

Community Services Policy Manual

Title III Program Regulations

*State of Connecticut
Department of Social Services
Elderly Services Division*

1997

The Regulations of Connecticut State Agencies are amended as follows:

Sec. 17b-423-1. Community services policy manual -- introduction

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of the Older Americans Act**

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(a) **Definitions - as used in this manual:**

For purposes of Section 17b-423-1 through 17b-423-7, the following definitions apply:

"Area Agency on Aging (AAA)" means an agency designated by the Department to develop and administer an area plan in a planning and service area.

"Administration on Aging (AoA)" means the agency established in the Office of the Secretary, Department of Health and Human Services charged with the responsibility for administering the provisions of the Older Americans Act, except for Title V.

"Area Plan" means the official planning document submitted by all Area Agencies on Aging to the Department for approval, which identifies measurable objectives and action steps to achieve those objectives, as well as describing all other functions of the Area Agency.

"Assistant Secretary" means the Assistant Secretary on Aging of the Administration on Aging.

"Comprehensive and Coordinated System" means a program of interrelated social and nutrition services designed to meet the needs of older persons in a planning and service area.

"Department" or "DSS" means the Department of Social Services of the State of Connecticut.

"Donated Foods or Cash" means food or cash made available by the United States Department of Agriculture (USDA).

"Eligible Individuals for Title III Programs" means persons 60 years of age and older and their spouse* and people with disabilities residing in primarily elderly housing where congregate nutrition services located may be provided meals.

"Elderly Nutrition Project (ENP)" means an entity that is awarded a subgrant from an Area Agency on Aging to provide nutrition services under the area plan.

"Focal Point" means a place or mobile unit in a community or neighborhood designated by the Area Agency to encourage the maximum collocation and coordination of services for older persons.

"Greatest Economic Need" means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census.

"Greatest Social Need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation, including that caused by racial or ethnic status which restrict an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently.

"Indian Tribal Organization" means the recognized governing body of any Indian tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by the governing body

"Indian Tribe" means any tribe, band, nation, or other organized group of community of Indians (Native Americans) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or, is located on, or in proximity to a federal or state reservation or rancheria.

"Manual" means the Community Services Policy Manual.

"Multipurpose Senior Center" means a community facility for the organization and provision of a broad spectrum of services including, but not limited to, health, social, nutritional, and educational services; and the provision of facilities for recreational and group activities for older persons.

"Nonprofit" means an agency, institution or organization which is with no part of the net earnings benefiting any private share holder or individual.

"Older Americans Act (OAA)" means the Older Americans Act of 1965, as amended.

"Older Person" means a person age 60 or older.

"Planning and Service Area (PSA)" means a geographic area that is designated by the Department for purposes of planning, development, delivery and administration of services under an area plan.

"Reservation" means any Federal or state recognized Indian tribe's reservation.

"Service Provider" means an entity that is awarded a subgrant or contract from an Area Agency to provide services under the area plan.

"State Plan" means the plan developed by the Department detailing the utilization of federal funds in providing services to the elderly. The plan is based on Area Agency plans, and a statewide assessment of needs and priorities.

"Target Groups" means those individuals identified as being in the greatest economic or social need of services.

"Unit of general purpose local government" means (1) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions or (2) an Indian tribal organization.

(b) Purpose of Manual

- (1) These regulations set forth the requirements for the conduct of the Title III of the Older Americans Act of 1965, as amended. They include requirements and procedures for designation of Area Agencies on Aging, submission and approval of area plans, service requirements and hearing procedures.
- (2) The purpose of the Manual is to outline the overall program and grant administration responsibilities of the Department and its grantee/contractor agencies. The Manual should assist and guide Connecticut's Area Agencies on Aging grantees in the operation of their programs.
- (3) The Manual constitutes all current policies which have been developed by the Department, unless otherwise noted, through the time of issuance. Additional policies may be incorporated by the Department pursuant to notice thereof published in the Connecticut Law Journal.

(c) Scope and Organization

The general organization of the Manual of Policies and Procedures is as follows:

Section 17b-423-1: Introduction-provides an overview of the scope and organization of the Manual and a description of the Title III Program.

Section 17b-423-2: Area Agency on Aging Designation-describes the procedures for designation of planning and service areas, Area Agencies on Aging and appeal procedures.

Section 17b-423-3: Application Procedures and General Policies-sets forth the basic procedures governing the preparation of area plans and other applications under the Older Americans Act, as well as the general policies which affect grantee/contractor operations.

Section 17b-423-4: General Area Agency on Aging Responsibilities/Title III-B Operations-sets forth the policies and procedures for the use of Title III-B funds, including the conduct of Area Agency on Aging operations and grantee/contractor activities.

Section 17b-423-5: Title III-C Operations-sets forth the policies and procedures governing the administration and operation of Title III nutrition services.

Section 17b-423-6: Title III-D Operations-sets forth the policies and procedures for the use of Title III-D in-home funds.

Section 17b-423-7 Title III-F: Operations-sets forth the policies and procedures for the use of Title III-F disease prevention and health promotion funds.

Section 17b-423-8 through 17b-423-18: reserved

Section 17b-423-19: Index

(d) The Title III Program

(1) Purpose

Title III of the Older Americans Act of 1965, as amended, establishes authority for the development of programs to assist older persons, especially those with greatest economic and social needs, in the area of social services (III-B and III-D), congregate nutrition services (III-C1), home delivered nutrition services (III-C2), and disease prevention and health promotion services (III-F).

(2) Process

Title III provides formula grants to state agencies, who in turn may award funds to Area Agencies on Aging for such activities as community planning, coordination, advocacy, and for the provision of services to older persons, through sub-grantees, in the areas of supportive services and nutrition.

Sec. 17b-423-2: Community services policy manual -- area agency designation

(a) Designation of Planning and Service Areas

(1) General

The Department is responsible for dividing the State into five planning and service areas (PSAs), in accordance with guidelines issued by the Assistant Secretary.

The Area Agency on Aging shall provide assurances of compliance with the Older Americans Act as required.

(2) Application for Designation

The Department provides an opportunity to apply for designation as a planning and service area to any unit of general purpose local government, region, metropolitan area, or Indian reservation(s). The application on behalf of an Indian reservation(s) shall be made by the governing tribal organization(s).

(3) Periodic Review

The Department shall periodically examine planning and service areas and make modifications as needed.

(4) Decision

The Department documents the basis for its designation of each planning and service area.

(b) Designation & Functions of Area Agencies on Aging (AAAs)

(1) General Rule

The Department has designated an Area Agency on Aging in each planning and service area in which it allocates funds under Title III, and shall designate successor Area Agencies on Aging as may be necessary.

(2) Intrastate Funding Formula & Procedures

Title III funds shall be distributed to the approved Area Agencies on Aging according to the intrastate funding formula conforming to the requirements of the Older Americans Act which has been approved in the most recently accepted State Plan on Aging.

(3) Area Agency on Aging Functions

The functions of Area Agencies on Aging shall include at a minimum:

- (A) Development and administration of an area plan for a coordinated and comprehensive system of services; and
- (B) Serving as the advocate and focal point for older persons in the PSA.

(4) Timetable for Designation

- (A) The Department has made initial designations of Area Agencies on Aging which shall remain in effect unless a redesignation is required.

- (B) If an organization not currently designated as an Area Agency on Aging wishes to be considered for designation as an Area Agency on Aging, it shall submit a request to that effect to the Department at least 12 months prior to the date on which it proposes to assume the functions of an Area Agency on Aging. This provision is required to provide adequate time for preparation of an area plan and development of new interagency relationships, should the designation be granted.

(5) Types of Agencies that May Be an Area Agency on Aging

- (A) The Department may designate as an Area Agency on Aging any one of the following types of agencies that has the authority and the capacity to carry out the functions of an Area Agency on Aging:
- (i) An established office on aging which operates within the planning and service area;
 - (ii) Any office or agency of a unit of general purpose local government that is proposed by the chief elected official of the unit;
 - (iii) Any office of agency proposed by the chief elected officials of a combination of units of general purpose local government; or
 - (iv) Any other public or private non-profit agency, except any regional or local agency of the State.
- (B) In designating an Area Agency on Aging, the Department shall give preference to:
- (i) An established office on aging; or
 - (ii) An Indian tribal organization (or consortia) in any planning and service area whose jurisdiction is essentially the same as that of an Indian reservation.
- (C) In designating a new Area Agency on Aging after the date of enactment of the Older Americans Act Amendments of 1984, the Department shall give the right of first refusal to a unit of general purpose local government if
- (i) such unit can meet the requirements of 17b-423-2(b)(5)(A), and
 - (ii) the boundaries of such unit and the boundaries of the area are reasonably contiguous.

(6) Removal of Area Agency on Aging Designation

For adequate reason(s), as specified in Section 17b-423-4(b)(6) of this Manual, the Department may remove the designation as Area Agency on Aging from an organization serving in that capacity. In such a case, the Department shall follow the procedures described in 17b-423-4(b)(6).

