

MBA Operations Policy #1: Monitoring of State Plan Assurances

Authority Reference	45 CFR 1321.9(c)(2)(xvii) & 1321.27(m)
Operating Category	MBA Operations

Policy

1. The MBA is required to make numerous assurances as part of submitting its State Plan on Aging. The MBA is also required to monitor its own compliance with the assurances to which it attests. This policy provides the high-level process by which MBA will monitor its compliance as described under Procedures below.
2. MBA will develop a more detailed implementation plan for this monitoring process.

Procedures

1. The table below lists each assurance the MBA is required to make as well as to explain the process and frequency with which it will monitor its own compliance.
2. Monitoring, and documentation of such monitoring efforts, will be conducted for each requirement once by the end of each State Plan cycle.

State Agency Assurance	How/When Compliance will be Monitored
Provide assurances, satisfactory to the Assistant Secretary, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;	By March 31 of the final year of the State Plan cycle, the MBA will document opportunities for public comment, including in response to any documents issued for public comment or at scheduled meetings of the MBA during that timeframe. Documentation will include the following: <ul style="list-style-type: none">• Dates of opportunities for public comment

	<ul style="list-style-type: none"> • The documents or forums at which public comments were invited • Whether any comments were received in response to each of those opportunities • How MBA responded to those public comments (if any received)
Provide assurance that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and include proposed methods of carrying out the preference in the State plan;	By March 31 of the final year of the State Plan cycle, prepare a written summary of progress in carrying out proposed methods in the then-current State Plan for serving those with greatest economic need and greatest social need. Documentation shall include a narrative summary for each method as well as information about the numbers and percentages of NAPIS forms with demographic fields completed by each AAA.
Provide assurances that the State agency will require use of outreach efforts described in section 307(a)(16);	<p>By March 31 of the final year of the State Plan cycle, MBA will describe its outreach efforts to the following populations:</p> <ul style="list-style-type: none"> • older individuals residing in rural areas; • older individuals with greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas); • older individuals with greatest social need (with particular attention to low-income older individuals, including low-income

	<p>minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);</p> <ul style="list-style-type: none"> • older individuals with severe disabilities; • older individuals with limited English-speaking ability; and • older individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); of the availability of assistance under the OAA.
Provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals;	By March 31 of the final year of the State Plan cycle, MBA will describe how it undertook specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals through developing the Area Plan instructions and special initiatives related to these efforts.
<p>Provide assurances that an adequate proportion, as required under section 307(a)(2), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—</p> <p>(A) services associated with access to services (transportation, health services (including mental and behavioral health services), outreach, information and assistance (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible), and case management services);</p>	By March 31 of the final year of the State Plan cycle, MBA will document expenditure levels for Minimum Adequate Proportion and document that expenditures reached at least minimum required levels.

<p>(B) in-home services, including supportive services for families of older individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction; and</p> <p>(C) legal assistance;</p>	
<p>With respect to services for older individuals residing in rural areas—</p> <p>(i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000;</p> <p>(ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and</p> <p>(iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document the amount that was spent each federal fiscal year for individuals residing in rural areas. Those expenditure amounts will be compared to what the State spent on services for individuals living in rural areas in the baseline period.</p> <p>NOTE: MBA is using a more recent benchmark comparison year for purposes of measuring compliance. The most recent federal fiscal year for which MBA has data on this benchmark comparison year is FFY 2005. At that time, MBA estimated the annual cost of serving individuals living in rural areas was \$3,673,875.</p>
<p>The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document the procedures is used to assure proper disbursement of, and accounting for, Federal funds paid to the State, including the processes for quarterly expenditure monitoring, process for approval of advance or reimbursable payments, and financial reconciliation.</p>
<p>The plan shall provide assurances that—</p> <p>(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State</p>	<p>By March 31 of the final year of the State Plan cycle, the MBA will document how it complied with its conflict-of-interest policy.</p>

<p>agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;</p> <p>(ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and</p> <p>(iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.</p>	
<p>The plan shall provide assurances that—</p> <p>(A) the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title, and will expend for such purpose an amount that is not less than the amount expended by the State agency with funds received under this title for fiscal year 2019, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2019; and</p> <p>(B) funds made available to the State agency pursuant to section 712 shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in section 712.</p>	<p>By March 31 of the final year of the State Plan cycle, the MBA will document the amount of Title III and Title VII funds that were spent during each federal fiscal year for the State's Long-Term Care Ombudsman program. Those amounts will be compared to what the State spent on the Long-Term Care Ombudsman program from both Title III (\$932,403.00) and Title VII (\$297,211.00) funding in federal fiscal year 2019.</p>
<p>The plan shall provide assurances that the special needs of older individuals residing in rural areas will be taken into consideration and shall describe how those needs have been met and describe how funds have been allocated to meet those needs.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document opportunities for older Minnesotans living in rural areas to provide public comment and how the IFF takes rural areas into account for funds distribution.</p>
<p>The plan shall provide that with respect to legal assistance—</p> <p>(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing</p>	<p>By March 31 of the final year of the State Plan cycle, MBA, with the assistance of its Legal Assistance Developer, will describe and document how MBA met requirements related to legal assistance.</p>

<p>membership of local governing boards) as determined appropriate</p> <p>by the Assistant Secretary; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;</p> <p>(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Assistant Secretary, that any grantee selected is the entity best able to provide the particular services.</p> <p>(D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and</p> <p>(E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.</p>	
<p>The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals</p> <p>(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will describe the MBA's activities in this area.</p>

<p>(i) public education to identify and prevent abuse of older individuals;</p> <p>(ii) receipt of reports of abuse of older individuals;</p> <p>(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and</p> <p>(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;</p>	
<p>The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document the incumbent of the Legal Assistance Developer position and major initiatives undertaken over the State Plan period.</p>
<p>The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—</p> <p>(A) to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and</p> <p>(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—</p> <p>(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and</p> <p>(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document and describe its guidance to the AAAs in those PSAs related to engagement of individuals with limited English-speaking ability.</p>

individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.	
<p>The plan shall provide assurances that the State agency will require outreach efforts that will—</p> <p>(A) identify individuals eligible for assistance under this Act, with special emphasis on—</p> <p>(i) older individuals residing in rural areas;</p> <p>(ii) older individuals with greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);</p> <p>(iii) older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);</p> <p>(iv) older individuals with severe disabilities;</p> <p>(v) older individuals with limited English-speaking ability; and</p> <p>(vi) older individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and</p> <p>(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.</p>	By March 31 of the final year of the State Plan cycle, MBA will describe how it required outreach efforts to identified populations and helped make them aware of services available under the Act.
The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.	By March 31 of the final year of the State Plan cycle, MBA will describe how it is coordinating planning to meet the needs of individuals with severe disabilities with the State agency with primary responsibility for serving this population.
The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-	By March 31 of every other calendar year, MBA will document its guidance to

<p>based, long-term care services, pursuant to section 306(a)(7), for older individuals who—</p> <p>(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;</p> <p>(B) are patients in hospitals and are at risk of prolonged institutionalization; or</p> <p>(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.</p>	<p>AAAs on facilitating coordination of community-based long-term care services for these populations.</p>
<p>(19) The plan shall include the assurances and description required by section 705(a).</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will describe compliance with assurances listed in the Older Americans Act section 705(a).</p>
<p>(20) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will describe its activities related to providing technical assistance to minority providers of services.</p>
<p>(21) The plan shall—</p> <p>(A) provide an assurance that the State agency will coordinate programs under this title and programs under title VI, if applicable; and</p> <p>(B) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this title, if applicable, and specify the ways in which the State agency intends to implement the activities.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA shall describe its coordination activities with Title VI grantees and its work to increase access by older individuals who are Native Americans to all aging programs.</p>
<p>(22) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(8).</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will describe any relevant activities related to this assurance.</p>

<p>(23) The plan shall provide assurances that demonstrable efforts will be made—</p> <p>(A) to coordinate services provided under this Act with other State services that benefit older individuals; and</p> <p>(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will describe its activities to coordinate OAA services with other state services that benefit older individuals as well as any multigenerational activities.</p>
<p>(24) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document its efforts to help older individuals to obtain transportation services associated with access to services in the Older Americans Act.</p>
<p>(25) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will describe how it is measuring quality in the provision of in-home services such as chore and homemaker.</p>
<p>(26) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document how AAAs are incorporating self-directed care into service planning and delivery.</p>
<p>(30) The plan shall contain an assurance that the State shall prepare and submit to the Assistant Secretary annual reports that describe—</p> <p>(A) data collected to determine the services that are needed by older individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019;</p> <p>(B) data collected to determine the effectiveness of the programs, policies, and services provided by area agencies on aging in assisting such individuals; and</p>	<p>By March 31 of the final year of the State Plan cycle, MBA will document the dates on which these annual reports were submitted.</p>

(C) outreach efforts and other activities carried out to satisfy the assurances described in paragraphs (18) and (19) of section 306(a).	
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MBA Operations Policy #2: MBA Administrative Budget

Authority Reference	OAA , Sec. 308(b) 45 CFR 1321.9(c)(2)(iv) 45 CFR 1321.9(c)(2)(vii) Minnesota Statutes 256.975
Operating Category	MBA Operations

Policy

1. Federal Funds
 - A. The MBA shall deduct five percent of its Title III allotment for State administration pursuant to Sec. 308(b) of the [OAA](#). This deduction occurs prior to deducting and allocating amounts for AAA administration.
 - B. After deductions for MBA and AAA administration, the MBA shall also deduct required funding from its allotments for Title III-B and Title VII for the Office of the Long-Term Care Ombudsman, consistent with MBA Operations Policy #3: Funding the State Long Term Care Ombudsman.
 - C. Federal funds may be used to pay up to 75 percent of the costs incurred for overall administration of the State Plan on Aging.
2. Non-Federal Resources –
State funds must be used to pay at least 25 percent of the costs incurred for State Plan Administration, consistent with Title III Administrative and Financial Requirements Policy #4: Non-Federal Share (Match).
3. Funding may be used to provide administrative support for Minnesota Information Referral and Assistance activities.

Procedures

1. The MBA calculates the amount to be deducted from its Title III allotment for State Plan Administration at the same time it provides information to AAAs on administrative allocations for each AAA.
2. The MBA documents expenditures from state funds as part of its federal reporting

obligations. MBA will ensure it is meeting its state match obligations for state administrative expenditures through the process described in the MBA Operations Policy #7: Maintenance-of-Effort.

3. The MBA will annually share with the MBA Executive Committee how MBA is meeting its non-federal share requirements at the September Board meeting.

MBA Operations Policy #3: Funding the State Long Term Care Ombudsman

Authority Reference	45 CFR 1321.9(c)(2)(vii) 45 CFR 1324.13(f)
Operating Category	MBA Operations

Policy

1. The MBA must expend at least the amount it spent respectively under Title III (\$932,403.00) and Title VII (\$297,211.00) of the Act for the Ombudsman program in federal fiscal year 2019, as required by the Older Americans Act.
2. The MBA must provide the Ombudsman with verifiable expenditure information for the annual certification of minimum expenditures and for completion of annual reports.
3. The Office of the Minnesota Long-Term Care Ombudsman determines how to spend and manage both Title III and state appropriations made to support its operation as set forth at 45 CFR 1324.13(f).

Procedures

1. The amount of Title III funding to be spent on the State of Minnesota's Long-Term Care Ombudsman program shall be deducted from the MBA's Title III-B allotment for supportive services. This deduction is made after permitted amounts are deducted for MBA (5 percent) and AAA (10 percent) administration. The minimum required funding amount is \$932,403.
 - a. This calculation is based on expenditures recorded in SWIFT, the State of Minnesota's accounting system, for federal fiscal year 2019. Expenditures are from three expenditure budget financial departments related to direct and indirect costs.
2. The minimum amount of Title VII funding to be used for purposes of funding the State of Minnesota's Long-Term Care Ombudsman program is \$297,211.
 - a. This calculation is based on expenditures recorded in SWIFT, the State of Minnesota's accounting system, for federal fiscal year 2019.
3. The MBA provides the Ombudsman's Office with verifiable expenditures each year in January so the Ombudsman's Office can complete its reporting through the National Ombudsman Reporting System.

4. The MBA will share the Ombudsman's reporting to the National Ombudsman Reporting System with AAAs each year after the Ombudsman's Office submits its report.

MBA Operations Policy #4: Planning and Service Area Designation

Authority Reference	OAA , Sec. 305 (a)(1)(E) 45 CFR 1321.13
Operating Category	MBA Operations

Policy

1. The MBA designates PSAs and has authority to change designated PSAs. In total, no more than seven PSAs may be designated.
2. A proposal to change designated PSAs may occur at the initiation of the MBA or may be proposed by another entity with standing outside the MBA for the MBA to consider and make a decision.
3. When designating or considering redesignation of a PSA, the MBA must consider:
 - A. The geographic distribution of older individuals;
 - B. The incidence of the need for services under the Act;
 - C. The distribution of older individuals who have the greatest social or economic need (with particular attention to older low-income persons of color, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas;
 - D. The distribution of older individuals who are American Indians residing in such areas;
 - E. The distribution of resources available to provide such services under the Older Americans Act.
 - F. The boundaries of existing areas within the state which were drawn for the planning or administration of services under the Act.
 - G. The location of units of general-purpose local government within the state;
 - H. Any other relevant factors as determined by the MBA.
4. Any unit of general-purpose local government with a population of 100,000 or more,

region within the state recognized for area wide planning, metropolitan area, or Tribal nation is considered to have standing and may make application to MBA to change the boundaries of an existing PSA, in accordance with MBA procedures. If an external entity wishes to propose a change to a designated PSA, the entity must follow the process outlined under the "Procedures" section below. These criteria are only applicable for purposes of determining whether an external entity has standing to apply to change the boundaries of an existing PSA.

