwithstanding section 304(d)(1)(D), the Federal share of the cost of carrying out a State program under this subpart shall be 75 percent.

(g)(2)(B) NON-FEDERAL SHARE - The non-Federal share of the cost shall be provided from State and local sources.

(g)(2)(C) LIMITATION – A State may use not more than 10 percent of the total Federal and non-Federal share available to the State to provide support services to grandparents and older individuals who are relative caregivers.

Sec. 374 MAINTENANCE OF EFFORT

Funds made available under this subpart shall supplement, and not supplant, any Federal, State, or local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide services described in section 373.

ATTACHMENT 2

FINANCIAL MANAGEMENT RESOURCE LIST

OLDER AMERICANS ACT, As amended through November 13, 2000

45 CFR PART 1321. Dated August 31, 1988

45 CFR PART 74 Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, other Nonprofit Organizations and Commercial Organizations (Non Profit Organizations) (Available through Grantsnet*)

45 CFR PART 92 Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments (Available through Grantsnet*)

45 CFR PART 76 Governmentwide Debarment and Suspension (Nonprocurement)

45 CFR PART 82 Governmentwide Requirements for Drug-Free Workplace (Fiscal Assistance)

OMB CIRCULARS (Available through OMB Grants Management Home Page)**

A-87 Cost Principles for State and Local Governments

A-122 Cost Principles for Non-Profit Organizations

A-102 Grants and Cooperative Agreements with State and Local Governments

A-110 Uniform Administrative Requirements for Grants and Agreements with institutions of Higher Education, Hospitals and Other Non-Profit Organizations

A-133 Audits of State, Local Governments, and Non-Profit Organizations

A-133 Compliance Supplement

SF 269 With Supplementary Backup Sheets

***GRANTSNET:** www.hhs.gov/grantsnet<<http://www.hhs.gov/grantsnet>>

****OMB GRANTS MANAGEMENT:**
www.whitehouse.gov/omb/grants/index.html<<http://www.whitehouse.gov/omb/grants/index.html>>

ATTACHMENT 3
A LIST OF SELECTED FISCALLY RELATED
PIs AND OTHER ISSUANCES

Selected copies of recently published PIs can be found on the AOA Web Page.

03-6	7/29/03	Reallotment Procedure for 2003 Title III Formula Grant Funds (Reissued annually)
03-7	9/15/03	Procedures for Reporting the Transfer of Title III Formula Grant Funds (Reissued annually)
03-4	3/10/03	Certification of Maintenance of Effort for Fiscal Year 2002 (Reissued annually)
03-5	3/29/03	Certification of Long-Term Ombudsman Program Expenditures: Title III and VII Minimum Funding and Non-Supplantation Requirements - Fiscal Year 2002 (Reissued annually)
02-01	10/26/01	New Revised AOA Supplemental Form to the SF-269 Report for Formula Grants Under Title III of the Older Americans Act
98-1	10/17/97	Interest Bearing Accounts
PCR-94-17	7/16/94	Title VII Funding, Obligation Deadline
CR-94-10	2/4/94	State Administrative Costs, Calculation, Title VII Funds
94-2	4/05/94	Title VII Fiscal Policy
91-4	3/1/91	Protecting Federal Reversionary Interest in Multipurpose Senior Centers
90-4	3/6/90	System for Monitoring Funds Used to Acquire or Construct Multipurpose Senior Centers.
89-7	5/24/89	Period of Availability of Funds (45 CFR Part 92.23)
87-1	10/27/86	Elimination of Deduction Alternative in Use of Program Income Earned From Meal

Contributions
(also see 02-01)

84-2	10/25/83	Use of Additional Costs Alternative for General Program Income (also see 02-01)
83-4	03/10/83	Funding of Program Development and Coordination Activities as Allowable Supportive Service Costs
81-12	03/19/81	Joint Understanding Between the Office of Program Development and the USDA Food Distribution Division with respect to USDA cash and commodity support
78-15	07/12/78	Contributions by Participants in the Title VII Nutrition Program