(c) Appeal Hearing Procedures to State Agency

(1) Applicants/Organizations Eligible for Appeal Hearings

- (A) The Department shall provide an opportunity for a hearing to:

- (i) Disapprove the area plan or plan amendment submitted by the Area Agency on Aging; or
 - (ii) Withdraw the Area Agency on Aging's designation.
- (B) Any eligible applicant for designation as a planning and service area whose application is denied;
- (C) Any nutrition or supportive service provider when the Area Agency on Aging has denied funds or terminated the project.

The Department shall hear an appeal only on the issue of the process utilized by the Area Agency on Aging in denying or terminating funding to a service provider. Content issues cannot be appealed to the Department.

(2) Written Request for Hearing

- (A) If an agency or organization wants a hearing, it shall file a written request for a hearing with the Department within 30 days following its receipt of the notice of the adverse action.
- (B) Any service provider who wishes to appeal to the Department pursuant to Section 17b-423-2(c)(1)(C) shall first follow the area appeal procedures required by its Area Agency on Aging before the Department will grant a request for State Agency hearing.

(3) Hearing Components

- (A) State hearings are held to provide Area Agencies on Aging and service providers with:
- (i) An opportunity to review any pertinent evidence on which the contested action was based;
 - (ii) An opportunity to appear in person before an impartial decision maker to refute the basis for the decision;
 - (iii) An opportunity to be represented by counsel or other representative;
 - (iv) An opportunity to present witnesses and documentary evidence;
 - (v) An opportunity to cross-examine witnesses; and
 - (vi) A written decision by an impartial decision maker which sets forth the reasons for the decision and the evidence on which the decision is based.
- (B) The Department may terminate formal hearing procedures at any point if the Department and the agency or organization that requested the hearing negotiate a written agreement that resolves the issue(s) which led to the hearing.

(4) Hearings for Service Denial Due to Discrimination

- (A) The Department encourages any older persons who believe that they have been unfairly denied services under any older Americans Act assistance program due to discrimination to contact the Department about such complaints. The Department shall conduct a preliminary review of such complaints, and, as appropriate, refer them to the Commission of Human Rights and Opportunities.
- (B) Every grantee shall post notices within its program and service locations which indicate procedures available to older persons who want to notify the Department of their complaint. Grantees shall post notices in a conspicuous location within view of all older persons who participate.

(d) Monitoring and Assessment

The Department conducts ongoing monitoring and assessment of Area Agencies on Aging, and of other activities and programs under the State Plan on Aging. The Department may monitor and assess grantees of the Area Agencies on Aging as appropriate.

Sec. 17b-423-3. Community services policy manual-general application and procedures and policies

(a) Purpose of Section

This Section sets forth the general policies and procedures governing the application process for obtaining Title III-B and C funds and the general policies which affect program grantees.

(b) Award of Older American Act Funds Administered by the Department

(1) Eligible Organizations

The Department may award Older Americans Act funds to an eligible public or private nonprofit agency, organization, institution, political subdivision of the State or an official Indian tribal organization.

(2) Conditions of Awarding Title III Funds

The Department shall award Title III funds in a designated Planning and Service Area only to an Area Agency on Aging to develop and administer an area plan on aging. No Title III funds shall be awarded directly by the Department to any other agency within a PSA when a designated Area Agency on Aging exists, unless the Area Agency on Aging has been temporarily suspended from administering Older Americans Act programs. The designated Area Agency on Aging shall carry out, directly or through contractual or other arrangements, a program pursuant to an approved area plan within the PSA.

(c) Responsibilities of recipients of Award Under Title III of the Older Americans Act

The Department requires recipients of award under Title III of the Older Americans Act to carry out the policies and procedures set forth in this manual, in the Older Americans Act and in the appropriate Federal regulations.

Recipients of award are responsible for familiarizing themselves with the contents of this Manual and referenced documents.

(d) Procedures for Application for Support**(1) General**

All proposals for support through Older Americans Act or other Department administered funds shall be submitted to the Department on a format prescribed by the Department. The specific procedures applicable to each type of funding are located in the following sections of this Manual.

(A) Title III-B funds-Section 17b-423-4.

(B) Title III-C funds-Section 17b-423-5.

(C) Title III-D funds-Section 17b-423-6.

(D) Title III-F funds-Section 17b-423-7

(2) Part of Area Plan Process**(e) Department Review of Applications****(1) General**

Applications for funding shall be reviewed according to the procedures established in this manual. As necessary, additional information may be provided through General Letters, Series Memorandums or in other written formats.

(2) Notification of Award Process

The Department has established procedures to assure that all recipients of award are notified of the approval of projects in writing on a standard notification of grant award form (NOA) or other suitable award document.

(3) Award Conditions

All applications shall be approved as submitted unless the Department modifies and/or places additional conditions on the award. All approved projects shall receive a written notice of award which explains the specifics of the approved award.

(4) Operation of the Project Awarded

The recipient of the award shall operate the project in accordance with the approved application and the NOA documentation.

(f) General Policies

This subsection provides information on policies and procedures which uniformly impact on all Title III grantees.

(1) Applicable Laws and Regulations for Title III Older Americans Act Funds

Grantees receiving funds under the Title III Older Americans Act are subject to the following laws and regulations:

- (A) All provisions of the Older Americans Act, as amended to date;
- (B) Federal Regulations issued pursuant to the Older Americans Act;
- (C) The policies and procedures specified in the Manual;
- (D) Title 45 of the Code of Federal Regulation: Parts 74 (except subpart 80, 81, 84, and 90);
- (E) Other applicable state and/or Federal regulations.

(2) Administration

The Department has been vested with the authority to carry out all functions and responsibilities prescribed for State Agencies on Aging under the Older Americans Act, Federal Regulations and Connecticut State Statutes and regulation of Connecticut State Agencies. Whenever the Department executes grants or contracts with local or Area Agencies on Aging to provide an aging service or program, it has the responsibility for assuring that such agencies or organizations are adhering to this Manual and other policies and procedures which might be developed. The Department requires all grantees to establish acceptable methods for administering Older Americans Act programs. The Department periodically monitors, assesses and evaluates the administrative systems being utilized by grantees in order to assure that they meet minimal standards of operations.

(3) Title VI of the Civil Rights Act

(A) General

All funds under the Older Americans Act shall be administered in compliance with Title VI of the Civil Rights Act of 1964, the Regulations (45 CFR Part 80) issued pursuant thereto, a Statement of Compliance Form 441 signed by each grantee and the contractors and subcontractors providing services directly to participants, and the methods of administration established by the Department in accordance with the requirements of the State Plan.

(B) Non Discrimination Policy

The Department requires that each recipient of award make no distinction because of race, color, sex, physical or mental disability, sexual orientation, marital status, age, ancestry, religion or national origin in providing to individuals any services or other benefits under projects financed in whole or in part with Older Americans Act funds.

(4) Affirmative Action

(A) Requirement as Condition of Award

The Department requires that all Older Americans Act grantees have acceptable affirmative action plans as a condition for approval of grant awards.

(B) Compliance with Title V Regulations

Any Area Agency on Aging which is a public agency shall have an affirmative action program which complies with the requirements of section 900.607 of Title V of the Code of Federal Regulations, Part 900, Subpart F, "Standards for a Merit System of Personnel Administration."

(C) Contractor/Subcontractor Compliance Statement

Older Americans Act project grantees shall, as a minimum, obtain a statement of assurance from contractors and subcontractors that they will comply with equal employment opportunity principles. Such assurance shall commit contractors and subcontractors to providing equal opportunities in carrying out activities funded under the Older Americans Act.

- (i) The statement of assurance shall be on file with the award document.
- (ii) Project grantees shall monitor contractors' and subcontractors' compliance with the equal employment opportunity requirements.

(5) Confidentiality and Disclosure

(A) Confidentiality

- (i) Area Agencies on Aging and service providers shall develop and maintain procedures to ensure that no information about an older person, or obtained from an older person by a service provider or an Area Agency on Aging, is disclosed by the provider or the Area Agency on Aging, in a form that identifies the person without the informed consent of the person or his or her legal representative, unless disclosure is required by court order, 45 CFR 74.24, or for program monitoring by authorized Federal, State, or local monitoring agencies.
- (ii) The Department requires that lists of older persons compiled under information and referral services be used solely for the purpose of providing services, and only with the informed consent of each individual on the list.
- (iii) Area Agencies on Aging shall not require any provider of legal assistance under Title III to reveal any information protected by the attorney-client privilege.

(B) Department Non-Denial of Services Policy

The Department and its grantees shall ensure that no older person is denied services because such person refuses to provide informed consent to release personal information.

(C) Maintenance of Grantee Reports and Records

Any grantee or contractor which provides information and referral services shall maintain its records and reports in a manner consistent with the standards of confidentiality of the Department, as noted in this Manual and as modified from time to time.