5. Regardless of whether the MBA or an external entity with standing proposes a change to a PSA designation, MBA shall take the following steps:
 - A. Ensure notice is provided to interested parties, including AAAs, service providers, and the broader public in both the current PSA and the proposed PSA;
 - B. Provide the public with notice of the proposal and an opportunity to comment for a 60-calendar day period. If the MBA is initiating the proposal to adjust existing PSA boundaries, it must provide a rationale for its proposal to do so and the estimated impact on distribution of OAA funding that would likely result as part of the public notice process.
 - C. Convene a public hearing at a public location about the proposed change either prior to the beginning of the public comment period or within the first 30 days of that public comment period. If the MBA is initiating the proposal to adjust existing PSA boundaries, it must provide a rationale for its proposal to do so and the estimated impact on distribution of OAA funding that would likely result.
 - D. During the public hearing, AAAs, service providers, older individuals and other interested parties must be given the opportunity to provide input and feedback about proposed changes.
 - E. The public hearing is considered an MBA hearing under MBA Operations Policy #10: Hearings and shall be conducted by an MBA hearing panel in accordance with Paragraphs 3C-E of that standard. MBA decision-making and notification processes as well as appeal processes are also described in that Policy.

Procedures

1. Any of the groups with standing that wish to propose a change in the designation and/or boundaries of an existing PSA must notify MBA in writing of their intent, the areas proposed to be affected, and briefly summarize the reasons for their action. This written notice must be submitted to the MBA's Executive Director.
 - A. The MBA must provide written acknowledgement of such a proposal within 10

calendar days of its receipt. The MBA must also provide written notification to a current AAA serving the existing PSA that an organization has requested redesignation of the PSA it serves within three calendar days of providing a written acknowledgement to the notifying organization.

- B. Within 30 calendar days of receiving the notification, MBA will provide the notifying organization with the format in which a comprehensive application can be made to change the boundaries of an existing PSA.
 - C. The MBA will not consider or respond to external proposals to modify PSA designation if the proposal is not submitted from an organization with standing to submit the proposal.
 - D. The MBA will not consider proposals to increase the total number of PSAs above seven.
 - E. MBA must provide written acknowledgement of an application within ten calendar days of its receipt.
2. In its review of an external application for designation of a PSA, MBA may determine that a problem lies in the management of an existing AAA(s) in the affected area(s). In that case, MBA shall assess whether the problems with the existing AAA(s) can be resolved.

At its discretion, MBA may choose to defer action on the petition for designation and may develop a formal, time-limited technical assistance plan to resolve identified issues within the existing AAA(s) within a six-month time period. If the technical assistance effort is unsuccessful, MBA will proceed with public notification, convening of a public hearing, and conducting a public comment period for redesignating the PSA. In this scenario, MBA will also initiate the process to withdraw AAA designation as described in MBA Operations Policy #6: Designation and De-designation of Area Agencies on Aging.

3. If the MBA initiates a process to redesignate one or more PSAs, it must first notify affected AAAs in writing before engaging in the public notification process described below.
4. In proceeding with the public notification, hearing, and public review/comment process either in response to an external proposal to adjust PSA designation or as a step pursuant to MBA's own proposal to adjust PSA designation, the MBA shall take the following steps:

A. Provide written notice to the AAA serving the existing PSA and the AAA serving

the current PSA proposed for expansion;

B. Provide written notice on the MBA's website of the proposal and the following information;

- i. the date, time and location of the public hearing;
- ii. how interested members of the public may participate in the hearing;
- iii. how to request accommodation to participate in the hearing
- iv. the dates of the public comment period;
- v. a mechanism by which members of the public and interested parties may submit comments.

- 5. After holding a public hearing and conducting a public comment period, the MBA will make and communicate a decision about whether and how to adjust existing PSA designations consistent with Hearing procedures described in paragraphs 2(f)-(i) of MBA Operations Policy #10: Hearings. The written decision must include consideration of the factors described in this Policy paragraph 3.
- 6. Any applicant whose application for PSA designation is denied by MBA has the right to appeal the denial to the U.S. Department of Health and Human Services Departmental Appeals Board as described in MBA Operations Policy #10: Hearings.
- 7. If the MBA issues a decision to change PSAs, the MBA shall submit an amendment to its State plan providing information about the PSA designation change and the rationale for the change.

MBA Operations Policy #5: Intrastate Funding Formula

Authority Reference	OAA ; 45 CFR 1321.9(c)(2)(i) and 1321.49; approved by U.S. Administration for Community Living
Operating Category	MBA Operations

Background

The Minnesota Board on Aging distributes Older Americans Act Title III funds through the Intrastate Funding Formula (IFF). This IFF was approved by the MBA on June 30, 2023, and by ACL for implementation on January 1, 2025. For additional information on the Intrastate Funding Formula, reference the State Plan on Aging, section C.

Policy

1. The MBA shall designate an AAA to serve each designated Planning and Service Area (PSA). Older Americans Act Title III and State of Minnesota funds are distributed by means of an allocation formula, which is called the Intrastate Funding Formula (IFF).
 - a. Formula Goals and Assumptions
 - a. The IFF is intended to accomplish the following goals:
 1. Allocate federal and state funds equitably throughout the State
 2. Meet the requirements of the OAA for the allocation of funds
 3. Reflect the proportionate distribution of persons age 60 and over in each PSA, and
 4. Give preference to populations over age 60 with greatest social and economic need, as defined in the [OAA](#), with special attention to low- income, minority and rural populations.
 - b. Assumptions on which the IFF is based
 1. Particular attention should be given to the needs of Older Native Americans living on reservations.
 2. The distribution of direct service funds should reflect the needs and circumstances unique to providing services to and administering programs for older persons in rural and less populated areas of the State.
 3. The distribution of administrative funds should allow designated AAAs to meet the minimum requirements of MBA standards and guidelines.

Procedures

Intrastate Funding Formula: Factors, Weights and Data Sources

Exhibit 1

Factor	Factor Description	Weight	Data Source
Population 60+	Number of individuals aged 60 and over	40%	American Community Survey (ACS) five- year estimates ¹
Low-income 60+	Number of individuals aged 60 and over with income below the federal poverty level	20%	ACS five-year estimates
Minority 60+	Number of individuals aged 60 and over who are not counted as "white alone" in ACS data	20%	ACS five-year estimates
Rural 60+	Number of individuals aged 60 and over who live in nonurban areas ²	15%	ACS five-year estimates and U.S. 2020 Census Data
Population density ratio 60+	The population density of individuals aged 60 and over in each PSA region as a ratio compared to the statewide average population density of individuals aged 60 and over ²	5%	ACS five-year estimates

Procedures – Distribution of Funds

The MBA shall use the following process for distribution of Older Americans Act Title III funds:

Step 1.

State Agency Administration: The Minnesota Board on Aging shall use 5% of total allocation for state agency administration, as allowed under section 308(b).

¹ ACS 5 year estimates include data from 2018-2022.

² Population density is calculated by taking the total number of people aged 60 and above per square mile for the entire state as the numerator, and the average population density of the people aged 60 and above for the PSA region as the denominator. For example, an Area Agency on Aging PSA has a density of 18.85, and the state as a whole is 15.26. The fraction 15.26/18.85 results in a "Population Density Ratio 60+" of 0.85

Step 2.

Area Plan Administration: After application of amounts used under section 308(b) for state agency administration, the Minnesota Board on Aging shall take 10% of its combined allotments for supportive services (III B), congregate nutrition services (III C-1), home delivered meal services (III C-2), and family caregiver (III E) funds for Area Plan administration using the IFF. Funds from disease prevention and health promotion services (D) are not applied to this section. After applying IFF any PSA region that would receive less than \$100,000 for area plan administration floor, the PSA will receive additional funds to meet a \$100,000 minimum funding level using the process described **Exhibit 2** Calculation of Administrative Allocation per PSA. The formulary and calculation method used ensures that the total amount calculated is not greater than 10% of the total award.

Step 3.

Ombudsman for Long Term Care: After application of amounts used under section 308(b) for state agency administration and area plan administration, the Minnesota Board on Aging shall provide funding from Title III-B to the Ombudsman for Long Term Care (OOLTC), an amount that is no less than the amount expended by the MBA with funds received under Title III for Federal Fiscal Year 2019. The Minnesota Board on Aging shall distribute the remaining funds according to the factors and weights outlined in **Exhibit 1**.

Step 4.

Title III-B Supportive Services: After subtracting calculation for state agency administration, area agency administration, and the Ombudsman for Long Term Care, the Minnesota Board on Aging shall distribute the remaining funds according to the factors in **Exhibit 1**. Funds available to area agencies on aging for program development and coordination activities shall be taken from the direct service allocation. Area agency on Aging program development and coordination requests for specific amounts will be considered as part of the area plan and budget approval process.

Step 5

Title III C1 and III C2: After subtracting amounts for state agency administration and area agency administration, the Minnesota Board on Aging shall distribute the remaining funds according to the factors in **Exhibit 1**.

Step 6

Title III D: After subtracting calculations for state agency administration, the Minnesota Board on Aging shall distribute the balance of funds according to the factors in **Exhibit 1**.

Step 7.

Title III E Caregiver Services: After subtracting calculations for state agency administration and area agency administration, the Minnesota Board on Aging shall distribute the remaining funds according to the factors in **Exhibit 1**.

Hold Harmless Policy

To protect area agencies on aging (AAAs) from experiencing large changes in funding as the new formulas are implemented, the financial plan applies "hold harmless" provisions. The provisions assures that no AAAs allocation from any Title III part decreases by more than five percent from year to year. Hold harmless will be in effect until each AAA receives at least 95% of their previous year allocation. If this extends beyond the time of the 2024-2027 State Plan on Aging the SUA will reassess at the next State Plan on Aging submission. Implementation of the updated Intrastate Funding Formula will begin January 1, 2025, with the 95% Hold Harmless policy.

Administrative Allocation Floor and Hold Harmless Calculation

- Determine AAA Administrative Allocations and Hold Harmless Policy. Using the Area Plan Administration amount determined in **step 2 in Distribution of Funds**, follow **Exhibit 2** Calculation of Administrative Allocation per PSA and Hold Harmless calculation.
- Determine AAA Direct Service Allocations and Hold Harmless Policy. Using the Area Plan Direct Service amounts determined in **steps 4-7 in Distribution of Funds**, follow **Exhibit 3** Calculation of Direct Service Allocation per PSA and Hold Harmless calculation

Administrative Allocation Floor Calculation:

1. After determining the amount from Step 2 in the Distribution of funds
2. PSAs that receive less than \$100,000 are identified.
3. The amount needed by identified PSAs to reach \$100,000 is determined.
4. The amount determined in #3 is ran through the IFF MINUS the PSA(s) identified in #2 to determine the admin amount contributed by AAAs above the \$100,000 floor.
5. The admin amount contributed by each PSA above the \$100,000 floor is subtracted from the original admin allocations determined in #1.

Hold Harmless (HH) Calculation*:

1. Determine the percentage of the previous years allocation the PSA would receive for Admin without a HH policy.
2. Determine Admin floor calculation for current year (see instructions above).
3. AFTER determining Admin floor, reassess allocation changes from #1 to determine which PSAs fall below the 95% HH.

4. For PSAs who receive more than 95% of the previous years allocation, determine the maximum they can contribute for Admin to remain above the floor, before falling below the HH; AND determine the proportional amount the PSA should contribute based on the IFF.
5. Collect Admin funds for PSAs who fall below the 95% HH. Begin with proportional amounts, then draw from the maximum.
6. Redistribute funds and calculate final allocations. Each PSA should receive at least 95% of the previous years funding for Admin Service.

*Hold Harmless calculation must occur *after* the floor calculation.

Direct Service Calculation

All direct service allocations to the PSAs will be determined based on the Intrastate Funding Formula, using weighted factors to distribute funds as shown in [Figure 6](#). The IFF functions as described below:

Direct Service Calculation

1. Calculate the total Title III (B, C, D, E) Direct Service Allocations using [steps 4-7](#) from Distribution of Funds section.
2. Use the PSA Cumulative Percentage to determine allocations for Direct Service.

Hold Harmless (HH) Calculation*:

1. Determine the percentage of the previous year's allocation the PSA would receive for Direct Service without a HH policy.
3. AFTER determining Direct Service allocations, reassess allocation changes to determine which PSAs fall below the 95% HH.
4. For PSAs who receive more than 95% of the previous year's allocation, determine the *maximum* they can contribute for Direct Service, before falling below the HH; AND determine the proportional amount the PSA should contribute based on the IFF.
5. Collect Direct Service funds for PSAs who fall below the 95% HH. Begin with proportional amounts, then draw from the *maximum*.
6. Redistribute funds and calculate final allocations. Each PSA should receive at least 95% of the previous year's funding for Direct Service.

*Hold Harmless calculation must occur *after* the direct service calculation.

Intrastate Funding Formula Annual Procedure

- The MBA will check data sources each year prior to calculating the IFF to ensure any technical updates or changes to underlying values in the ACS five-year estimates and decennial census have been taken into account to ensure accurate calculation of the formula.

- The MBA will issue preliminary IFF allocation amounts as early as possible each calendar year to assist AAAs in their planning efforts. Ex: 2026 preliminary allocations are typically released by ACL in May of 2025
- The MBA will issue updated IFF allocation amounts as they are available and finalized.
- At each State Plan cycle, the MBA will review the IFF to ensure best available data is incorporated.
- If the MBA determines it wishes to propose changes to the weights and factors of the IFF, the MBA will engage partners and the public in that process. Any proposed changes to the IFF will be made available for public review and comment for 30 calendar days, unless a waiver is provided by the Assistant Secretary for Aging during an emergency or when a time sensitive action is otherwise necessary. The MBA must submit any proposed changes to the IFF to the Assistant Secretary for Aging for prior approval or as part of a State plan or State plan amendment as described in 45 CFR 1321.33.
- No funds are being deducted for purposes of disaster set-aside funds as set forth in 45 CFR 1321.99. Funds are being deducted for State Plan administration, area plan administration, and the Long Term Care Ombudsman program as noted in 2a – d above.