(D) Disclosure

- (i) Subject to the confidentiality requirement in subparagraph (A) of subdivision (5) of this subsection, the Department shall make available at reasonable times and places to all interested parties the written policies under which it administers Older Americans Act programs and other information and documents developed or received by the Department in carrying out its responsibilities under the Act.
- (ii) The Department requires Area Agencies on Aging and their contractors and subcontractors to apply the standards-in 1. above to their operations.
- (iii) The Department and its grantee/contractors are not required to disclose those types of information or documents that are exempt from disclosure under applicable Freedom of Information laws.

(6) Program Access Requirements

(A) Policy for Facilities Acquired with Older Americans Act and Department Funds

When Older Americans Act or other Department administered funds are used to acquire the use of a facility which involves access by older persons, the facility shall meet the provisions of Section 504 of The Rehabilitation Act of 1973 if the acquisition of the facility occurs after October 1, 1980.

(B) Policy for Facilities Acquired Prior to October 1, 1980

Facilities acquired for use before October 1, 1980 should meet the requirement in (A) where feasible.

(7) General Program Reporting Requirements

All recipients of grants from the Department shall submit such reports to the Department as are required or set forth in the Grant.

(8) Management Information System (MIS) Requirements

Area Agencies on Aging and all grantees and contractors under Title III are required to participate in the Statewide automated Management Information System (MIS), in accordance with the Department's requirements, unless a written waiver is received and approved from the Department.

When Performance-Based Contracting is used, Area Agencies on Aging shall reimburse contractors based on current MIS statistics, unless it is determined by the Department that the service cannot be accurately measured by the MIS.

Sec. 17b-423-4. Community services policy manual-general area agency responsibilities

(a) Responsibilities of the Area Agency on Aging

(1) Staffing

An Area Agency on Aging shall be responsible for recruiting and employing adequate numbers of staff members to develop and administer its area plan, and to carry out the

functions and responsibilities prescribed by the Older Americans Act, Title III regulations and this Manual. The Area Agency on Aging shall develop and implement a staffing plan consistent with Federal and State requirements and the standards listed herein:

- (A) The Area Agency on Aging shall be headed by a director qualified by education and experience to administer the areawide program, who shall be hired in conformance with the job description promulgated in the approved area plan. The director shall devote full-time solely to activities which benefit the aging population.
- (B) No Area Agency on Aging shall be allowed to operate without a director for an extended period of time.
 - (i) In the absence of an Area Agency on Aging director, an acting director shall be designated within one week.
 - (ii) An Area Agency on Aging may not operate under the leadership of an acting director for more than 90 days, or it shall be subject to suspension or termination. In the case of maternity or extended medical leave, the Area Agency on Aging has the option of extending the 90 day limit with the Department's approval.
 - (iii) The Area Agency on Aging shall employ:
 - Adequate numbers of staff (including members of minority groups), qualified by experience and training, assigned full or part-time to Title III activities; and
 - Persons knowledgeable through education and/or experience in the program area for which they will be responsible (planning, administration, coordination, program activities, etc.).
 - (iv) All other factors being equal, the Area Agency on Aging shall give preference to persons aged sixty or over for any full-time or part-time positions for which such persons qualify-subject to any merit system requirements.
 - (v) The Area Agency on Aging may contract for the performance of certain functions and responsibilities, but such contractual arrangements shall not be utilized as a substitute for adequate staffing. Prior written approval of the Department is required for such contractual arrangements.
 - (vi) The Area Agency on Aging may not discriminate against any qualified person with a disability as defined by the ADA who is seeking employment.
 - (vii) An Affirmative Action Statement shall be submitted to the Department by each Area Agency in a manner prescribed by the Department.

(2) Direct Provision of Services by an Area Agency on Aging

(A) General Rule

Area Agency on Aging shall use grants or contracts with service providers to provide all services under this part unless the Department decides that direct provision of a service by the Area Agency on Aging is necessary to assure an adequate supply of the service, or where the service is directly related to the Area Agency on Aging's administrative

functions, or where such service of comparable quality can be provided more economically by the Area Agency on Aging.

(B) Services Not Funded Under Older Americans Act

The Area Agency on Aging may plan, coordinate, and provide services funded under other programs, if it does not use funds under this part for those services, and if it continues to meet all its Area Agency on Aging responsibilities.

(C) Notification of Intent to Deliver Services

At the time when an Area Agency on Aging submits its area plan, it shall include waiver proposal(s) detailing any intent to utilize Title III B moneys to directly deliver services. The proposal(s) shall include a description of the service to be provided directly by the Area Agency on Aging, an estimated budget, and an explanation as to how this service will impact Title III-B services in general.

For fiscal years, when the Area Agency on Aging is not required to submit an area plan and the Area Agency on Aging intends to utilize Title III B service moneys to directly deliver services for any reason, public notice and the opportunity for public comment shall be given prior to submission of the Area Agency on Aging's annual budget to the Department. Acceptable forms of public notice include a public hearing, a public service announcement, a newsletter, an article or public notice announcement in the Area Agency on Aging's newsletter, or any other method of mass public distribution approved by the Department. The notice is to include, at a minimum, a description of the service to be delivered, an estimated budget, and an explanation as to how this service will impact Title III B service in general.

(3) Written Procedures

An Area Agency on Aging shall have written procedures for complying with all of its functions as prescribed in the regulations and this Manual. Such written procedures shall either be incorporated in its area plan, or in an Area Agency on Aging Manual on file at the Area Agency on Aging. The manual shall be available to the Department on request.

(4) Corporate Eldercare

(A) Scope and Definition

- (i) Area Agencies on Aging may enter into contracts with corporations to provide corporate eldercare services, as hereinafter defined.

Such contracts shall require payment by the corporation to the Area Agency on Aging for the provision of such eldercare services, and may be entered into only in strict conformance with the requirements and limitations herein set forth.

These regulations shall be attached to all eldercare contracts as a condition thereof.

- (ii) "Corporate Eldercare Services" means services funded by a private sector corporation, to benefit its employees who have caregiver responsibilities for elderly relatives. Such services most often consist of information and referral, but may extend to other services or programs as determined by the corporation.

- (iii) Types of corporate eldercare services which Area Agencies on Aging may provide include activities such as, but not limited to, consulting, development and publication of written materials, development and production of videotapes, and presentation of or participation in workshops, seminars and conferences.

(B) Criteria

- (i) Before engaging in any corporate eldercare service, the Area Agency on Aging shall first obtain the approval of the Area Agency on Aging board of directors.
- (ii) Contracts with corporations for eldercare services shall be submitted to the Department for review at least two (2) weeks prior to their effective date. The Area Agency on Aging shall, upon request of the Department, submit such additional information as may be necessary to adequately assess the proposed service.
- (iii) Simultaneous with its submission of any proposed corporate eldercare services contract to the Department for review, the Area Agency on Aging shall also provide the Department with written assurances as to the following considerations:
 - (I) The proposed activity is compatible with the statutory mission of the Area Agency on Aging as prescribed in the Older Americans Act and related state law;
 - (II) The proposed activity precludes any inference or requirement of exclusivity, i.e., the area agency must be free to negotiate other similar contracts;
 - (III) The proposed activity, when undertaken, shall not diminish the ability of the Area Agency on Aging to carry out its principal mission, not to target its efforts to older persons with the greatest economic or social needs, with particular attention to low income minority persons;
 - (IV) All personal, identifying information obtained regarding program participants shall remain confidential to the extent allowed under federal and state law;
 - (V) The proposed activity shall not directly or indirectly, involve the use of any governmental funds for any purposes, including administration and overhead.

(C) Fiscal controls

- (i) Each Area Agency on Aging providing corporate eldercare services shall establish separate accounts for all funds devoted to eldercare activities, to which the Department shall have access for the purpose of reviewing the activity.
- (ii) The percentage of staff time allocated to corporate eldercare services shall be identified.
- (iii) Funds received by any Area Agency on Aging in connection with corporate eldercare services shall be accounted for by the Area Agency on Aging in accordance with generally accepted accounting and auditing practices and all other applicable requirements of federal and state law, and relevant provisions of the Area Agency on Aging's contract with the Department.

(D) Public interest & department oversight

- (i) The Area Agency on Aging shall describe its approach to, plan for and involvement in corporate eldercare services in the area plan or amendments; and
- (ii) The Department shall monitor each Area Agency on Aging's involvement in corporate eldercare services as contemplated by these regulations through annual on-site assessment, review of eldercare contracts, continued monitoring of area agency targets, and area plan review.

(b) The Area Plan Process

(1) General Provisions

(A) Purpose of the Area Plan

An area plan is the document submitted by an Area Agency on Aging to the Department which outlines the work plan of the Area Agency on Aging for the plan period. The Area Plan also functions as the application for Title III funding from the Department.

(B) Duration and Format of the Area Plan

- (i) Area plan periods shall be determined by the Department in accordance with Title III regulations.
- (ii) The Department shall periodically set forth the format, criteria for approval, and instructions for the development and submission of the area plan. The instructions and format shall be in conformity with the Title III regulations, this Manual and other AoA and Department directives which may be developed periodically.
- (iii) The Area Agency on Aging shall submit an area plan, amendments, and annual budgets to the Department in accordance with the uniform area plan format, information provided by the Department, and other instructions contained in the Manual.