Planning and Service Area

The Minnesota Board on Aging (MBA) has designated an Area Agency on Aging (AAA) to serve each designated Planning and Service Area (PSA).

Area Agency on Aging	Region	Counties and Tribal Nations Served
Arrowhead Area Agency on Aging (AAAA)	Northeast	Aitkin, Carlton, Cook, Itasca, Koochiching, Lake, and St. Louis
Central Minnesota Council on Aging (CMCOA)	Central	Benton, Cass, Chisago, Crow Wing, Isanti, Kanabec, Mille Lacs, Morrison, Pine, Sherburne, Stearns, Todd, Wadena, and Wright
Dancing Sky Area Agency on Aging (DSAAA)	Northwest	Becker, Beltrami, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Traverse, and Wilkin
Metropolitan Area Agency on Aging (MAAA) DBA Trellis	Twin Cities Metro Area	Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington
Minnesota Indian Area Agency on Aging (MIAAA)	Tribal Nations	Bois Forte Band of Chippewa, Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Lower Sioux Indian Community, Mille Lacs Band of Ojibwe, Prairie Island Indian Community, Red Lake Nation, Upper Sioux Community, and White Earth

		Nation.
Minnesota River Area Agency on Aging (MNRAAA)	Southwest	Big Stone, Blue Earth, Brown, Chippewa, Cottonwood, Faribault, Jackson, Kandiyohi, Lac qui Parle, Le Sueur, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rock, Sibley, Swift, Waseca, Watonwan, and Yellow Medicine
Southeastern Minnesota Area Agency on Aging (SEMAAA)	Southeast	Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, and Winona

Mathematical Calculation of PSA cumulative total

To obtain the PSA cumulative total calculate each of the following 5 factors, then take the sum.

Formula: Factor 1 + Factor 2 + Factor 3 + Factor 4 + Factor 5 = PSA cumulative total

Factor 1: PSA 60+ population divided by Total MN population x 40%

Factor 2: PSA Low-Income 60+ population divided by MN Low-income population total x 20%

Factor 3: PSA Minority 60+ population divided by MN minority 60+ population total x 20%

Factor 4: PSA Rural 60+ population divided by MN rural 60+population total x 15%

Factor 5: PSA 60+ population density ratio divided by MN 60+ population density ratio x 5%

Factors, Weights and PSA Cumulative Percentage

FIGURE 1. Fund Allocation by PSA Region: Population 60+ (Weighted 40%)⁴

PSA Region	Pop. 60+	% of Pop.	Factor
DSAAA	110,771	8.38%	3.35%
AAAA	97,143	7.35%	2.94%
CMCOA	181,940	13.76%	5.50%
MNRAAA	136,885	10.35%	4.14%
SEMAAA	127,370	9.63%	3.85%
MAAA	658,709	49.82%	19.93%
MIAAA	9,336	0.71%	0.28%
Totals	1,322,154	100%	40%

⁴ Population aged 60+ by Area Agency on Aging: 2020 US Census, Table DECENNIALDHC2020.H2, "Population by Age by Census Tract."

FIGURE 2. Fund Allocation by PSA Region: Low-income 60+ (Weighted 20%)

PSA Region	Low-income 60+	% of Pop.	Factor
DSAAA	9,737	9.40%	1.88%
AAAA	9,228	8.91%	1.78%
CMCOA	14,996	14.47%	2.89%
MNRAAA	11,149	10.76%	2.15%
SEMAAA	9,572	9.24%	1.85%
MAAA	47,712	46.05%	9.21%
MIAAA	1,212	1.17%	0.23%
Totals	103,06	100%	20%

FIGURE 3. Fund Allocation by PSA Region: Minority 60+ (Weighted 20%)

PSA Region	Min. 60+	% of Pop.	Factor
DSAAA	5,065	4.84%	0.97%
AAAA	3,977	3.80%	0.76%
CMCOA	6,371	6.09%	1.22%
MNRAAA	4,854	4.64%	0.93%
SEMAAA	5,604	5.36%	1.07%
MAAA	76,165	72.79%	14.56%
MIAAA	2,594	2.48%	0.50%
Totals	104,630	100%	20%

FIGURE 4. Fund Allocation by PSA Region: Rural 60+ (Weighted 15%)⁵

PSA Region	Rural 60+	% of Pop.	Factor
DSAAA	77,046	17.19%	2.58%

AAAA	58,800	13.12%	1.97%
CMCOA	115,970	25.88%	3.88%

⁵ Rural Population aged 60+ by Area Agency on Aging: 2022 American Community Survey, Table ACSST5Y2022.S0101, "Population by Age by Urban or Rural Status by Census Tract, 2022 5-Year ACS".

PSA Region	Rural 60+	% of Pop.	Factor
MNRAAA	88,878	19.83%	2.98%
SEMAAA	53,759	12.00%	1.80%
MAAA	44,307	9.89%	1.48%
MIAAA	9,336	2.08%	0.31%
Totals	448,096	100%	15%

FIGURE 5. Fund Allocation by PSA Region: Population Density (Weighted 5%)

PSA Region	Sq. Miles	Pop. Dens. Ratio	% of Ratio	Factor
DSAAA	22,798	4.86	20.27%	1.01%
AAAA	18,265	5.32	18.51%	0.93%
CMCOA	11,828	15.38	6.40%	0.32%
MNRAAA	17,195	7.96	12.37%	0.62%
SEMAAA	6,756	18.85	5.22%	0.26%
MAAA	2,786	236.46	0.42%	0.02%
MIAAA	3,842	2.68	36.81%	1.84%
Totals	83,469		100%	5%

FIGURE 6. Fund Allocation by PSA Region: Total Share/PSA Cumulative Percentage

PSA Region	All Factors
DSAAA	9.79%
AAAA	8.37%
CMCOA	13.82%
MNRAAA	10.81%
SEMAAA	8.83%
MAAA	45.20%
MIAAA	3.17%
Totals	100%

Nutrition Services Incentive Program (NSIP) Funds Distribution

The Minnesota Board on Aging distributes the total NSIP allocation to Area Agencies on Aging based on the number of NSIP meals reported in the annual FFY 2019 State Program Report/Older Americans Act Performance System, per [ACL COVID-19 Response: NSIP Guidance 2021](#).

MBA Operations Policy #6: Designation of and Changes to an Agency's Designation as an Area Agency on Aging

Authority Reference	OAA , Sec. 305 (a)(2)(A), (b)(5)(B), (b)(5)(C)(I) and (c)(1)-(4) 45 CFR 1321.19 & 1321.21
Operating Category	MBA Operations

Policy

1. For each PSA, the MBA shall designate a single public or private nonprofit agency or organization as the AAA for such area, after considering the views offered by the unit or units of general-purpose local government in such area.
2. An AAA may serve more than one PSA. An AAA that serves more than one PSA must maintain separate funding, planning, and advocacy responsibilities for each PSA.
3. An AAA may be any of the following types of agencies:
 - A. An established office on aging which is operating within a PSA;
 - B. Any office or agency of a unit of general-purpose local government, which is designated to function for the purpose of serving as an AAA by the chief elected official of such unit;
 - C. Any office or agency designated by the appropriate chief elected officials of any combination of units of general-purpose local government to act on behalf of such combination for such purpose; or
 - D. Any non-State, local public or nonprofit private agency in a PSA, or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the designated State agency and which demonstrates the ability and willingness to engage in the planning or provision of a broad range services under the Act within such PSA.
4. When designating or redesignating an AAA, the MBA shall give the right of first refusal to a unit of general-purpose local government if such unit can meet the requirements listed in item 3 above and the boundaries of such a unit and the boundaries of the PSA are reasonably contiguous. If the unit of general-purpose government chooses not to exercise this right, the MBA shall then give preference to an established office on aging, unless the MBA finds no such office within the PSA will have the capacity to carry out the Area Plan as specified in item 3 above.

5. When designating an AAA, the MBA shall request applications from interested and qualified agencies or organizations who comply with item 3 above after considering the views of units of general-purpose local government as required in paragraphs 1 and 4 above. The application process is described under the Procedures section of this policy.
6. The MBA may change the designated AAA for a PSA. A change in designation must first involve the withdrawal of designation from an existing AAA. That withdrawal process may occur in one of two ways:
 - A. An AAA voluntarily relinquishes their designation as an AAA by submitting a written notice, signed by the chairperson of the AAA's governing board, to the MBA. The AAA should provide at least 45 calendar days of notice to help facilitate an orderly transition; the MBA may determine, at its discretion, that a shorter notice period is appropriate. The MBA must acknowledge and accept the voluntary relinquishment in writing within 14 calendar days. The MBA's written acceptance of the voluntary relinquishment notice shall constitute MBA's withdrawal of the AAA's designation.

If this occurs, MBA must promptly begin the process of designating a new AAA and temporarily take on the functions of the AAA.
 - B. When MBA takes action to withdraw an AAA's designation for one of the following reasons:
 - i. An AAA does not meet the AAA Designation requirements;
 - ii. An area plan or plan amendment is not approved;
 - iii. There is substantial failure in the provisions or administration of an approved area plan to comply with any provision of the OAA, regulations and other guidance as set forth by the Assistant Secretary for Aging, terms and conditions of Federal grant awards under the Act, or policies and procedures established and published by the MBA AND the AAA has not come into compliance with the terms of a written corrective action plan in a reasonable timeframe; or
 - iv. Activities of the AAA are inconsistent with the statutory mission prescribed in the [OAA](#); or
 - v. MBA changes one or more planning and service area designations
7. The MBA seeks to support existing AAAs where possible provided the AAA is working in good faith to carry out its responsibilities in a compliant manner. If the MBA is concerned about an AAA's capacity to fulfill its obligations as an AAA in a compliant manner, the MBA must communicate those concerns in writing to the AAA and establish a corrective action plan with reasonable timeframes for action. Unless an egregious situation occurs (for example, fraud or mismanagement of funds), the MBA may not begin the process of withdrawing an AAA's designation without first communicating about any material concerns and providing an opportunity for the AAA to comply through a corrective action plan.

8. The Chair of the MBA shall provide the Chair of the AAA's governing board with a written notice 90 days before the effective date of the withdrawal of designation. The notice shall advise the AAA of the reason for the withdrawal and provide an opportunity for a hearing consistent with MBA Operations Policy #10: Hearings. The procedures for the withdrawal process are described below under the Procedures section of this policy.
9. If the MBA withdraws the designation of an AAA, the MBA will temporarily assume the duties of that AAA for a 90-day period while the MBA begins the process of designating a new AAA as outlined in this policy. The MBA must inform the Assistant Secretary for Aging through a State Plan Amendment. If a new AAA is not chosen within 90 days, MBA may request an extension and demonstrate why the extension is needed.

Procedures

1. The following is the process for designating a AAA.
 - A. The MBA shall inform units of general purpose local government that a new AAA is needed for the PSA. The MBA will provide this notification through a letter to the chief executive of each county in the PSA and any non-State regional government units.
 - i. These local units of government will initially have 30 calendar days to consider whether they have interest in serving as the AAA and provide written notification to the MBA indicating this interest. The local unit of government will then have an additional 30 calendar day period to work with the MBA to determine whether it has the ability and willingness to engage in the planning or, where allowable, the provision of a broad range of OAA services.
 - ii. If no local unit of government is interested in being designated as the AAA or it is determined no unit of government is able to perform the functions of an AAA, the MBA will then inform any established office on aging in the PSA that a new AAA is needed for the PSA and invite those entities to submit an application for designation as a new AAA.
 - B. The MBA shall:
 - i. Publish in the State Register, at least 60 days in advance of a deadline, its intent to accept applications for AAA designation.
 - ii. Describe in a request for proposal (RFP) available to interested parties: the PSA(s) for which applications are being accepted, federal and state requirements for an AAA, review criteria and process to be followed, and hearing processes afforded in MBA Operations Policy #10: Hearings.
 - iii. The MBA shall convene a panel of MBA Board members to review applications. The panel must be comprised of at least three and no more than five members. Panel members must follow Title III Administrative and Financial Requirements

Policy #2: Conflict of Interest and sign a conflict-of-interest disclosure form prior to the review of applications.

- iv. The panel will review applications within 30 days after the application deadline.
 - v. After reviewing the applications, the application review panel will conduct a hearing. The panel will follow the process described in MBA Operations Policy #10: Hearings, except that the application review panel shall be the hearing panel and the merits of the applicants shall be the consideration of the panel. The panel will make a recommendation to the MBA Board, taking into account the information presented at the public hearing.
- C. The MBA Board will consider the recommendation of the review panel. The MBA shall accept or reject the recommendation in making its decision.
- D. The MBA will notify applicants in writing within 30 days of the application deadline of its selection decision and afford those applicants who are not selected the opportunity for a hearing consistent with MBA Operations Policy #10: Hearings.
- E. If there are no successful applicants in the MBA's application process, the MBA must temporarily assume the functions of an AAA and begin the process for identifying a new AAA again.
2. The following is the procedure for withdrawing an existing AAA's designation as an AAA if the action to withdraw the AAA's designation is initiated by the MBA:
- A. If the MBA initiates action to withdraw the Area Agency on Aging (AAA) designation of an entity designated as a AAA, the MBA will provide written notice 90 days in advance of the proposed effective date of the withdrawal of such initiation to the affected entity.
 - B. The AAA may determine whether it would like a public hearing held on the MBA's proposed action to withdraw the AAA's designation. If the AAA would like a public hearing, it must request the hearing in writing within 10 calendar days of receiving MBA's notice of intent to withdraw AAA designation.
 - i. If the AAA does not request a public hearing in response to the MBA's notice to withdraw AAA designation within the 10 calendar day period, the MBA may proceed with the withdrawal of designation by informing the AAA in writing.
 - ii. If the AAA does request a public hearing, the MBA will convene and conduct the hearing according to the provisions of MBA Operations Policy #10: Hearings.
 - C. If the MBA moves forward with a decision to withdraw an AAA's designation with or without a public hearing, the MBA must move promptly to begin the process for designating another entity as the AAA and temporarily take on the functions of the

AAA or temporarily assign the functions to another agency in the PSA after the date of withdrawal of the AAA's designation while this process is underway.