(2) Content of Area Plan

(A) General

The area plan shall contain provisions required by the Act and this Manual and commitments that the Area Agency on Aging shall administer activities funded under Title III in accordance with all Federal and State requirements. The area plan also shall contain a detailed statement of the manner in which the Area Agency on Aging is developing a comprehensive and coordinated system throughout the planning and service area for all services authorized under Title III. An Area Agency on Aging may use its Title III funds only for activities in its approved plan. Any deviation from activities or resource allocation in the approved plan requires prior written approval from the Department.

(B) Area Agency on Aging Function Requirements

An area plan shall provide that the Area Agency on Aging functional requirements, as specified in appropriate sections of this Manual, are met for:

- (i) Monitoring, evaluation and commenting on policies and programs affecting older persons;
- (ii) Arrangements with children's or adult day care organizations;
- (iii) Assessment of need for services in the planning and service area, and evaluation of effectiveness of services being provided;
- (iv) Entering into subgrants or contracts for the provision of services under the area plan;
- (v) Technical assistance and evaluation of all service providers;
- (vi) Considering the views of older persons;
- (vii) Outreach efforts;
- (viii) Designation of community focal points;
- (ix) Coordination with other federal programs serving older persons;
- (x) Conducting efforts to facilitate the coordination of community-based, long-term care services designed to retain individuals in their home;
- (xi) Identifying entities involved in the prevention, identification and treatment of the abuse, neglect and exploitation of older individuals and determining the extent of unmet needs for appropriate services in this area;
- (xii) Working to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities;
- (xiii) establishing a grievance procedure for individuals denied services;
- (xiv) cooperating with non-profit providers of housing for the elderly;
- (xv) coordinating transportation services.

(C) Provision of Comprehensive and Coordinated Service Delivery System

An area plan shall provide for the development of a comprehensive and coordinated service delivery system for all supportive and nutrition services needed by older persons in the planning and service area. The Area Agency on Aging may accomplish this purpose by entering into new cooperative arrangements with other service planners and providers to:

- (i) Facilitate access to and utilization of all existing services; and
- (ii) Develop supportive and nutrition services effectively and efficiently to meet the needs of older persons.

(D) Service Delivery Requirements

An area plan shall provide that the service delivery requirements, as specified in appropriate sections of this Manual, are met for:

- (i) Giving preference to older persons with greatest economic or social need, with particular attention to low-income minority individuals;
- (ii) Restricting direct provision of services;
- (iii) Service providers concerning licensure, training, outreach, coordination, giving preference to those with greatest economic or social need, contribution, maintenance of non-Federal support for services, and advisory role for older persons;
- (iv) Multipurpose senior center activities;
- (v) Nutrition services;
- (vi) Legal assistance;
- (vii) Information and referral services;
- (viii) Transportation services.

In providing such services, special attention should be given to utilizing quality staff, meeting basic standards and use of voluntary relationships.

(E) Priority Service Requirements

- (i) An area plan shall provide an adequate proportion of its supportive services allotment, excluding amounts used for administration, for the following categories of services, with at least some funds spent in each category:

Services associated with access to other services: These services are transportation, outreach, and information and referral;

In-home services: These services include homemaker and home-health aid, visiting and telephone reassurance, chore maintenance, and supportive services to families of elderly victims of Alzheimers's disease and related disorders with neurological and organic brain dysfunction;

Legal Assistance.

- (ii) An area plan, as submitted or as amended, shall specify in detail the amount of funds expended for each of the above listed categories during the fiscal year most recently concluded.
- (iii) The Department may waive the requirement for expending an adequate proportion of an Area Agency's Part B allotment for access, in-home, or legal service, if the Area Agency demonstrates to the Department that the services being provided in the PSA for any specific category of service are sufficient to meet the need of such service.

(F) Informational Requirements

An area plan shall specify:

- (i) Program goals and objectives, to implement the service delivery requirements of the Older Americans Act and goals, objectives, and measures established by the Department;
- (ii) A resource allocation plan indicating the proposed use of all funds to be used in programs for older persons directly administered by the Area Agency on Aging;
- (iii) An identification of designated community focal points;
- (iv) Methods the Area Agency on Aging uses to set service priorities under the plan; and
- (v) Proposed methods for giving preference in the provision of services under the plan to those with greatest economic or social need, with particular attention to low-income minority individuals. These methods

shall include, but are not limited to, consideration of older persons with greatest economic or social need in the designation of community focal points;

shall include targeting of low income clients at a prescribed rate as determined by the Department of all clients served for each service category, and targeting of minority clients at a reasonable level, as determined by the Department, not to be less than the level of the prior planning year; at a minimum, minority targets should reflect the proportion of minority elderly persons to the total elderly population in the towns served by the specific program;

may not include use of a means test. A means test is the use of an older person's income or resources to deny or limit that person's receipt of services under the Act.

(3) Amendments to an Area Plan

An Area Agency on Aging shall amend its area plan if:

- (A) A new or amended State or Federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;
- (B) A US Supreme Court decision changes the interpretation of a statute or regulation;
- (C) The Area Agency on Aging proposes to change the designation of the single organizational unit or component unit;
- (D) The Area Agency on Aging proposes to add, substantially modify, or delete any area plan objective(s); or,
- (E) The Department requires further annual amendments.

(4) Review of an Area Plan and Amendments

- (A) Public Hearing

An Area Agency on Aging shall:

- (i) Include participation of the Advisory Council in the development and implementation of the area plan. The Advisory Council shall review the area plan before the public hearing(s), and again after the public hearing(s), but before submission to the Department;
- (ii) Hold at least one public hearing on its area plan;
- (iii) Hold a public hearing on any proposed amendment to the area plan if instructed by the Department to do so;
- (iv) Submit its area plan and any amendment for review and comment to the area Advisory Council and Board of Directors, prior to submission to the Department.

(B) Public Hearing Standards

The Area Agency on Aging shall apply the following standards in the conduct of its public hearing(s):

- (i) Public notice shall be given at least two weeks before the public hearing(s);
- (ii) The public hearing(s) shall be scheduled to allow sufficient time for review of the area plan by the Advisory Council and Board of Directors prior to the date of the public hearing(s);
- (iii) Notice of the public hearing(s) shall be publicized through widely circulated newspapers or other forms of public media;
- (iv) Notice of the public hearing(s) shall be published in a language other than English, when deemed appropriate by the Area Agency on Aging and/or the Department;
- (v) Notice of the public hearing shall include the availability of a sign language interpreter and Hispanic interpreter upon request;
- (vi) Notice of the public hearing(s) shall be provided to appropriate service providers, nutrition providers, organizations of older persons, and other public and private agencies in the planning and service area;
- (vii) The public hearing(s) shall be scheduled at a convenient time(s) and location(s) to ensure:
 - maximum attendance by interested parties, including representatives of the Advisory Council, other local advisory councils to nutrition and other service providers, and older persons; and
 - accessibility to the handicapped;
- (viii) A complete copy of the area plan shall be available for review by the general public at the office of the Area Agency on Aging prior to, and after, the public hearing(s);

- (ix) Summaries of major components of the area plan including a program description, objective, action plans, and resource allocation plans, shall be available prior to and during the public hearing(s);
- (x) The formula or other methods used to distribute aging funds among service providers shall be available at the public hearing(s);
- (xi) Procedures for review and analysis of comments received at the public hearing(s) shall be established and described in writing;
- (xii) Summaries of the comments made at the public hearing(s) shall be available at the office of the Area Agency on Aging after the public hearing(s); and
- (xiii) All records of the public hearing(s) shall be on file at the Area Agency on Aging as a part of the area plan.

(C) Other Methods For Public Participation

The Area Agency on Aging may utilize additional mechanisms to obtain the view of older persons in developing and administering its area plan.

(5) Area Plan Submission, Review and Approval

(A) General

An area plan shall be submitted to the Department in accordance with the schedules and procedures established by the Department.

(B) Schedule of Area Plan and/or Annual Update Reviews

The following schedule outlines the process for review and approval of area plans or annual updates:

- (i) The Department shall notify all Area Agencies on Aging at least 90 days before the area plan is due at the Department office. This notice shall include the transmittal of the required area plan format, the Department criteria for area plan approval, and instructions for developing the area plan.
- (ii) Area plans, whether for initial or continuation funding, are due at the Department office 75 days prior to the beginning date of the planned funding period.
- (iii) Department staff requests for revisions in area plans, shall be made 45 days before the beginning date of the planned funding period.
- (iv) Final area plan revisions shall be submitted by the Area Agency on Aging to the Department at least 30 days prior to the beginning date of the planned funding period.
- (v) An approval letter shall be issued by the Department prior to the start of the funding period. The letter shall include any contingencies to be placed on the award.

(C) Department Actions on Area Plans

The Department shall provide notification in writing to the Area Agency on Aging of the final actions taken in either approving, approving with conditions, or disapproving its area plan.

(i) Approval

The Department shall provide the Area Agency on Aging with a formal notice of approval of the area plan and the amount of approved funds on an appropriate award document.

(ii) Approval with Conditions

The Department may approve an area plan with conditions when necessary.

The conditions shall be stated in writing on the award letter to the Area Agency on Aging.

All conditions placed on an approved area plan shall be consistent with the authority delegated to the Department.

When an area plan is approved with conditions, it shall be the responsibility of the grantee to meet these conditions within the specified time frame. As the conditions are met by the grantee, the Department shall officially notify the grantee that all conditions have been met.

(iii) Disapproval

Any area plan which is not in conformity with the Older Americans Act, the Federal regulations or the Department's policies shall be disapproved.

When the Department proposes to disapprove an area plan, it shall notify the Area Agency on Aging in writing of its intention and set forth the reasons for the proposed disapproval. The Department shall:

Issue a letter of intent to disapprove the area plan to the Area Agency on Aging indicating the reasons for the proposed disapproval within sixty day of receipt of the area plan; and

Inform the Area Agency on Aging of the opportunity for a hearing on the area plan under the provisions of Section 17b-423-2-(c) of this Manual and shall carry out those procedures.

(iv) Final Disapproval

If, after providing the Area Agency on Aging with a proper opportunity for a hearing, the Department still finds the area plan unacceptable, the Department shall disapprove the plan, using the following procedures:

The Department shall withhold further payments to the Area Agency on Aging.

If the Department terminates funds under the above provision, it shall notify the Assistant Secretary in writing of its action; provide a plan for the continuity of services

in the affected planning and service area; and designate a new Area Agency on Aging in the planning and service area in a timely manner.

(6) Withdrawal of Area Agency on Aging Designation

(A) Conditions for Withdrawing Area Agency on Aging Designation

The Department may withdraw the Area Agency on Aging designation whenever the Department, after reasonable notice and opportunity for a hearing, finds that:

- (i) The Area Agency on Aging does not meet the requirements under the Older Americans Act and Federal Regulations;
- (ii) The plan or plan amendment is not approved; or
- (iii) There is substantial failure in the provisions or administration of an approved area plan to comply with any provision of the federal regulations or this manual.

(B) Department Procedures to Withdraw Area Agency on Aging Designation

If the Department withdraws an Area Agency on Aging's designation under subparagraph A of this subdivision, it shall:

- (i) Notify the Area Agency on Aging immediately;
- (ii) Notify the Assistant Secretary in writing of its action at the time the Area Agency on Aging is notified;
- (iii) Provide for the continuity of services in the affected planning and service area; and
- (iv) Designate a new Area Agency on Aging in the planning and service area in a timely manner.

(7) Redesignation of an Area Agency on Aging

An agency that has had its designation as an Area Agency on Aging withdrawn in accordance with the policies in this Manual shall not be considered for redesignation until such time as it can demonstrate to the satisfaction of the Department that changes have occurred to remove the causes that led to the withdrawal of designation. The criteria for designation as an Area Agency on Aging set forth in Section 17b-423-2(b) of this Manual shall apply in all instances of redesignation.

(8) Prior Approval of Contracts

- (A) The Department shall require prior written approval of a contract proposed for funding under an area plan when the contract will be executed with a profit-making organization and when the Area Agency on Aging is contracting for an administrative function. This includes, but is not limited to contracts for training, audit, personal services, and any Performance-Based Contracts which fall under this criterion. Such approval shall be obtained on an annual basis, except in the case of multiyear contracts.

- (B) Record of the Department's approval of such contracts shall be maintained on file by the Area Agency on Aging or grantee.

(c) Area Agency on Aging Functions and Responsibilities Under an Area Plan

(1) Advocacy Responsibilities of the Area Agency on Aging

An Area Agency on Aging shall:

- (A) Monitor, evaluate, and where appropriate, comment on all policies, programs, hearings, levies and community actions which affect older persons;
- (B) Conduct public hearings on the needs of older persons;
- (C) Represent the interests of older persons to local level and executive branch offices public and private agencies or organizations;
- (D) Carry out activities in support of the State administered long-term Ombudsman program;
- (E) Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons; and
- (F) Comment on other services provided for the elderly through the intergovernment review process.

No requirement in this section shall be deemed to supersede statutory or other regulatory restrictions regarding lobbying or political advocacy with Federal funds.

(2) Area Agency on Aging General Planning and Management Responsibilities

An Area Agency on Aging shall:

- (A) Develop and administer an area plan for a comprehensive and coordinated service delivery system in its planning and service area in compliance with all applicable laws and regulations, including all requirements of this Manual;
- (B) Assess the kinds and levels of services needed by older persons in the planning and service area, and assess the effectiveness of the use of various resources in meeting these needs;
- (C) Except as provided in Section 17b-423-4(b)(2) of this Manual, enter into grants or contracts to provide all services under the plan, utilizing a request for proposal (RFP) process which assures equal opportunity for all potential applicants for funding to apply, including publication of notice in the area's public media and the use of a wide mailing list which includes, but it not limited to, current grantees or contractors;
- (D) Provide technical assistance, monitoring, and periodic evaluation of the performance of all service providers under the plan, utilizing a schedule that provides for conducting both fiscal and programmatic field monitoring of each grantee at least once biennially.
- (E) Coordinate the administration of its plan with other Federal, State and local resources, in order to develop a comprehensive and coordinated service system;

- (F) Establish an Advisory Council consisting of more than 50% older individuals and of minority individuals at least in proportion to the representation of minority elderly in the PSA.
 - (G) Give preference in the delivery of services under the plan to older persons with the greatest economic or social need; with particular attention to low income minority individuals.
 - (H) Assure that older persons in the planning and service area have reasonably convenient access to information and referral services;
 - (I) Provide adequate and effective opportunities for older persons to express their views to the Area Agency on Aging on policy development and program implementation under the plan;
 - (J) Have outreach efforts to identify older persons, including older Indians, and inform them of the availability of services under the area plan, and conduct an annual evaluation of the effectiveness of such outreach. These outreach efforts should have special emphasis on the rural elderly, and on those with greatest economic and social needs, especially low-income minority individuals, and older individuals with severe disabilities. With respect to nutrition services, the Area Agency on Aging shall have outreach efforts that ensure that the maximum number of eligible persons have an opportunity to receive services;
 - (K) If possible, have arrangements with organizations providing day care services for children or adults, and respite for families, so that older persons can volunteer to help provide such services;
 - (L) Develop and publish the methods that the Area Agency on Aging uses to establish priorities for services, particularly the consideration given to the Title III priority services;
 - (M) Establish procedures governing outreach, training, and coordination activities of service providers;
 - (N) Attempt to involve the private bar in legal assistance activities, including groups within the private bar that furnish legal services on a pro bono and reduced fee basis;
 - (O) Designate community focal points, where feasible.
- (3) Designation of Community Focal Points for Service Delivery

In order to facilitate ready access to services provided under the area plan, an Area Agency on Aging shall designate, if feasible, a focal point for comprehensive service delivery in each community.

(4) Area Agency on Aging Board of Directors

(A) Functions of the Board

Each Area Agency on Aging shall establish a Board of Directors. The Board shall be responsible for:

- (i) Achieving the stated objectives and purpose of the organization;
- (ii) Making policies and plans;
- (iii) Supervising the executive director;
- (iv) Appointing committees.

(B) Composition of the Board

Board members and officers of private agencies or other community agencies or governmental body may serve on the board of directors, but may not vote, participate in discussions, or in any way influence matters related to the financial or contractual affairs of their agency or body. Area Agency on Aging board members shall sign an annual declaratory statement which discloses all other boards and commissions on which they currently serve, and declare their intent to avoid participation in, discussion of, or in any other way influencing the vote on any issue affecting one of those boards or commissions.

Those ineligible for Board membership are

- (i) paid staff of any Title III funded agency

(C) Frequency of meetings

The Area Agency Board of Directors shall hold at least ten (10) monthly meetings annually.

(D) Support

The Area Agency on Aging shall provide staff and assistance to the Board of Directors.

(E) Bylaws

The Area Agency on Aging shall develop and make public bylaws which specify the role and function of the Board of Directors, number of members, procedures for selection of member, terms of membership, and frequency of meetings.

(5) Area Agency on Aging Advisory Council

(A) Functions of the Council

Each Area Agency on Aging shall establish an advisory council in accordance with the requirements of this section. The council shall advise the agency on:

- (i) Developing and administering the area plan;
- (ii) Conducting public hearings;
- (iii) The interests of older persons; and

- (iv) Its review of and comments on all community policies, programs and actions which affect older persons.

(B) Composition of the Council

The advisory council shall be made up of:

- (i) More than 50 percent older persons, including:

Older persons with greatest economic or social need; and participants of Older Americans Act programs;

- (ii) Minority individuals in proportion to their representation among older persons in the PSA.

- (iii) Representatives of older persons;

- (iv) Local elected officials, or their representatives;

- (v) The general public.