MBA Operations Policy #7: Maintenance of Effort

Authority Reference	OAA , Sec. 374 45 CFR 1321.9(c)(2)(vi)
Operating Category	MBA Operations

Policy

1. State Unit on Aging

- A. The MBA must spend for both services and administration at least the average amount of State funds reported and certified as expended under the State plan for these activities for the three previous fiscal years. If MBA spends less than this amount, the Assistant Secretary for Aging reduces the State's allotments for services under Title III by a percentage equal to the percentage by which the State reduced its expenditures.
- B. The amount certified must at least meet minimum match requirements from State resources.
- C. Any amount of State resources included in the Title III maintenance of effort certification that exceeds the minimum amount mandated becomes part of the permanent maintenance of effort; and
- D. Excess State match reported on the Federal financial report does not become part of the maintenance of effort unless the State agency certifies the excess.

2. AAAs

- A. In general, federal funds should not be used to supplant state or local resources in place prior to the award. Federal funds should be used to expand services, unless otherwise specified in law or regulation.
- B. Except as provided in Sec. 374 of the Older Americans Act, there is no statutory basis for Maintenance of Effort requirements for AAAs or their service providers.

Procedures

1. MBA is required to certify maintenance of effort has been met by August 1 of each year for the federal fiscal year that ended September 30 of the prior calendar year.
2. MBA will document how it meets its maintenance of effort requirement by certifying amounts needed to meet MOE requirements expended on the Federal financial report.
3. MBA's calculation process and sources of state spending used to meet MOE are described below.
 - A. Calculation process used to complete the maintenance of effort certification is a multiple step process

Step 1. Compute minimum match from State funding

- i. Pull expenditure data for OAA Title III using Statewide Integrated Financial Tools (SWIFT)
- ii. Determine state and/or local share for each type of spending
 - a. State Plan and Area Plan Administration
 - ii. Divide expenditure total by .75
 - iii. Then multiply by .25
 - iv. Result equals state and/or local share for State Plan and Area Plan Administration
 - b. Direct service – only OAA Title III B, C1, and C2 subparts.
(Note: direct service support for state long-term care ombudsman program is exempted from the match requirement)
 - i. Divide expenditure total by .85
 - ii. Then multiply by .15
 - iii. Result equals state share for Direct Service for OAA Title III B, C1, and C2
 - c. There is no state or local share for Subpart D, Evidence-based Health Promotion.
 - d. Direct Service for Subpart E
 - i. Divide expenditure total by .75

- ii. Then multiply by .25
 - iii. Result equals local share for Direct Service for Subpart E
- iii. Add together results for state and/or local share to find total state and/or local share for reporting period

Step 2. Identify total actual outlays from state funding sources (data pulled from SWIFT)

Step 3. Compare total actual state outlays to average amount of State funds spent the three previous fiscal years.

Step 4. Compare total actual state outlays to minimum match requirements and ensure amount to be certified as MOE meets at least minimum match requirements.

Step 5. Complete certification form

B. Sources of State funding used to complete MOE certification may include any combination of the following as needed to meet the minimum MOE requirement:

- i. Senior Nutrition Programs
- ii. Consumer information and assistance and long-term care options counseling
- iii. Long-term care options counseling at critical care transitions
- iv. Prescription Drug Assistance
- v. Return to Community Grants

C. MBA will share its certified MOE at the next MBA Board meeting following the August 1 submission deadline.

MBA Operations Policy #8: Rural Minimum Expenditures

Authority Reference	OAA Section 307(a)(3)(B) 45 CFR Part 1321.9(c)(2)(viii)
Operating Category	MBA Operations

Policy

1. MBA will ensure it will maintain at least minimum expenditures in each fiscal year on services for older individuals residing in rural areas as required by the OAA, which requires at least as much be spent for these services as in fiscal year 2000.
 - a. MBA is using a more recent benchmark comparison year for purposes of measuring compliance. The most recent federal fiscal year for which MBA has data on this benchmark comparison year is FFY 2005. At that time, MBA estimated the annual cost of serving individuals living in rural areas was \$3,673,875.
2. MBA uses the U.S. Census Bureau definition of "rural", which means all areas not defined as urban for purposes of the Intrastate Funding Formula and for purposes of this policy. According to the U.S. Census Bureau, to qualify as an urban area, an area must encompass at least 2,000 housing units or have a population of at least 5,000.

Procedures

1. MBA uses the U.S. Census Bureau definition of urban area to derive what is classified as a rural area. MBA will periodically review the Census Bureau definition of "urban area" as part of the process of developing each four-year State Plan to ensure MBA is using the most current definition.
2. As part of developing the State plan, the MBA shall estimate the projected costs of providing such services to older individuals residing in rural areas, including the costs of providing access to these services, for each fiscal year to which the State Plan applies.

In order to project the costs of providing such services to individuals residing in rural areas, MBA will perform the following steps:

- Step 1. Data from the U.S. Decennial Census is obtained for each county in Minnesota for multiple sub-demographics, including 4 age groups; 8 racial

and ethnicity groups; whether the person resides in a rural or urban area; their gender; poverty level; and living situation (alone, or with others)

a. This data is aggregated by Area Agency on Aging (AAA)

b. It is then placed into the population data column on the .pdf version of a spreadsheet for each AAA.

Step 2. Total number of unduplicated individuals who utilized Older Americans Act services (IIIB: supportive services; IIIC1: congregate meals; IIIC2: home-delivered meals; and IIIE: caregiver services) for each AAA for the first quarter (Q1) of the current calendar year (CY) are obtained from PeerPlace.

a. This data is broken out by the same sub-demographics referenced in #1

b. Similar sub-demographic breakdowns are obtained for Senior LinkAge Line utilization from a separate data request.

Step 3. The same sets of data in #2 are obtained for the last full CY that has concluded.

Step 4. The Q1 data is placed into a projection model that incorporates the ratio of unduplicated service utilization for each service during Q1 compared with the full CY for the past 4 completed CYs; and uses this multi-year ratio to project the service utilization for the current unfinished CY.

Step 5. A separate projection model that incorporated the last 4 CYs is used to project the service utilization for the next CY that has yet to begin.

a. For example, for 2024, we obtain the Q1 data for 2020 through 2024 (5 separate data points); CY data for 2020-2024 (four separate data points); and use them to project CY2024 and CY 2025.

Step 6. The results of these projection models are placed into a .pdf version of a spreadsheet for each AAA.

3. MBA then compares both the projection and actual expenditures to the historical benchmark to ensure it will maintain at least minimum expenditures in each fiscal year on services for older individuals residing in rural areas as the benchmark comparison year of FFY 2005.

4. MBA's plan to meet the needs for such services is to work with AAAs to ensure older individuals living in rural areas of Minnesota are given a preference for services and to monitor this through AAA reporting. AAAs submit, as a component of their annual Area Plan on Aging, a chart estimating the number of older individuals from each population group to be served, by section of Title III funding. MBA staff monitor actual participants served and their characteristics throughout the Area Plan year and worked with the Area Agencies on Aging to remediate any issues, as needed.

MBA Operations Policy #9: Waiver Requests

Authority Reference	OAA , Sec. 315, 316, 306(b)(1), 307(a)(8) and (a)(10) 45 CFR Part 1321.65(b)(7)
Operating Category	MBA Operations

Policy

1. The purpose of this policy is to describe how AAAs may submit waiver requests and the process by which those waiver requests will be evaluated.
2. AAAs may request waivers of policy requirements not mandated by federal or state law or regulations and may request waivers as permitted by federal law, including for the following purposes:
 - A. Direct service provision by the AAA
 - B. Priority services funding (also referred to as "Minimum Adequate Proportion")
 - C. Forgoing implementation of cost sharing in very limited circumstances
 - D. Transfer requests in excess of standard transfer thresholds
 - E. Spending more than 25% of Title III-B Supportive Services funding on Program Development and Coordination (PD&C) activities
 - F. Home modification project spending thresholds
 - G. Contracting with for-profit organizations to provide services
 - H. Equipment purchase limits
3. AAAs interested in seeking a waiver from any of the above requirements should review the related policy for the specific topic listed under 2(A) through (H) above for which they wish to seek a waiver. Criteria for each waiver request are specific to the policy topic. Those policies include the following:
 - A. Direct Service Provision by AAAs
 - B. Minimum Adequate Proportion
 - C. Cost Sharing

- D. Transfers of Direct Service Funds
 - E. Program Development and Coordination
 - F. Supportive Services (for home modification)
 - G. AAA Grants and Contracts with Service Providers
 - H. Equipment, Maintenance, Buildings & Renovations
4. In general, waiver requests (and renewal requests) for policies listed under 3A – E and 3G above are intended to be submitted as part of the Area Plan approval process. However, waiver requests may be submitted at any time.

Procedures

1. If the waiver request is submitted through the Area Plan review process, AAAs must complete the MBA Waiver Request Form and submit it to the Executive Director of the MBA via Foundant with:
 - A. Accompanying rationale that addresses criteria set in each relevant policy for which the waiver request is being submitted as noted above;
 - B. Its impact on services for older adults;
 - C. The type and amount of funding involved; and
 - D. Acknowledgment that the AAA governing board has approved submission of the waiver request.
2. If a waiver request is submitted outside of the Area Plan submission process, the AAA must submit the waiver request via Foundant. The letter must address items A – D above under Procedure 1.
3. MBA will acknowledge receipt of the waiver request in writing.
4. A waiver request will be considered valid if it is related to one of the policy topics under Policy 2(A) through (H) above and includes the information outlined in Procedure 1(A) through (D).
5. If the waiver request is a part of the Area Plan review process, written notification of approval will be included in the Notice of Grant Award. If the waiver request is not submitted as part of the Area Plan review process, the AAA will be notified of

MBA's decision within 30 calendar days of MBA's receipt of the waiver request.

6. All waivers are valid for no more than one year and follow the Area Plan and amendment cycle, at which time the AAA must resubmit its request.

MBA Operations Policy #10: MBA Hearings

Authority Reference	OAA , Sec. 305 (b)(5)(C), 306 (f) and 307(a)(5) Minnesota Statutes Chapter 13D
Operating Category	MBA Operations

Policy

1. The MBA shall provide an opportunity for a hearing:
 - A. To an AAA if the MBA disapproves the Area Plan or Plan amendment submitted by an AAA.
 - B. To an AAA when the MBA proposes to withhold a portion or the totality of an AAA's funds for material failure to comply with federal or state laws or MBA policies, including Area Plan requirements, after attempting to work through a Corrective Action Plan.
 - C. To any service provider or applicant to provide services under an Area Plan except for routine administrative actions within the purview of the AAA.
 - D. To any applicant for designation as a PSA or AAA designation whose application is denied by the MBA.
 - E. When the MBA designates a new PSA, otherwise affects the boundaries of PSAs, or withdraws an AAA designation after attempting to work through a Corrective Action Plan.

Procedures

1. When the MBA proposes to take an action for items (a) through (e) above after a vote of the full Board, it will provide a notice of action 10 calendar days prior to taking the action (except in the case of withdrawal of AAA designation, which is 90 calendar days before the effective date of the withdrawal). In the notice of action, the MBA shall describe the action, the reason the action is being taken, and the opportunity to request and have a hearing as described below.
2. State hearing procedures:
 - A. AAAs, applicants for PSA designation, applicants for AAA designation, service providers, or applicants to provide services, may request a hearing.

- i. The request must be made in writing to the MBA Executive Director within 10 calendar days of receiving the MBA or AAA decision, whichever is the decision-making agency. In the request, the applicant for the hearing should describe the adverse action taken; by whom the action was taken; and their reasons for believing the decision to be in error.
 - ii. Only the entity which is the subject of the proposed action may request a hearing.
 - iii. If the entity does not request a hearing within 10 calendar days, the MBA's proposed action communicated in the notice of action shall take effect.
- B. Within seven calendar days of receipt of the written request for a hearing, the MBA will schedule a date, time, and location for the hearing. The MBA must provide all parties with at least seven calendar days of notice for the hearing. MBA hearings are public meetings subject to Minnesota Statutes Chapter 13D.
- C. Within 45 days of receiving the written request for a hearing, the MBA shall hold a public hearing to examine the disagreement presented by the adversely affected party. The public hearing shall be conducted by a hearing panel comprised of seven to nine members appointed from among MBA members by the MBA Chair. If an MBA action is being contested, the hearing panel must include both members of the committee that recommended the action as well as members not serving on that committee. The hearing panel must also include at least the MBA Chair or a Vice Chair. The hearing shall consider procedural grounds and issues related to the merits of the case.
- D. Prior to the public hearing, the MBA shall request a written response from the AAA or the Chair of the MBA committee that recommended the action. This statement, along with the request for the hearing and any other written documentation, will be shared with hearing panel members in advance of the hearing for their review.
- E. At the public hearing, the MBA hearing panel shall hear and review relevant facts and testimony from the adversely affected party. The AAA shall also present testimony and facts, if an action of the AAA is the subject of the

hearing. If an action by the MBA is the subject of the hearing, the MBA shall be represented by the Chair of the Committee that recommended the action to the full Board, or that Chair's designee. Affected AAAs, service providers, and older people may also present testimony in cases involving issues listed in items 1.d and 1.e above. Members of the hearing panel may ask questions of those presenting relevant facts and testimony.

- F. The hearing panel shall make a recommendation for a decision by the MBA.
- G. The MBA shall accept or reject the recommendation and make a decision at its earliest possible opportunity.
- H. Within 10 calendar days of the action taken by the MBA, the MBA shall notify the parties in writing of their decision. The decision shall address whether the MBA or AAA followed official policies and procedures of the awarding agency including applicable federal and state requirements. That notice shall also include information about the availability of an appeals process to the Departmental Appeals Board of the U.S. Department of Health and Human Services for applicants for PSA designation whose application was denied and for AAAs whose AAA designation was withdrawn. See [the Departmental Appeals Board website](#) for more information.
- I. The MBA, or the AAA if a hearing was held related to a decision of the AAA, may move forward with implementing its decision immediately following providing written notice to the party who requested a hearing.

MBA Operations Policy #11: MBA Monitoring of AAAs

Authority Reference	45 CFR Part 1321.9(a)(1) MN Stat. 16B.97 subd. 4(a)(1) MN Office of Grants Management (MN OGM) Policy 08-10 Policy on Grant Monitoring 2 CFR 200
Operating Category	MBA Operations

Policy

1. The MBA conducts periodic monitoring and assessment of all activities carried out under the Area Plans. The purpose of such monitoring and assessment are to:
 - A. Assure that programs of the AAA are being conducted in compliance with federal and state policies.
 - B. Understand the need for training, technical assistance, and policy changes/clarifications for AAAs.
 - C. Provide the MBA with a flow of information that assists the MBA with its management, coordination, advocacy, and planning responsibilities.
 - D. Determine whether corrective action by an AAA is necessary.
2. Monitoring and assessment activities by the MBA can take one or more of the following forms:
 - A. In person site visits
 - B. Periodic virtual meetings with each AAA
 - C. Desk review of standard fiscal and program reports as well as review of PeerPlace data.
 - D. Review of special and individual reports or surveys that may be requested.
 - E. Written correspondence.
 - F. Phone communications.
 - G. Area Plan and amendment reviews and subsequent follow up.
 - H. Annual fiscal audits and reconciliations.

3. When an AAA receives a direct service waiver, the MBA will directly monitor how the AAA is providing the direct service in accordance with all applicable federal and state policies and standards.
4. MBA must carry out in person site visits of each AAA at least annually and prior to when a final payment is made for the Area Plan year. In extraordinary circumstances, such as a pandemic or another significant unanticipated situation of extended duration, the MBA may conduct monitoring visits virtually.
 - A. Each year, the MBA will consult with AAAs about the scheduling of each AAA's monitoring visit. The MBA will also create a template for each year's monitoring visit outlining the protocol for the conduct of the assessment. Assessments may be a fiscal assessment, a general program compliance assessment, concentrate primarily on one program or area of development, or a combination.
 - B. A formal report of written monitoring findings will be sent to the AAA following the on- site visit, including a compliance checklist and, if needed, identification of any issues where corrective action is needed within 14 business days of when the site visit is completed.
5. If, as the result of monitoring or assessment, a corrective action is needed, it will be documented as part of the written monitoring findings. MBA will ask the AAA for documentation the issue has been corrected within 30 days of the AAA's receipt of the written monitoring findings (or a plan for remedying an issue if the timeframe for addressing it would reasonably take longer than a 30-day period). MBA will continue to monitor for compliance in correcting the finding and provide technical assistance to the AAA. MBA's goal is to help AAAs carry out their responsibilities in a compliant and effective manner.
 - A. If the AAA does not make substantive progress in resolving findings or implementing a corrective action plan, MBA has authority to take other steps to ensure the AAA is meeting its obligations, especially for material deficiencies. Such steps may include temporarily withholding funds or, in extraordinary circumstances, initiating de-designation of the AAA's status.

Procedures

1. The MBA will establish an electronic grant file for each AAA. The grant file shall be the centralized repository for all monitoring information about each AAA. Documentation related to monitoring shall be maintained consistent with state record retention requirements.
2. Appropriate MBA staff will be assigned responsibility for conducting various types of monitoring and documenting their reviews. MBA staff will use consistent processes as described in this Policy for monitoring compliance.

3. As part of its ongoing, desk review monitoring processes, MBA staff will review financial reporting and payment requests to ensure the following:
 - A. AAAs are obligating and spending funds in a timely manner for allowable purposes;
 - B. AAAs are meeting match requirements
 - C. AAAs have provided standard documentation needed as part of the payment request process, which MBA will communicate at the start of each calendar year.
4. Each annual site visit will include a review of financial controls and financial management processes. AAAs should anticipate MBA will do the following:
 - A. Request the AAA pull files for a sample of service providers for at least three contracts for amounts of \$50,001 or greater, to review the following:
 - i. AAAs show documentation from the service provider's a pre-award risk assessment. This documentation should include the dates the pre-award risk assessment was conducted; the findings of that assessment; and whether a need for enhanced monitoring was identified.
 - ii. AAAs show documentation they have conducted financial reconciliation; and whether any issues arose that required remediation as a result of that process.
 - iii. AAAs show documentation they have a current contract in place with the service provider that resulted from a competitive procurement process and that the contract plus any extension amendments have not exceeded a five-year period in duration.
 - iv. AAAs show documentation their practice for awarding grants and contracts to service providers did not result in supplantation of funds.
 - v. AAAs show service providers are soliciting voluntary contributions for services.
 - B. Request the AAA pull files for a sample of service providers for at least three contracts for \$25,000 or less to review the following:
 - i. AAAs show documentation they have reviewed how program income is generated and how it is being managed through the additive method in order to expand services.
 - ii. AAAs show service providers are soliciting voluntary contributions for services.
 - C. Engage the AAA in a structured discussion about funding for Program Development and Coordination activities, including:

- i. Whether any current contracts and commercial relationships used PD & C funding to spur their development and, if so, whether PD& C funds have been reimbursed.
- 5. In addition to reviewing compliance with financial controls and financial management processes each year, the site visit will also involve review of the following on a rotating basis over the four-year Area Plan cycle.
 - A. Administrative
 - B. Nutrition
 - C. Supportive Services and Health Promotion/Disease Prevention
 - D. Caregiver Support Services
- 6. When MBA is examining each of the above areas (#5 A – D) on a rotating cycle, AAAs should anticipate MBA will request the AAA pull files for a sample of service providers and examine the following:
 - A. That Supportive Services funded with Title III-B funding meet the following requirements:
 - i. Verification that a sample of five randomly selected individuals receiving one or more units of chore, homemaker, or transportation services (whose information is extracted from Peer Place) have a current NAPIS form on file (meaning it has been completed within the past year) and sufficient information has been gathered to determine the individual is eligible to receive chore, homemaker, or transportation services;
 - B. Requirements for C-1 and C-2 service providers are included under Number 6 below.
 - C. That Disease Prevention and Health Promotion services funded with Title III-D funding provided under the contract meet requirements for ACL's Evidence-Based Definition as noted in Provision of Title III Services Policy #9: Health Promotion.
 - D. That Caregiver Support Services funded with Title III-E funding meet the following requirements:
 - i. Verification that a sample of eight randomly selected individuals served by the service provider (whose information is extracted from Peer Place) receiving Caregiver Support services have a current NAPIS form on file (meaning it has been completed within the past year) and that sufficient information has been gathered to determine the individual is eligible to receive caregiver support services;
 - a. If the individual served did not provide responses to the NAPIS form questions, that should be noted on the form.
 - ii. All individuals offering Caregiver Consultation services have participated in all appropriate training as required under Provision of Title III Services Policy #10: Caregiver Support Services.

E. Whether the service provider received any grievances as described in Title III Administrative and Financial Requirements Policy #19: Grievance Process and whether the grievance was satisfactorily resolved at the service provider level.

7. During any on-site monitoring review, regardless of its specific focus, AAAs will need to show documentation they conducted on site monitoring reviews of at least 1/3 of its congregate and home-delivered meal sites or 20 sites, whichever is fewer. The documentation needs to show which service providers received site reviews and at which locations, what program requirements were checked, and any findings from each review.

A. For purposes of counting, each visit counts as one visit regardless of the number of types of services or number of additional sites a central site supports. For congregate sites, this means a location that serves a congregate meal on site or offers "grab and go" meals. For home-delivered meals, this means a visit to a single residence to which a meal is delivered.

B. In addition to the annual criteria for visiting 1/3 or at least 20 of its congregate and home-delivered meal service providers, the AAA must ensure a different set of sites are visited each year. The AAA must also ensure each meal site receives a site visit at least every three years.

C. When a congregate site receives a monitoring visit, the AAA must check the following:

i. That the on-site kitchen is preparing a meal in accordance with the health and safety standards of the Nutrition Policy;

ii. That the site has a menu plan that meets the standards outlined in the Nutrition Policy;

iii. That voluntary contributions are being solicited for the meal, that they are stored in a secure manner if a meal participant makes a cash voluntary contribution, and that any non-eligible participants in the meal pay the advertised cost of the meal.

D. When a home-delivered meal site receives a monitoring visit, the AAA must check the following:

i. That the site at which the meal was prepared cooked the meal in accordance with health and safety standards described in the Nutrition Policy (or, alternatively, if the meal being delivered is a frozen meal, that any meals currently being prepared at the service

provider's central food preparation site meets health and safety standards);

ii. A NAPIS form has been completed for the individual(s) receiving the meal.

iii. That the meal has been transported using an insulated bag as required in the Nutrition Policy;

8. Information about the AAA's progress in the following activities:

B. What activities did the AAA engage in to promote coordination with Title VI grantees?

B. What steps did the AAA take to ensure services were prioritized to individuals with greatest social need and greatest economic need?

9. MBA must provide each AAA with a follow up summary report from their site visit within 14 business days after the site visit has been conducted. The summary report must include any areas where changes or improvements are required, including whether any corrective action plans are required.

MBA Operations Policy #12: MBA Emergency Planning and Coordination

Authority Reference	Older Americans Act Section 307(a)(28) 45 CFR 1321.97 & § 1321.103
Operating Category	MBA Operations

Policy

1. MBA must establish an emergency plan, which must include the following components.

A. MBA's continuity of operations plan (COOP) and an all-hazards emergency response plan based on completed risk assessments for all hazards and updated annually;

i. A COOP plan addresses continuation or resumption of priority services after a disruption of normal activities. Priority services are defined as follows:

a. A *Priority 1* function is a function that, for purposes of planning business continuity during an emergency or disaster, must continue 24 hours per day and 7 days per week, or be recovered within hours. No MBA services are considered Priority One functions.

b. A *Priority 2* function is a function that, for purposes of planning business continuity during an emergency or disaster, must be resumed within 25 hours to seven days. MBA Priority 2 services include the following:

- Pre-Admission Screening
- Nutrition Services
- Office of the Long-Term Care Ombudsman,
- A subset of Senior Linkage Line services as defined in MBA's COOP
- Fiscal operations to ensure appropriate costs are paid in a timely manner to facilitate the provision of priority services.
- Other services as identified in MBA's COOP.

ii. An all-hazards emergency response plan focuses on capacities and capabilities that are critical to preparedness for a full range of emergencies or disasters, including internal emergencies and a man-made emergency (or both) or natural disaster.

B. A plan to coordinate activities with AAAs, service providers, local emergency response agencies, relief organizations, local governments, Title VI grantees, State agencies

responsible for emergency and disaster preparedness, and any other institutions that have responsibility for disaster relief service delivery;

C. Processes for developing and updating long-range emergency and disaster preparedness plans; and

D. Other relevant information as determined by the MBA.

2. MBA's plan shall include information describing the involvement of the Director of the MBA in the development, revision, and implementation of emergency and disaster preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

3. The plan shall discuss coordination in emergency planning, response, and recovery with AAAs and service providers, Title VI grantees, and Tribal and local emergency management.

4. In the event of a declared emergency situation, MBA will serve as a central point of coordination between the MBA, AAAs, and Title VI grantees. The MBA will take responsibility for convening AAAs and Title VI grantees in the event of a declared emergency. The purpose of this convening would be to identify needs and resources to address the situation and coordinate efforts across various entities.

Procedures

1. MBA must have its COOP established and/or updated by December 31 to ensure MBA is able to meet Priority 1 and Priority 2 obligations in the event of an emergency.

2. The COOP must include all elements as defined by Minnesota Management and Budget, which generally encompasses:

A. Procedures for the activation of the COOP;

B. Roles, command structure, succession planning, decision making processes, and emergency action procedures that will be implemented if the COOP is activated;

C. Alternative operating plans for Priority 1 or Priority 2 functions;

D. A procedure for returning to normal operations; and

The COOP must be available for inspection upon request.

3. The all-hazards plan must be established and/or updated annually by December 31 of each year.

4. Coordination with Title VI Grantees for Emergency Preparedness

A. The MBA will work through the MBA Indian Elders Coordinator to foster relationships with Title VI grantees across Minnesota as part of its broader responsibilities to facilitate coordination across the MBA, AAAs, and Title VI grantees.

B. The MBA Indian Elders Coordinator will ensure MBA has identified points of contact for each Title VI grantee for emergency planning, preparedness, response, and recovery functions.

C. The MBA Indian Elders Coordinator will participate in the annual updating of MBA's COOP and all-hazards emergency response plan and solicit MIAAA and Title VI grantee input as part of the annual updating process.