(C) Frequency of Meetings

The Area Agency on Aging Advisory Council shall meet at least quarterly.

(D) Support

The Area Agency on Aging shall provide staff and assistance to the Advisory Council.

(E) Bylaws

The Area Agency on Aging shall develop and make public bylaws which specify the role and function of the Advisory Council, number of members, procedures for selection of members, terms of membership, and frequency of meetings.

(6) Preference for Older Persons with Greatest Economic or Social Need

All service providers under the Older Americans Act shall follow priorities set by the Area Agency on Aging for serving older persons with greatest economic or social need, with particular attention to low-income minority individuals. Service providers may use methods such as selecting certain locations for providing services and specializing in the types of services most needed by these groups to meet this requirement. Service providers may not use a means test.

(7) Contributions for Services Under the Area Plan

(A) Opportunity to Contribute

Each service provider shall:

- (i) Provide each older person with a free and voluntary opportunity to contribute to the cost of the service he/she receives;

- (ii) Protect the privacy of each older person with respect to his or her contribution;
- (iii) Establish appropriate procedures to safeguard and account for all contributions; and
- (iv) Use all contributions to expand the services of the provider under Title III. Nutrition service providers shall use all contributions to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services.

(B) Failure to Contribute

A service provider that receives funds under the Act may not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

(C) Contributions as Program Income

Contributions made by older persons who are recipients of services are considered program income.

(8) Maintenance of Non-Federal Support for Services

- (A) All service providers shall assure their Area Agency on Aging that Federal funds shall not be used to replace funds from non-federal sources.
- (B) Service providers shall agree to continue to initiate efforts to obtain support from private sources and other public organizations for services funded.

(9) Opportunity for Input by Consumers

Each service provider under the area plan shall have procedures for obtaining the views of participants about the services they receive.

Sec. 17b-423-5 Community Services Policy Manual - Title III-C Nutrition Services

(a) Purpose

An Area Agency on Aging shall award nutrition service funds received under Title III of the Older Americans Act to provide meals, nutrition screening and nutrition education, to older persons. In addition, these funds may be used to provide outreach, nutrition assessment, nutrition counseling, and other related services to older persons. In making these awards, the Area Agency on Aging shall assure that based on an assessment of need by the Area Agency on Aging and nutrition service providers, congregate meals, home delivered meals, nutrition screening and nutrition education are all provided in the PSA. The Area Agency on Aging shall develop a formula providing for equitable distribution of nutrition funds throughout the PSA.

(b) Selection of Nutrition providers

(1) General Rule

An Area Agency on Aging may make awards for congregate meals, home delivered meals, nutrition education, nutrition screening, nutrition assessment and counseling, and related nutritional services to a provider or providers that furnish any or all types of services. Such a provider shall meet the requirements of this section.

(2) Process for Selecting Nutrition providers

(A) Area Agency on Aging Award Process

An Area Agency on Aging shall award nutrition funds through a competitive grant or contract process.

Whenever there is no evidence of improved quality of services or cost effectiveness on the part of another bidder, an existing provider of services who receives funds under Title III of the Older Americans Act of 1965 as amended shall be given preference.

An Area Agency on Aging shall award Title III, Part C funds to organizations which are able to provide nutritional services efficiently and reasonably.

(B) Assurances of Maintenance of Effort and Non-Supplanting of Funds

The Area Agency on Aging shall have furnished assurances to maintain efforts to solicit voluntary support and not to use funds received under this part to supplant funds from non-Federal sources.

(c) Bid Procedures For Contracts With Caterers

(1) Procedure for Solicitation of Bids

The procedure for solicitation of bids shall be as follows:

(A) Bids shall be solicited on an annual basis, unless caterer is operating on a multi-year contract. In the case of a multi-year contract, additional bids should be solicited for maximum increases for the year(s) after the first year.

(B) The Area Agency on Aging shall assure that nutrition projects coordinate their bids or develop a combined bid to seek most favorable price and quality.

(2) Bid Specifications

(A) Bid Specifications shall include the requirement that the caterer either (i) obtains a Performance Bond in an amount and in form satisfactory to the Elderly Nutrition Project (ENP), the Area Agency on Aging and the Department or (ii) enters into an agreement for damages. The following is an example of a contractual default clause:

Default/Damages

"In the event of breach or default by bidder in performance of the contract, ENP may act immediately to provide replacement services and if so shall notify bidder. In the event replacement services are provided, bidder shall be liable to ENP for damages in an amount measured by the difference between the cost of services under the bidder's

contract and the higher cost, if any, of providing similar requirement replacement services."

One of the following methods, as appropriate, should be utilized to define the period for which damages would be sought by ENP:

- (i) If the contract contains a provision authorizing the caterer to give notice of its intention to terminate the contract, then the above damage clause shall contain the following additional sentence: "Damages shall be collected for the period from the time of default by caterer for the ensuing ____ days" (The blank being the length of notice).
- (ii) If the contract contains no such notice provision, or if the remaining term of the contract is less than any such notice term, then the damages shall be for the remainder of the contract term.

Bid specifications and Contracts may, at the option of ENP, contain the following paragraphs:

"The parties further agree that ENP may withhold any funds due to the bidder in the hands of ENP at the time of default or breach, which funds may be used by ENP to offset damages. The parties further agree that ENP may retain not to exceed \$ (as determined by ENP otherwise due to bidder for services hereunder, for this purpose.

"The parties further agree that, in the event that ENP is unable to provide replacement services, damages shall be as determined by a court of law, or as otherwise agreed to by the parties, and that the amount retained by ENP as herein above set forth, may be retained by ENP until that time."

- (B) Bid specifications shall include but are not limited to menu policies, delivery time, and food temperature maintenance requirements.
 - (C) The bid specification may request a working plan from the caterer on how they would set up their program to include anticipated staffing, employee requirement, and sanitation policies, use of standardized recipes, transport equipment and other relevant factors.
 - (D) If the contract contains a provision authorizing the caterer to give notice of their intention to terminate the contract, the notice term shall not be less than sixty (60) days.
- (3) Options Available to Soliciting Party

After bids have been opened and reviewed, three options are open to the soliciting party:

- (A) A bid can be accepted. After the bids have been received, the parties cannot negotiate price or specifications, or in any way alter the bids. The bids shall be accepted as they are submitted.

Any otherwise conforming bid may be amended by the bidder or soliciting party to correct computational errors which do not affect the cost or quality of services; such amendment shall be prior to acceptance.

- (B) Any of the bids can be rejected with justification. Bids can be rejected if they are too high, if they do not meet specifications, or if they are incomplete.
- (C) All bids can be rejected. If all bids received are unacceptable for any of the reasons cited above, the project can resolicit bids.

(4) Review of Approved Bids by the Department

AAA approved bid packages shall be submitted to the Department for review. Proposed contracts with profit-making organizations shall require final approval from the Department. All bid packages shall include:

- (A) A copy of the letter of solicitation for bids.
 - (B) A copy of advertisements of bids showing names of newspapers and dates published.
 - (C) A list of names and addresses of caterers the project contacted directly.
 - (D) A copy of the total bid packet sent to caterers including the sample menu and bid specifications.
 - (E) A list of organizations who declined to bid and their reason if known.
 - (F) A copy of each detailed bid quotation.
 - (G) A description of the bid opening - date, location, persons in attendance, and organizations they represent.
 - (H) A description of criteria used for evaluation of bids and bidders and the rank given to each criterion.
 - (I) A description of involvement of the Project Council and grantee agency's governing body in evaluation of bids and selection decision.
 - (J) The name and address of selected bidder.
- Note: If the lowest bid had not been chosen, specific, strong justification for choosing a higher bid shall be provided.
- (K) A completed copy of the "Caterer's Assurance for USDA Cash Reimbursement". The level of USDA Cash Reimbursement is left blank until reimbursement level is known.
 - (L) A copy of the contract to be signed with caterer.

(d) Operating Requirement for Nutritional Service Providers

(1) Staffing

(A) Adequate Number to Operate Program

Nutrition service providers shall employ adequate numbers of qualified staff to assure satisfactory conduct of the service in keeping with the provisions of this Manual.

(B) Employment Preference give to 60+

Preference should be given to employing persons age 60 and over.

(C) Consideration given to Employing Minorities

Consideration should be given to employing minority individuals at least in proportion to the numbers of minority older persons represented among the service area's populations.

(D) Nutritionist Staff Requirement

Each service provider that receives Title III-C funds shall be established and administered with advice of a nutritionist. In addition the nutritionist shall be responsible for menu development, nutrition screening and education, monitoring of food preparation and in-service training of food service personnel and volunteers. The nutritionist shall meet the following minimum qualifications:

Shall have two years of recent relevant full time work experience preferably in geriatric nutrition food service management or community nutrition, in addition to one of the following criteria:

- (i) Registered Dietitian, or
- (ii) State Certified Dietitian/Nutritionist, or
- (iii) Bachelor's Degree from an accredited four year institution with a major in foods and nutrition, institutional food management, community nutrition dietetics or related field.