D. In the event of a declared emergency situation, MBA will serve as a central point of coordination between the MBA, AAAs, and Title VI grantees. The MBA will take responsibility for convening AAAs and Title VI grantees in the event of a declared emergency. The purpose of this convening would be to identify needs and resources to address the situation and coordinate efforts across various entities.

MBA Operations Policy #13: Reallotment

Authority Reference	Older Americans Act Sections 304(b) and 703(b) 45 CFR Part 1321.9(c)(2)(ix)
Operating Category	MBA Operations

Policy

1. MBA expects that AAAs will fully expend their Older Americans Act funding within the timeframe funds are available. MBA and AAAs are aware that demand for services exceeds available funding and therefore want to ensure allocated funding is strategically, efficiently, and fully spent.
2. Annual formula grant award allocations of OAA Title III and Title VII funds have a project period of two years, and all grant activities must occur within the project period.
3. MBA also recognizes it is the policy of the Administration for Community Living to ensure Older Americans Act funding is fully spent. MBA is obligated to annually certify to the Assistant Secretary for Aging:
 - A. Whether MBA will fully expend its Title III and Title VII formula grant funds during the project period of the grant award;
 - B. Whether MBA will not fully use its Title III or Title VII formula grant funds during the project period of the grant award and therefore intends to release unused funding to the Assistant Secretary for Aging as well as the Parts and amounts of any funding that will be released;
 - C. Whether MBA requests any Title III or Title VII formula grant funds released from other states that Minnesota AAAs can receive and expend.
 - D. If additional funds can be utilized, MBA must submit a brief statement justifying the need for additional funds. The statement must identify the Parts of Title III and/or VII for which funds are being requested.
4. Reallotted funds are one-time awards and there is no assurance additional reallotted funds will be received in future years. Reallotted funds do not impact allocation of funds in future years.

5. Any reallocated funding from other states must be distributed to AAAs through the Intrastate Funding Formula.

Procedures

1. HHS has an established process by which State units on aging must report about the reallocation process. By early September of each year, MBA must certify the following:
 - A. Whether MBA will fully use its Title III and Title VII funds during the project period of the grant award;
 - B. Whether MBA will not fully use its Title III or Title VII funding and therefore will release Title III and/or Title VII funds back to the Assistant Secretary;
 - C. Whether MBA requests reallocated funds from other states that will be used within the current project period of the current year grant.
2. In the event MBA plans to certify to HHS its intention to return any unused funds, MBA will first notify AAAs about this intention.
3. In the event MBA receives reallocated funds from other states, MBA will share this information with AAAs and distribute the funding through the IFF.
4. AAAs receiving any reallocated Older Americans Act funding must spend the reallocated funding by September 30th of the following year. For example, Older Americans Act funding reallocated from federal fiscal year 2023 must be fully spent by September 30, 2025.

AAA Operations Policy #1: Area Plan Development and Approval

Authority Reference	OAA , Sec. 306 OGM 08-04 Policy on the Use of Grant Agreements 45 CFR Part 1321.65
Operating Category	AAA Operations

Policy

1. The MBA shall issue annual instructions for a uniform Area Plan format, content, duration, and prescribed process and deadline for submittal. The Area Plan cycle is a four-year cycle with annual updates; and a new one-year budget to be submitted each year.
2. The Area Plan is the foundation for each AAA's plan to serve older adults with greatest social needs and greatest economic needs as well as family caregivers in a specific Planning and Service Area. It must describe the priority populations to be served, information related to the service needs for those priority populations, and a detailed plan for how Older Americans Act funds will be effectively used to support these priority populations as well as to leverage non-OAA funds within the Area Plan. An AAA may award grant/contracts only for activities included in its approved Area Plan.
3. Although MBA will provide more details for each four-year Area Plan cycle and annual updates through its annual instructions, Area Plans must always include the following general content:
 - A. Identification of populations within the planning and service area at greatest economic need and greatest social need, which must include the populations as set forth in the § 1321.3 definitions of greatest economic need and greatest social need and may include additional populations at the AAA's discretion.
 - B. At the start of each four-year Area Plan cycle, assessment and evaluation of unmet need, such that each area agency shall submit objectively collected, and where possible, statistically valid, data with evaluative conclusions concerning the unmet need for supportive services, nutrition services, evidence-based disease prevention and

health promotion services, family caregiver support services, and multipurpose senior centers. The evaluations for each area agency shall consider all services in these categories regardless of the source of funding for the services. This assessment requirement may be satisfied by analyzing the regional implications of a statewide analysis; by the AAA conducting a separate assessment; or by the AAA using the results of a related regional assessment conducted by another entity.

- C. The services, including a definition of each type of service; the number of individuals to be served; the type and number of units to be provided; and corresponding expenditures proposed to be provided with funds under the Act and related local public sources under the Area Plan;
- D. Plans for how direct services funds under the Act will be distributed within the planning and service area, in order to address populations identified as in greatest social need and greatest economic need;
- E. Requirements for program development and coordination activities as set forth in § 1321.27(h) and outlined in AAA Operations Policy #6: Program Development and Coordination.
- F. Minimum adequate proportion requirements as described in AAA Operations Policy #4: Minimum Adequate Proportion.
- G. If an AAA wants to provide information assistance and/or outreach directly, the AAA will have an opportunity to indicate this during the Area Plan submission process.
- H. If an AAA wants to provide services directly other than information assistance and outreach, the AAA must submit a waiver request as described in MBA Operations Policy #9: Waiver Requests. For each time approval is granted to an AAA to provide direct services, the AAA must demonstrate its efforts to identify service providers in a subsequent waiver request prior to being granted a subsequent approval.
- I. If the AAA requests to allow up to 25% of its Title III, part C-1 funds to be used as set forth in § 1321.87(a)(1)(i) through (iii) for shelf-stable, pick-up, carry-out, drive-through or similar meals to complement the congregate meal program, it must provide the following information to the State agency:
 - (i) Evidence, using participation projections based on existing data, that provision of such meals will enhance and not diminish the congregate meals program, and a commitment to monitor impact

- on congregate meals program participation;
- (ii) Description of how provision of such meals will be targeted to reach those populations identified as in greatest economic need and greatest social need;
- (iii) Description of the eligibility criteria for service provision;
- (iv) Evidence of consultation with nutrition and other direct services providers, other interested parties, and the general public regarding the need for and provision of such meals; and
- (v) Description of how provision of such meals will be coordinated with nutrition and other direct services providers and other interested parties.

4. Area Plans shall also:

- A. incorporate services which address the incidence of hunger, food insecurity and malnutrition; social isolation; and physical and mental health conditions;
- B. provide, to the extent feasible, for the furnishing of services under the OAA through self-direction; and
- C. develop objectives that coordinate with and reflect the State plan goals for services under the OAA.

5. In developing its Area Plan, an AAA must solicit and meaningfully consider the views of its Advisory Council and other community members, especially older individuals, family caregivers, service providers, and the public with a focus on those in greatest economic need and greatest social need.

- A. The AAA must make its proposed Area Plan available for public comment for a minimum of 30 calendar days, unless there is an emergency situation for which MBA agrees a shorter timeframe for public review and comment is appropriate.
- B. In addition to the public comment period, the AAA must hold at least one area-wide public hearing on the entire proposed Area Plan and on all annual amendments to the Area Plan and:
 - i. Give at least two weeks advance public notice to older individuals, public officials, and other interested parties of the times, dates, and locations of the public hearing(s);
 - ii. Hold the public hearing(s) at a time and location

which permits older individuals, public officials, and other interested parties reasonable opportunity to participate;

- iii. Assure that complete copies of the proposed Area Plan including the full budget are available for review at the AAA office and at the public hearing(s), as well as available in print by request. Executive summaries of the major components and proposed amendments must also be available prior to the public hearing; and
 - iv. Submit the Area Plan and annual amendments to the Advisory Council for review and comment before transmitting the Area Plan to MBA for approval.
- C. The timeframe for the notice of and conducting of a public hearing may overlap with the 30-day time period for public review and comment.

6. MBA Review Process

- A. The MBA's review and approval of Area Plans shall be based on each Plan's response to stated priority needs in the area and conformity to the required format, content, and deadlines for submittal and compliance with applicable federal and state laws and regulations and MBA policies and procedures.
- B. MBA staff shall:
 - i. Review outcomes and budget using the following criteria:
 - 1. Appropriateness to identified needs and issues in Area Plan;
 - 2. Reflection of the MBA Strategic Plan, MBA position statement on roles of AAAs, or Area Plan format in its rationale;
 - 3. Probability that the activities will accomplish the stated targeted outcome measures/outcomes;
 - 4. Degree to which outcomes are clear and measurable; and
 - 5. Assurance through half-year reports that the AAA is making progress on the outcomes.
 - ii. Provide technical assistance to AAAs about their Area Plan, as needed.

7. Once approved, the Area Plan must be kept current and up-to-date during the duration of the Plan through an amendment process. Annual Area Plan amendments and other non-technical amendments must go through the same public notice and comment process described earlier in this policy. For purposes of this policy, technical amendments include budget adjustments or minor changes. The final Area Plan must also be available to the public at the AAA office or in print upon request.
8. The development, submission and implementation of an Area Plan is a foundational responsibility of an AAA. An AAA cannot receive OAA funds without an approved Area Plan in place. MBA may initiate the process of withdrawing AAA designation if a AAA fails to submit a reasonably timely Area Plan without an approved extension; to resubmit an Area Plan that incorporates MBA-required conditions; or to resubmit a compliant Area Plan within required timeframes if the Board votes to disapprove an Area Plan.
9. If the Board votes to disapprove an Area Plan, MBA will provide a written notice to the Chairperson of the AAA's board of directors of its intent to disapprove the Area Plan and what needs to be revised in the Area Plan for it to be approved. The AAA will have 10 calendar days from receipt of MBA's written communication to resubmit a compliant plan. If the AAA does not submit a compliant plan in this timeframe, MBA will provide notice of action to the AAA of its decision to disapprove the Area Plan and of the AAA's opportunity to request a hearing consistent with MBA Operations Policy #10: Hearings.

Procedures

1. MBA will issue annual Area Plan instructions in early May of each calendar year. AAAs must submit their Area Plans to MBA for review in August of each calendar year. MBA will identify a specific submission deadline as part of the annual Area Plan instructions.
2. AAAs must submit their Area Plans by MBA's deadline or obtain written approval for an extension. Failure to submit an Area Plan in a reasonably timely fashion will result in the creation of a Corrective Action Plan for the AAA.
3. MBA staff and select MBA Board committee members will review and provide comments and questions on the proposed Area Plan. This feedback and any proposed conditions will be shared with the AAAs in October of each year. MBA must

indicate in its feedback whether there are any issues in the proposed Area Plan that rise to the level of disapproval beyond the proposed conditions.

4. AAAs will present their proposed Area Plans to the MBA Board in October of each year. MBA staff will share their perspectives and a proposed motion for the Program Operation Committee's consideration at that same Board meeting. The Program Operation Committee will vote on each AAA's Area Plan. Approval of the Area Plan may be subject to conditions requiring action by the AAA.
5. Subsequent to the Program Operation Committee vote, the full MBA Board will vote on each AAA's Area Plan and any recommended modification by MBA staff at its October meeting.
6. Following the MBA Board vote, MBA staff will work with AAAs to provide technical assistance, negotiate any final issues, and finalize the Area Plan. Each approved finalized Area Plan will be incorporated into a fully executed grant contract between MBA and each AAA. MBA and AAA staff will work diligently to have a fully executed contract in place that includes the Area Plan prior to December 15 of each year.
7. If the Board votes to disapprove an Area Plan, MBA will provide a written notice to the Chairperson of the AAA's Board of Directors of its intent to disapprove the Area Plan and what needs to be revised in the Area Plan for it to be approved.
 - A. The AAA will have 10 calendar days from receipt of MBA's written communication to resubmit a compliant plan.
 - B. If the AAA does not submit a compliant plan in this timeframe, MBA will provide notice of action to the AAA of its decision to disapprove the Area Plan and of the AAA's opportunity to request a hearing consistent with MBA Operations Policy #10: Hearings.

AAA Operations Policy #2: Advisory Councils

Authority Reference	45 CFR 1321.63
Operating Category	AAA Operations

Policy

1. Each AAA must establish an Advisory Council. The council shall carry out advisory functions which further the area agency's mission of developing and coordinating community-based systems of services for all older individuals and family and older relative caregivers specific to each planning and service area.
2. Each Advisory Council shall advise its AAA relative to:
 - A. Developing and administering the area plan, including review, comment, and approval on the draft area plan before it is transmitted to MBA for approval.
 - B. Ensuring the plan is available to older individuals, family caregivers, service providers, and the general public;
 - C. Conducting public hearings;
 - D. Representing the interests of older individuals and family caregivers; and
 - E. Reviewing and commenting on community policies, programs and actions which affect older individuals and family caregivers with the intent of assuring maximum coordination and responsiveness to older individuals and family caregivers.
3. Each Advisory Council shall include individuals and representatives of community organizations from or serving the planning and service area who will help to enhance the leadership role of the AAA in developing community-based systems of services targeting those in greatest economic need and greatest social need. The AAA shall conduct an open application process for Advisory Council members and promote the opportunity to apply for Advisory Council positions on their website and other available communications channels.

Each Advisory Council shall be comprised of at least eight individuals (each of whom may count as meeting multiple criteria below as applicable), including:

- A. More than 50 percent older individuals (meaning individuals age 60 or older), including individuals of color and/or indigenous people who are participants or who are eligible to participate in programs under this part, with efforts to include individuals identified as in greatest economic need and individuals identified as in greatest social need in § 1321.65(b)(2);

- B. Representatives of older individuals;
- C. Family caregivers, which may include older relative caregivers;
- D. Representatives of health care provider organizations, including providers of veterans' health care (which may include a County Veteran Service Officer));
- E. Representatives of service providers, which may include legal assistance, nutrition, evidence-based disease prevention and health promotion, caregiver, long-term care ombudsman, and other service providers;
- F. Persons with leadership experience in the private and voluntary sectors;
- G. Local elected officials;
- H. The general public; and
- I. As available:
 - (i) Representatives from Indian Tribes, Pueblos, or Tribal aging programs; and
 - (ii) Older relative caregivers, including kin and grandparent caregivers of children or adults age 18 to 59 with a disability.

4. AAAs and Advisory Councils must abide by the terms of Title III Administrative and Financial Requirements Policy #2: Conflicts of Interest to identify and mitigate any potential, perceived, or actual conflicts of interest.

5. The Advisory Council must meet at least annually.

6. The Advisory Council shall not operate as a board of directors for the AAA. With only one exception, individuals may not serve on both the advisory council and the board of directors for the same AAA.

A. AAAs which are part of their Regional Development Commission may have individuals who serve on both the advisory council and board of directors if their bylaws require it; however, even in these instances, the membership of the advisory council must differ from the board of directors to the greatest extent possible.

Procedures

1. Each AAA must establish policies and procedures with respect to formation of its Advisory Council and participation of Advisory Council members. Such policies and procedures must include the following topics:

- A. The number of members (or range of number of members) to serve on the Advisory Council, with a minimum number of eight members;
- B. How prospective members are recruited and selected;

C. Expectations with regard to Advisory Council member participation;

D. Duration of terms, including how terms will be staggered to ensure some degree of institutional knowledge is retained as some existing members complete their terms and new members are selected;

E. What leadership position(s) exist on the Advisory Council and how members serving in leadership position(s) are selected;

F. Anticipated number of meetings per year (with at least one meeting required annually). It is strongly recommended this be an in-person meeting with options for virtual participation.

G. How the AAA will apply its Conflict of Interest policy to members of its Advisory Council, screen for potential, perceived, or actual conflicts related to various Advisory Council activities, and mitigate against them if any are present. Mitigation strategies taken must be documented in meeting minutes.

2. Each AAA must post a list of its Advisory Council members on its website.

3. As part of the Area Plan submission process, AAAs must submit their then-current slate of Advisory Council members and note how the Advisory Council's membership meets the composition requirements of this policy.

AAA Operations Policy #3: AAA Administrative Budget

Authority Reference	OAA , Sec. 304(d)(1)(A), 308(b), and 309 (b)(1) 45 CFR 1321.9(c)(2)(iv)
Operating Category	AAA Operations

Policy

1. Federal Funds

- A. The MBA shall make available an amount not to exceed 10 percent of its Title III allotment for Area Plan Administration. This deduction occurs after deducting five percent for State Plan administration pursuant to Sec. 308(b) of the OAA and prior to deducting required amounts to fund the Office of the Long Term Care Ombudsman. Funds shall be allocated pursuant to the intrastate funding formula which meets the requirements of the [OAA](#) and is approved by the HHS.
- B. Federal funds may be used to pay up to 75 percent of the costs incurred for overall administration of Area Plans and activities to fulfill the mission of the AAA as described in 45 CFR 1321.55, including development of private pay programs or other contracts and commercial relationships consistent with AAA Operations Policy #s 7: Contracts and Commercial Relationships and #8: Private Pay Programs.
- C. A more complete description of allocation of administrative funds is incorporated in MBA Operations Policy #5: Intrastate Funding Formula.

2. Non-Federal Resources

Requirements related to non-federal share for Area Plan Administration are described in Title III Administrative and Financial Requirements Policy #4: Non-Federal Share (Match).

Procedures

1. MBA provides information on administrative allocations for each AAA at three different points in time and refers to these as preliminary, full, and final allocations.
2. MBA relies on HHS sharing information with MBA in order for MBA to provide AAAs with information on preliminary, full, and final amounts of OAA-funded administrative allocations.
3. MBA will share preliminary amounts for OAA-funded administrative allocations as early as possible in the calendar year to assist AAAs with their planning for the following Area

Plan year.

4. MBA will share full and final amounts for OAA-funded administrative allocations as HHS makes that information available.
5. MBA will ensure AAAs are meeting their match obligations for AAA administrative expenditures through the process described in the MBA Operations Policy #7: Maintenance-of-Effort.
 - a. MBA will compare AAA administrative expenditures for an award year with their administrative allocation for that same time period as part of this monitoring process.

AAA Operations Policy #4: Minimum Adequate Proportion for Priority Services

Authority Reference	OAA , Sec. 306(a)(2) 45 CFR Part 1321.3 (Definitions) 45 CFR Part 1321(c)(2)(v)
Operating Category	AAA Operations

Policies

1. The following general principles apply to minimum percentages which must be spent for Title IIIB services:
 - A. In-Home, Access, and Legal Assistance are defined as priority services under [OAA](#), Sec. 306(a)(2).
 - B. The minimum percentage is intended to be a floor, not a ceiling. AAAs are encouraged to devote additional funds to each of these service areas to meet local needs.
 - C. AAAs should be given flexibility to administer their programs at the local level.
2. The minimum percentages are established as follows:
 - A. 5% for Access Services, which are defined as "services which may facilitate connection to or receipt of other direct services", including transportation, assisted transportation, outreach, information and assistance, special access, and options counseling.
 - B. 5% for In-Home Supportive Services, which include homemaker, visiting, telephone reassurance, chore maintenance, respite care for families, and minor home modification.
 - C. 10% for Legal Assistance Services, which means "legal advice and/or representation provided by an attorney to older individuals with economic or social needs...Legal assistance may include, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney, and counseling or representation by a non-lawyer as permitted by law".

3. In addition to the 10 percent base allocation for legal services and education, AAAs shall make an additional award of a minimum of \$1,000 per Area Plan year to contracted legal service providers for the purpose of skills development. These funds are to be used by the legal service provider to attend conferences, trainings or other symposiums that further education in elder law issues or assist with advocacy, writing, trial skills development or other legal and/or technical skills to enhance the quality of legal services provided and benefit clients served by OAA funds. The money cannot be carried over between Area Plan years and any money not spent by the provider for this purpose can be reallocated to provision of direct legal services (not legal education or outreach), after consultation with and approval by the AAA.
4. Additionally, at least 40% of Title IIIB funds must be spent for all three priority services combined. The additional legal services "skills development" awards count toward the 40% required expenditure level.
5. The minimum percentages will be based upon the amount of Title III-B funds that are distributed by formula to the AAAs before any transfers involving III-B funds or use of III-B funds for Program Development and Coordination purposes.
6. AAAs seeking an exception to this policy must submit a waiver request consistent with MBA Operations Policy #9: Waiver Requests.

Procedures

1. AAAs should demonstrate in their Area Plan budgets the percentage of their Title IIIB funds planned to be used for each of these priority services and report on these expenditures over the course of the Area Plan year through standard financial reporting processes.
2. AAAs which do not plan to fund a Title IIIB priority category of service at the required minimum percentage must submit a waiver request. The waiver request must include the following information:

A. Categories of service to be waived, i.e. access, in-home, or legal.

B. The amount of the waiver requested (for example, is the request to provide no funding for a particular service or is it to provide some funding, but not at the minimum percentage required?)

C. Justification that existing services provided in the PSA for the waiver category are sufficient to meet the need. Justification should include:

- i. types of services in the category available in the PSA,
- ii. funding sources and amounts available,
- iii. history of service usage,
- iv. needs assessment data,
- v. efforts to publicize services,
- vi. comments from providers of services,
- vii. whether a waiting list exists

D. Documentation of notice to conduct a timely public hearing, upon request of an individual or service provider from the area to be affected by decision, prior to submission of a waiver request, including:

- i. Copies of publicity to conduct a hearing.
- ii. Lists of individuals and agencies notified.
- iii. Lists of individuals or service providers who requested a hearing.

E. The record of the public hearing, if one occurred. In order for the AAA to demonstrate public knowledge about ability to request a hearing, it is recommended that the AAA:

- i. Publicize the opportunity for stakeholders to request a hearing sufficiently in advance so that interested parties can make a request for a hearing.
- ii. Publicize the opportunity to request a hearing in a variety of ways to enable potentially interested parties to be aware of the ability to request a hearing, to have sufficient background to understand the purpose of a hearing, and to be able to testify at the hearing if desired. In addition to a legal notice in the classified

section of a newspaper, letters, flyers, larger newspaper articles or other similar announcements are recommended for the purpose of substantiating the AAA provided adequate notice of the opportunity to request a hearing.

iii. Notify interested parties of the ability to request a hearing, such as those individuals or groups specified below:

- a. All Categories of Service: Clients, potential clients, senior advocates, local advisory council members, designated state advisory council member for the area, representatives or relatives of clients, local elected officials, and agency staff.
- b. Access Services: Information and referral providers, public or private transportation providers and outreach staff.
- c. In-Home Services: Chore provider agencies, local health departments, homemaker provider agencies, friendly visitor and telephone reassurance agencies or volunteers, and homemakers.
- d. Legal Assistance: Minnesota's Legal Service Corporations, representatives of the Minnesota Bar Association.

3. Waiver requests will be evaluated based on whether all required components of the waiver submission have been adequately addressed and the degree to which the AAA has demonstrated the need for the priority service is adequately addressed through other means.

AAA Operations Policy #5: AAA Requests to Provide Services Directly

Authority Reference	OAA , Sec 307(a)(8)(A) and (a)(10) 45 CFR Part 1321.9 (c)(1)(vi)) and 1321.65(b)(7)
Operating Category	AAA Operations

Policy

1. AAAs generally must use grants/contracts with service providers to provide direct services to older individuals. The only exceptions to this policy are for information & assistance and outreach services, which may be provided directly by the AAA at the discretion of the AAA, and other services if specifically authorized by MBA.
2. AAAs may be permitted to temporarily provide other Title III-funded services directly if the MBA determines that direct provision of a service by the AAA is necessary due to:
 - A. Provision of such services by the AAA is necessary to assure an adequate supply of such services;
 - B. Such services are directly related to such AAA's administrative functions; or
 - C. Such services can be provided more economically and with comparable quality, by the AAA.
3. If an AAA wishes to directly provide a service other than information & assistance services or outreach, the AAA must submit a waiver request to MBA consistent with MBA Operations Policy #9: Waiver Requests.
4. Waiver requests to provide direct services may be submitted for any service (other than for information assistance services or outreach) for which the AAAs normally enter into agreements with community-based service providers to deliver and pay for with Older Americans Act Title III-B, III-C1 and C2, III-D and III-E funds.
5. An AAA wishing to provide information & assistance or outreach services directly may do so by notifying MBA as part of the Area Plan submission process. These services are not subject to the waiver request process and may be provided for the entirety of the four-year Area Plan cycle or the portion of it that is remaining at the

time the AAA determines it would like to provide information & assistance or outreach services directly.

6. When AAAs act as direct service providers, AAAs must abide by the same requirements as other entities providing OAA services.

Procedures

1. AAAs shall request to provide services directly other than information & assistance and outreach services by completing the MBA Waiver Request Form to be submitted as part of its Area Plan, consistent with MBA Operations Policy #9: Waiver Requests. An Area Agency on Aging may also request consideration of a waiver outside of the Area Plan process by submitting the waiver request in letter format to the Executive Director.
2. AAAs should include the following information in a waiver request related to direct provision of services:
 - A. Rationale for the request, including how it meets 2(a) through (c) above;
 - B. Its impact on services for older people;
 - C. The type and amount of funding involved; and
 - D. Acknowledgement that the AAA governing board has approved submission of the waiver request.
3. Waiver requests to allow direct service provision will be evaluated by taking into consideration the rationale for the waiver request; the cost of providing a service; the quantity of the service; and the quality of the service.
4. All approved waivers for direct service provision are valid for a maximum of one year.
5. For each time approval is granted to an AAA to provide direct services through the waiver process, the AAA must demonstrate its efforts to identify and engage service providers prior to being granted a subsequent approval.
6. AAAs wishing to provide information & assistance services or outreach directly should indicate this through the first year of the Area Plan submission process. Additional details about how to do this will be incorporated into the Area Plan instructions. Indicating this plan to offer information & assistance and/or outreach services is only necessary once over the four-year Area Plan cycle.

7. MBA will communicate to the AAA in writing about whether or not the waiver request is approved.

AAA Operations Policy #6: Program Development and Coordination

Authority Reference	45 CFR 1321.3 Definition of PD & C & 1321.27(h) OGM 08-09 Policy on Grant Progress Reports
Operating Category	AAA Operations

Policy

1. Program development and coordination (PD & C) activities “means those actions to plan, develop, provide training, and coordinate at a systemic level those programs and activities which primarily benefit and target older adult and family caregiver populations who have the greatest social needs and greatest economic needs, including development of contracts, commercial relationships, or private pay programs”.
2. PD & C activities must only be expended as a cost of State plan administration, area plan administration, and/or Title III, part B supportive services.
 - A. MBA may allow AAAs to use up to 25% of its new Title III B allotment for PD&C activities in its PSA; additional amounts may be allowed with an approved waiver request. PD&C activities shall have a “positive and direct impact on the enhancement of services to older persons.” It should not be assumed that PD&C funds will be awarded annually. MBA reserves the right to evaluate each AAA’s PD & C request annually and make determinations about what amounts, if any, are appropriate to award in a given year.
 - i. As a general policy, MBA prioritizes direct service delivery.
 - B. However, MBA shall not fund PD & C as a cost of supportive services under area plans until each AAA has first spent 10 percent of their administrative budget on the administration of area plans.
 - i. AAAs shall, consistent with the area plan and budgeting cycles, share information about proposals to pay for PD & C as a cost of Title III, part B supportive services to the general public for review

and comment as part of its public comment period and public hearing for the draft Area Plan. Information shared with the public must be clear how funds could be spent on Title III-B direct services if not used for PD & C activities as well as the rationale to spend those funds on PD & C activities instead.