One year of the work experience requirement may be waived with possession of Registered Dietitian status, and/or Master's degree from an accredited institution in nutrition, dietetics, institutional food management, public health, business administration or relate field.

(E) Nutrition Assistant

A Nutrition Assistant, under the supervision of the Nutritionist on staff or Nutrition Consultant on contract, may also provide nutrition education and conduct eligibility and nutritional screening interviews. The Nutrition Assistant shall meet the following minimum qualifications:

- (i) Diet Technician, Registered; or,
- (ii) Associate degree or equivalent from an accredited program with a major in foods and nutrition, community nutrition, dietetics or related field.

(2) Congregate Meals

- (A) Requirement that the Area Agency on Aging approve all New, Reopened, or Relocated Meal Sites Prior to Opening.

The Area Agency on Aging shall approve all new, reopened or relocated sites prior to opening. This applies to temporary as well as permanent locations. The following shall be considered when granting approval:

- (i) In the case of closing the site: the reason and procedures used to notify the participants and public;
- (ii) In site relocation: the reasons and procedures to assure continued participation at the new location;
- (iii) In a new or reopened site: location and assurances that it meets local and state fire, safety, sanitation and building requirements.

(B) Congregate Nutrition Provider Requirements

Each congregate nutrition service provider shall:

- (i) Provide at least one hot or other appropriate meal in a congregate setting at least once a day, five or more days per week;
- (ii) Locate congregate nutrition services as close as possible to, and where feasible and appropriate, within walking distance of the majority of eligible older persons, especially those in the greatest social and economic need;
- (iii) When necessary (in case of illness, injury, etc.) make home delivered meals available to congregate mealsite participants;
- (iv) Serve a minimum of 98% of all meals to eligible participants and their spouses;
- (v) Develop procedures for responding to emergency situations for all congregate sites and provide ongoing training on emergency procedures to all site managers and other site staff;
- (vi) Where feasible, seek out and be involved in local group purchasing efforts.
- (vii) Make nutrition education available to mealsite participants at a minimum of once each quarter. Each ENP shall submit nutrition education plans for approval to the Department or Area Agency on Aging nutritionist one month prior to the start of each program year. Nutrition education sessions shall be conducted by the nutritionist, other health professionals with adequate background and training in nutrition, or nutrition assistant.

Nutrition education subjects shall be based on the needs of the participants. Nutrition information and visual educational materials shall be available to the participants on a continuing basis.

(C) Congregate Nutrition Site Requirements

Each congregate nutrition site shall:

- (i) Have a designated site manager who is responsible for activities at the site. Where Title III-C funds are utilized, they can pay for a maximum of 5 hours per mealtime if

an average of 25 or more participants are served; and, for a maximum of 3 hours per mealtime if fewer than an average of 25 participants are served. If home delivered meals are prepared at a site serving fewer than 25 participants, Title III-C funds can pay for a maximum of 5 hours if a waiver is received from the Area Agency on Aging.

- (ii) Where possible, local support should be sought for mealsite operations.
- (iii) Serve an average of at least 25 participants per mealtime unless a waiver is received from the Area Agency on Aging. If fewer than 25 participants are served, consideration shall be given to providing meals in single serving units;
- (iv) Be located in a facility which meets the accessibility requirements of the Americans with Disabilities Act of 1990 or, if not accessible, be located in an ENP catchment area. (An ENP catchment area is an area within the Project Service area containing at least one accessible site. Transportation shall be available to and from the site designated as accessible from all points in the catchment area);
- (v) Be located in a facility where all eligible individuals will feel comfortable visiting. Site selection shall take into consideration the type and location of the facility so as not to offend the cultural and ethnic preference of the eligible individuals in the service area;
- (vi) Meet all Local and State fire, health, safety and building codes;
- (vii) Be open for at least three hours per mealtime unless a waiver is received from the Area Agency on Aging;
- (viii) Be neat, clean and have adequate lighting, ventilation, and temperature control.
- (ix) Establish written food handling procedures and provide site staff and volunteers with ongoing training and monitoring;
- (x) Serve meals at a pre-established time each day.
- (xi) Serve all hot food within 2 hours from the time food preparation ends unless a waiver is received from the Area Agency on Aging. Maintain hot foods at a temperature above 140°F. and cold foods at below 45°F (41°F after October 1, 1997) from the time preparation ends until the food is served to a participant. Reheat to 165°F hot foods received at 130°F to 140°F. Refuse or discard hot foods received at less than 130°F and potentially hazardous cold foods received at more than 50°F, and have available shelf stable or other suitable substitute foods as replacement.
- (xii) Be equipped with the proper utensils to ensure portion control;
- (xiii) Have an established procedure for closing the mealsite in inclement weather, and for informing the participants about the closing.

(3) Home Delivered Meals

Each home delivered meals provider shall:

- (A) Assess the needs of, and complete the elderly nutrition assessment form (W689) for intakes on all eligible home delivered meals applicants annually or more often as

necessary. (see 17b-423-5(g)(2) for definition of eligibility.) Individuals whose names have been on a waiting list for longer than six months shall be rescreened.

- (B) Establish target groups for receipt of home delivered meals;
 - (C) Provide a nutritious home delivered meal at least once a day, 5 days a week. Meals may be hot, cold, frozen, dried, or canned foods with a satisfactory storage life;
 - (D) With the consent of the older person, or his/her representative, bring to the attention of appropriate officials for follow up conditions or circumstances which place the older person or the household in imminent danger;
 - (E) Make arrangements for the availability of meals to older persons in weather related emergencies;
 - (F) Assist participants in taking advantage of benefits under other programs;
 - (G) Deliver meals to participants' homes within 2 hours after completion of preparation, unless a waiver is received from the Area Agency on Aging. The temperature shall be maintained above 140⁰F for hot foods, below 45⁰F (41⁰F after October 1, 1997) for cold foods and at 10⁰F for frozen meals from the time food preparation ends until the food is delivered to the participant's home.
 - (H) Offer nutrition education to home bound clients or their caretakers at least twice per year. One session should be a discussion with client or caretaker, unless refused by client or caretaker or deemed unproductive by the provider on a case by case basis.
 - (I) Appropriately instruct clients or their caretakers on the following safe practices for handling delivered food, as they may apply:
 - (i) to eat hot food within 1 hour of delivery.
 - (ii) to eat cold foods immediately or place them in the refrigerator.
 - (iii) to eat fast chilled meals within 3 days of delivery and to store them at 41⁰F or less.
 - (iv) to eat frozen meals within 1 month of delivery and to store them at 10⁰F or less.
 - (v) to have an accurate thermometer in their refrigerator if they store fast chilled meals, and one in their freezer if they store frozen meals.
- (e) Food Procurement, Food and Nutrition Requirements for Nutrition Service Providers
- (1) Food Procurement
 - (A) USDA Food Assistance
 - (i) The Department has an agreement with the USDA State Distributing Agency to assure the availability of food, cash, or a combination of food and cash to nutrition service providers.

- (ii) Those nutrition service providers receiving cash instead of food from USDA shall spend the USDA cash only for US agricultural commodities and other food.
- (iii) In the case of the caterer using commodity foods: The caterer shall allow to the elderly nutrition project a credit equal to the value of the USDA Commodities that are furnished to the caterer for use in the program.
- (iv) In the use of USDA Commodities, sufficient precautions should be taken to transport and store commodities to preserve their quality and prevent theft.

(B) Food Stamp Program

Nutrition service providers shall assist participants in taking advantage of benefits available to them under the food stamp program.

(2) Food Requirements

(A) For Purchasing, Preparing and Delivering Meals

In purchasing food, and in preparing and delivering meals, the nutrition service providers shall follow appropriate procedures to preserve nutritional value and food safety.

(B) Provision of Special Menus

Nutrition service providers shall provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals. In determining feasibility and appropriateness, a provider shall use at least the following criteria:

- (i) Whether there are sufficient numbers of persons who need the special menus to make their provision practical; and
- (ii) Whether the food and skills necessary to prepare the special menus are available in the planning and service area;

(C) Availability of Appropriate Food Containers and Utensils

Nutrition service providers shall use, upon request, appropriate food containers and utensils for blind and handicapped participants.

(3) Food Quality and Safety

(A) Standards of Quality, Sanitation and Safety

- (i) All personnel and facilities involved in producing or dispensing foods or beverages for the elderly, including caterers, shall comply with State of Connecticut Public Health Regulations 19-13-B42 and B48, as amended.
- (ii) Meals shall be delivered to a congregate site or home delivered meal recipient within two hours after completion of preparation unless a waiver is received from the Area Agency on Aging. The temperature shall be maintained above 140°F for hot foods, below 45°C (41°F after October 1, 1997) for cold foods and at 10°F or below for

frozen meals from the time preparation ends until the food is delivered (whether to the participant's home or to the congregate site). The Area Agency on Aging may grant a waiver for the 2 hours and extend the delivery time if proper equipment is used and if the ENP will agree to conduct regularly scheduled monitoring to assure that proper food temperatures and food quality are maintained throughout the delivery process (from the time food preparation ends until the food is delivered, whether to the congregate site or to the participant's home). The total time of rethermalization, delivery and holding of potentially hazardous hot food, shall not exceed 4 hours. In issuing the waiver, consideration shall be given to progress made toward reducing the total time to two hours or less.

(III) Meal sites storing quick-chilled food shall protect it from contamination (and oxygen where practical) and store it at 35°F or less. The total time between initial cooking and eating of quick-chilled food shall be no longer than 5 days unless extended by written authorization from the Department.

(B) Requirement to Use Only Commercially Processed Foods

No food prepared, frozen or canned in the home may be used in meals provided by projects financed through Title III. Only commercially processed canned and frozen food may be used.

(C) Items Prohibited from Purchase with Title III, Part C.

Nutrition service providers may not purchase vitamins and/or mineral supplements, nor alcoholic beverages, with funds under Title III, Part C.

(D) ENP Reporting Procedures Regarding Food Borne Illness

The ENP shall report immediately the occurrence, or suspicion of, any incidence of food borne illness to the proper public health authorities, to the Area Agency on Aging, and to the Department.

(E) Cooling Rate and Storage Requirements for Kitchens

Potentially hazardous food shall be served within 4 hours of cooking or meet cooling rate and length of storage requirements specified in writing by the Department and use a batch coding system specifying an "eat by" date.

(F) Record of Recent Health Inspection

A Recent (within 180 days) health inspection report having a score of 90 or above with no unresolved 4 point items shall be kept on file.

(4) Nutrition Standards

(A) Nutritional Value of Menus

The nutritional value of menus shall be confirmed either by (i) nutritional analysis, (ii) conformance to a Department approved meal pattern, (iii) selection from a list of Department approved menus with accompanying recipes, or (iv) an individually prescribed menu.

If the value of menus is confirmed by nutritional analysis, each regular meal shall provide all essential food components in amounts specified in writing by the Department. If two meals are served per day, food components may be averaged over two meals; if three meals are served, over three meals. Fat and fat soluble vitamins may be averaged over one week.

More rigorous dietary standards may be used at the discretion of the nutritionist to improve nutrition, flavor, appearance, texture or smell.

(B) Fruit Requirement

Fruit (including fruit juices) shall be served at least three times every six meals with fresh fruit served at least once subject to seasonal quality.

(5) Menu and Recipe Requirements

(A) Menus

Menus shall specify the amount of each item to be prepared and served, and shall reference all recipes used in the preparation of mixed dishes.

(B) Recipes

Tested quality recipes, adjusted to yield the numbers of servings needed, shall be used. Each recipe should specify cooking, cooling and storage procedures as well as exact ingredient amounts and preparation instructions, to assure the production of a uniform, high quality and safe food or dish.

(C) Certification Required

Menus shall be certified in writing by the nutritionist as providing at least one-third of the current Recommended Dietary Allowances (RDA's) of the National Academy of Sciences for energy, protein, vitamins and essential minerals, and as conforming to the *Dietary Guidelines for Americans*. Menus shall be submitted to the Department or Area Agency on Aging nutritionist at least two weeks prior to use for review of nutritional adequacy.

(D) Certification Of Individually Prescribed And Therapeutic Menus

Individually prescribed menus, including menus for each type of therapeutic diet, shall be certified by a Registered Dietitian of the American Dietetic Association.

(E) Record Keeping

Recipes and certified menus shall be kept on file at the nutrition provider's office for a minimum of two years following the year during which they were in use.

(6) Funding Restricted For Foods Not Conforming To Menu

No funds authorized under this section shall be used to pay for foods served that fail to conform to the menu, without approval by the nutritionist.

(7) Leftover Food

Only the following may be taken from the meal site and at the discretion of the manager: fruit, baked goods and other foods in individually sealed units that have been protected from contamination and held at 45⁰F (41⁰F beginning October 1, 1997) or less. All other food shall be offered as a second serving or discarded. Potentially hazardous food offered as a second serving shall be protected from contamination and held at 140⁰F or more if hot, and at 45⁰F (41⁰F beginning October 1, 1997) or less if cold.

(f) Coordination With Other Providers/Educators In The PSA

Title III nutrition services may be coordinated with other preventive medicine, health maintenance and in-home service providers; with the University of Connecticut Cooperative Extension and other nutrition and physical fitness educators; and, with providers of elderly services in the PSA. Coordination may involve joint planning and resource sharing.

(g) Eligibility

(1) Congregate Nutrition Services

(A) Program Participants

Persons eligible to participate in this program include: a participating person age 60 or older, and the spouse of the person regardless of age; and handicapped or disabled individuals who have not attained 60 years of age, but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided.

(B) Volunteers/Individuals with Disabilities

Each Area Agency on Aging shall establish procedures that will allow nutrition projects the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during meal hours, and to individuals with disabilities who reside at home with and accompany older eligible individuals.

(2) Home Delivered Meals

Persons eligible to participate in this program include: a person age 60 or older who is homebound because of illness, or incapacitating disability, or who is otherwise isolated; and the spouse of the older person, regardless of age, if, according to the criteria established by the Area Agency on Aging, receipt of the meal is in the best interest of the older person; and a non-elderly disabled person who is a member of the household of an elderly home-delivered meals recipient.

(3) Assessment of Need

The Area Agency on Aging shall assess the level of need for congregate and home delivered meals within the planning and service area.

(h) Contributions for Nutrition Services**(1) Mandated Uses of Contributions**

Nutrition services contributions shall be used to increase the number of meals served by a project, to facilitate access to such meals, and to provide other supportive services directly relate to nutrition services.

(2) Area Agency on Aging Policy on Contributions

Each Area Agency on Aging shall develop clear written policies for use by its service providers regarding contributions for services received through the program. These policies shall include:

- (A) A statement stressing that no older person shall be denied service for failure or refusal to contribute to the cost of the meal.
- (B) Meal fee policies for non-participants.
- (C) A procedure which ensures the confidentiality of individuals' contributions. This may include highly specific steps such as placement of a contribution box or collection of envelopes. The procedure determined by the Area Agency on Aging should avoid giving participants the impression that there is a fee for nutrition services.
- (D) Procedures to safeguard and account for all contributions; which should include the counting of donations by at least two people, and the regular deposit of contributions.

(3) Cost of meals for Non-Participants

The cost of meals to non-participants shall, at a minimum, include the following costs: raw food, labor, transportation of food, utilities, cost of disposables.

Sec. 17b-423-6. Community services policy manual -- Title III-D/In-home services**(a) Purpose**

An Area Agency on Aging shall award funds received under Title III-D of the older Americans Act to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to families of such victims.

(b) Coordination

In carrying out the provisions of Title III-D, the Area Agency on Aging shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support services personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

(c) Eligibility Criteria

An Area Agency on Aging shall award Title III-D funds to provide in-home services to clients who meet at least two of the four following eligibility criteria, or to the families of such clients:

- (1) Are age 75 or older.
- (2) Are in greatest economic need.
- (3) Have non-economic factors contributing to their frail condition. This is defined as having one or more functional limitations in their activities of daily living (ADL's), or being diagnosed as having an Alzheimer's related dementia.
- (4) Have non-economic and nonhealth factors contributing to the need of such services.

(d) Maintenance of Effort

Title III-D funds shall be in addition to, and may not be used to supplant any funds that are or would otherwise be expended under Federal, State, or local law by a State or unit of general purpose local government.

Sec. 17b-423-7. Title III-F/Disease Prevention and Health Promotion Services**(a) Purpose**

An Area Agency on Aging shall award funds received under Title III-F of the Older Americans Act to provide disease prevention and health promotion services, and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites.

(b) Distribution

The state agency shall give priority, in carrying out the provisions of Title III-F to areas of the state which are (1) medically underserved; and (2) in which there are a large number of older individuals who have the greatest economic need for such services.

(c) Definition

In carrying out the provisions of Title III-F, the term "disease prevention and health promotion services" means -

- (1) Health risk assessments;
- (2) Routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, and nutrition screening;
- (3) Nutritional counseling and educational services for individuals and their primary caregivers;
- (4) Health promotion programs, including programs relating to chronic disabling conditions (including osteoporosis and cardiovascular disease) prevention and reduction of effects, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

- (5) Programs regarding physical fitness, group exercise, and music, art, and dance-movement therapy, including programs for multigenerational participation that are provided by an institution of higher education; a local educational agency, as defined in section 1471 of the elementary and secondary education act of 1965 (20 U.S.C. 2891); or a community-based organization;
- (6) Home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;
- (7) Screening for the prevention of depression, coordination of community mental health services, provision of education activities, and referral to psychiatric and psychological services;
- (8) Educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);
- (9) Medication Management screening and education to prevent incorrect medication and adverse drug reactions;
- (10) Information concerning diagnosis, prevention, treatment, and rehabilitation of age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;
- (11) Gerontological counseling; and
- (12) Counseling regarding social services and follow up health services based on any of the services described above.

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