3. Expenditures by MBA and AAAs on PD & C activities are intended to have a direct and positive impact on the enhancement of services for older individuals and family caregivers in the PSA.
4. MBA shall review, consider, and award PD&C funds annually as a part of the Area Plan review and approval process.
 - A. MBA, when awarding funds, shall evaluate proposed use of Title III-B funding for PD & C activities with the following criteria:
 - i. In general, Program Development activities are:
 1. Time limited, generally 2-3 years in length
 2. Work that is tied to identified service(s) or service delivery gap(s), based on demographic trends or AAA assessment of needs or issues, and identified in the Area Plan; and gaps that are appropriately addressed by AAA leadership through work with other agencies or businesses that develop a service or system that will fill the identified gap; or
 3. Development of contracts, commercial relationships, or private pay programs.
 - ii. Coordination activities are agency liaison functions, coordination and education/technical assistance activities designed to strengthen job knowledge and skills of providers of aging services, or public education activities.
 - iii. PD&C activities shall:
 1. Leverage non-OAA funds/resources
 2. Demonstrate collaboration among agencies; and
 3. Improve service delivery or foster joint planning activities.
 4. Be designed to achieve specified outcomes
 - iv. The extent to which other factors, such as the existence of wait lists for services, may impact whether some portion of funding proposed to be used for PD & C should be used on Title III-B direct services instead.

5. PD&C outcomes included in the Area Plan shall reflect roles and outcomes found in the MBA State Plan on Aging, MBA position statement on roles of AAAs, or Area Plan format.
 - A. PD&C outcomes shall not include activities that are a part of administration of the Area Plan. Such administrative activities are appropriately reflected under Title III A.
 - i. Examples of such administrative activities not to include:
 1. Development and implementation of the Area Plan (except PD&C outcomes),
 2. Outreach, and
 3. Holding an annual or regularly scheduled conference(s).
 - ii. Examples of activities appropriate to PD&C would be those focused on specific outcome measures, e.g.:
 1. A special resource publication intended for public distribution, and
 2. Training/education sessions intended to strengthen skills of service providers.
 - B. The difference between seemingly identical types of activities, funded under Area Plan administration or PD&C is that PD&C shall focus on a specific outcome (see section c.iii above) and are more unique than administrative activities which are routine day-to-day functions of the AAA.
6. If an AAA wishes to use PD & C funding to develop a contract, commercial relationship, or private pay program, the AAA must also abide by the terms of the applicable respective policy (AAA Operations Policy #7: Contracts and Commercial Relationships or AAA Operations Policy #8: Private Pay Programs).

Procedures

1. AAAs proposing to use administrative or Title III-B supportive services funding for PD& C activities must:
 - A. Include the following information in their annual budget proposals:
 - i. A narrative description of how PD & C funds will be used;
 - ii. A proposed timeline for activities funded with PD & resources;
 - iii. Identify specific desired outcomes, including how those

outcomes will be measured, or products; and
iv. A line item budget.

- B. AAAs shall document how they have solicited public review and comment of their intention to spend a portion of Title III-B Supportive Services funds for PD & C activities during 30-day comment period and public hearing prior to submitting their proposed Area Plan budget to MBA.
 - C. AAAs must document progress in reaching their PD& C outcomes as part of the contents of their half-year narrative report.
2. AAAs must anticipate that MBA cannot pay any AAAs for PD & C costs until each AAA has spent 10 percent of its administrative budget.
- A. AAAs are reminded to invoice MBA promptly for administrative expenditures.
 - B. AAAs may not invoice for PD & C in their initial advance request.
 - C. AAA requests for payment for PD & C expenditures will be denied until the 10 percent threshold for each AAA is met.
 - D. AAAs should anticipate submitting a first payment request for PD & C expenditures in April of each year, unless MBA informs AAAs the 10 percent threshold has been met earlier and therefore AAAs may submit payment requests for PD & C.
 - E. If a PD & C request is denied, the AAA must resubmit the PD & C request at a future point.

AAA Operations Policy #7: Contracts and Commercial Relationships

Authority Reference	OAA , Section 212 45 CFR 1321.9(c)(2)(xiv)
Operating Category	AAA Operations

Policy

1. This policy relates only to Section 212 agreements under the Older Americans Act. For policies related to other types of contracts and grant agreements, please refer to Title III Administrative and Financial Requirements Policy #8: MBA Grant Agreements and Amendments between MBA and AAAs and #9: AAA Grants and Contracts with Service Providers.
2. MBA encourages AAAs to establish comprehensive and coordinated systems for supportive, nutrition, and other services for older adults by leveraging resources beyond OAA funding. In doing so through contracts and commercial relationships ("agreements"), AAAs can use both government and private funding to serve more older adults in need. Through this policy, MBA intends to facilitate increased access to services for older individuals while ensuring responsible oversight of federal funds and protecting the integrity of our aging services network.
3. Consistent with section 212 of the OAA, AAAs who seek to establish agreements to serve individuals or entities not otherwise receiving services under the Act must obtain prior approval from MBA. This policy applies to agreements with any entity (both for-profit and non-profit) for a AAA to provide goods or services in exchange for reimbursement or other financial consideration, with the expectation that the agreement will result in profit and reimbursement of initial costs. MBA has established this streamlined policy and procedure to expedite the prior approval process as much as possible.
4. For agreements involving multiple AAAs, one entity may submit information for prior approval on behalf of the group. The anticipated contractual expectations of each AAA must be clear in the information submitted. Service providers involved in these arrangements are not required to separately seek prior approval. AAAs must incorporate standard language related to conflicts of interest and compliance with MBA data use policies into each of the prospective agreements for which they are seeking approval.
5. Consistent with section 212 of the OAA, AAAs may use OAA funding to develop or initiate section 212 agreements. All 212 agreements must incorporate a guarantee that any OAA costs

used in the development will be reimbursed to the AAA by the third-party entity. In addition, the OAA requires that any amount of payment to the AAA that exceeds this initial reimbursement will be used to provide, or support the provision of, OAA services.

6. Through this policy, MBA categorically pre-approves the following types of agreements, contingent on **receipt** of the minimum information outlined in the prior approval form:

- A. Agreements with local, state, and federal governmental entities;
- B. Agreements with other AAAs or AAA associations; and
- C. Agreements with entities with which a AAA has a long-standing existing business relationship (of three years or more).

Note: AAAs that have received an audit report with financial findings within the previous twelve months are not eligible for the categorical approval of agreements, including the types of agreements listed above. Instead, AAAs in such situations must submit requests for approval of each prospective individual agreement.

7. MBA will also approve the following types of agreements, subject to **review** of the required prior approval forms:

- A. A single agreement with an entity (or multiple entities) to provide specific services;
 - For example: an agreement with a health plan for a AAA to provide meals to individuals identified by that plan;
- B. A category or type of agreement with a specific entity or a type of entity for the AAA to provide specific services (including through private pay arrangements);
 - For example: agreements to provide home-delivered meals to individuals and/or any health plan, generally;
- C. A category or type of agreement with a type of entity (or multiple entities) for the AAA to provide a broad category of services;
 - a. For example: agreements to provide a broad category of services to clients of hospitals and hospital systems, generally.

Procedures

1. For agreements that are categorically preapproved, the AAA should complete and submit the Section 212 Agreements form included at the end of this procedure.

2. For potential agreements that require prior approval, AAAs must submit the following information for any new potential agreements that require prior approval by completing and submitting the Section 212 Agreements form and any required follow up information. AAAs may submit the prior approval form whenever necessary to receive approval prior to establishing an agreement subject to prior approval under section 212 of the OAA:

- A. The name of OR type of the entity (or entities) with which it intends to establish agreement(s);
- B. The nature of the agreement(s), including the specific service(s) OR the types of services to be provided under the agreement(s);
- C. An estimate of the proposed costs incurred from all sources, including the estimated amount of OAA and state funds that will be used in implementing the agreement (e.g., administrative overhead, data systems, and/or staff time);

- D. The duration of the agreement;
- E. The completed risk-screening form; and
- F. Signed assurances.

Note: If a non-disclosure or other confidentiality agreement prevents the AAA from disclosing required information, the AAA should submit publicly available information and attach a copy of the confidentiality agreement (redacted if necessary) to the submission for prior approval.

3. Risk screening factors for agreements requiring pre-approval include the following:

AAAs must assess prospective agreements for risk, according to the criteria identified below. If one or more of the identified risks are present, MBA will not approve without discussion with and/or the provision of further information from the AAA.

Under the following circumstances, the AAA must discuss or provide information described in MBA's policy the prospective agreement(s) with MBA before prior approval can be obtained:

- ☐ The AAA does not have an approved area plan;
- ☐ The AAA is on a corrective action plan or has received notice of being out of compliance with its area plan and is in the process of entering into a corrective action plan;
- ☐ The AAA has not fully expended its OAA funding allocations, resulting in carryover exceeding MBA's policy and/or reallocation of funds within the last three fiscal years;
- ☐ The AAA has failed to complete a required audit in a timely manner;
- ☐ There has been turnover of AAA leadership or vacancies in key positions (defined as CEO/Executive Director, COO/Operations Director, CFO/Fiscal Director, or equivalents) within the last 12 months;
- ☐ The state (or other compliance entity) has recently audited the AAA and made significant audit findings;
- ☐ The AAA is involved in contracts to provide multiple services across multiple jurisdictions/state lines;
- ☐ There is current or pending litigation involving the AAA;
- ☐ There are conflicts of interest involving the AAA that have not been removed or remedied;
- ☐ The proposed agreement to deliver services represents more than 25% percent of the AAA's total budget;
- ☐ The prospective agreements are with an entity that:
 - ☐ Lacks sufficient liability insurance;
 - ☐ Is not appropriately incorporated, as applicable;
 - ☐ Is not in good standing with state and/or local licensing boards, as applicable;
 - ☐ Is under investigation by the Internal Revenue Service and/or state and local tax revenue entities;
 - ☐ Is under investigation by the State Medicaid agency, Medicaid Fraud Control Unit, State or U.S. Department of Health & Human Services Office of Inspector General (or equivalent), or the U.S. Department of Justice;
 - ☐ Has been recently (within the last five years) sanctioned by the Internal Revenue Service, state and/or local tax revenue entities;
 - ☐ Has recently (within the last five years) lost its state or local license due to non-compliance with state and/or local law;

- ☐ Has recently (within the last five years) lost its status as a Medicaid provider due to non-compliance with Medicaid law or regulation.

Assurances

AAAs must provide assurances of compliance with certain requirements under the Act, which are listed in the prior approval form. AAAs must also incorporate standard language related to conflicts of interest into each of the prospective agreements for which they are seeking approval.

Application for Approval of Section 212 Agreements

Contact Information:

Area Agency on Aging:

Name: _____

Address: _____

AAA Contact for Section 212 Activities:

Name: _____ Email: _____ Phone number: _____

Information Related to Prospective Agreement(s):

Are you seeking approval for: ☐ a single agreement or ☐ a category of agreements (including private pay)?

Name or type of entity or entities: _____

(If a non-disclosure agreement prevents you from disclosing the name of the entity, please disclose the type of entity).

Specific services OR types of services to be provided:

Will multiple AAAs have contractual obligations under this agreement or these agreements?

☐ NO ☐ YES

If YES, please identify the AAAs and describe the obligations of each:

Will Older Americans Act funds or resources (e.g., administrative overhead, data systems, staffing) be used in implementing the agreement(s): ☐ NO ☐ YES

If YES, estimated OAA costs incurred:

Estimate of total costs incurred:

Approval Criteria:

1. Pre-approved categories of agreements

- ☐ Is this proposed agreement/are these proposed agreements (check all that apply):
 - ☐ With a local, state, or federal governmental entity or entities?
 - ☐ With other AAAs or AAA associations?
 - ☐ With an entity or entities with which the AAA has a long-standing existing business relationship (of three years or more)?

If a AAA checked any of the items in #1, skip to #3 to review the assurances and provide a signature. No additional MBA review is required; these categories of agreements are considered approved upon submission of this form.*

*AAAs that have received an audit report with financial findings within the previous twelve months are not eligible for the categorical approval of agreements, including the types of agreements listed above. Instead, AAAs in such situations must complete this entire form for MBA review for each agreement for which they are seeking approval.

2. Risk Assessment

To assess for any potential risks associated with the proposed agreement(s), please check mark any of the potential risks below that are relevant to this application for prior approval. Please provide an attachment describing, for each potential risk that has been checked, either (a) why the AAA does not believe the criteria presents a risk in the case of the proposed agreement(s) or (b) how the AAA intends to mitigate any actual risk. MBA may request further discussion or documentation prior to making a final determination about the agreement(s).

Potential Risks:

- ☐ The AAA does not have an approved area plan;
- ☐ The AAA is on a corrective action plan or has received notice of being out of compliance with its area plan and is in the process of entering into a corrective action plan;
- ☐ The AAA has had carryover of OAA funding exceeding MBA's policy and/or reallocation of funds within the last three fiscal years;
- ☐ There has been turnover in key AAA leadership (defined as CEO/Executive Director, COO/Operations Director, CFO/Fiscal Director, or equivalents) within the last 12 months;
- ☐ The state (or other compliance entity) has recently monitored the AAA and made findings;
- ☐ The AAA is involved in contracts to provide multiple services across multiple jurisdictions/state lines;
- ☐ There is current or pending litigation involving the AAA;
- ☐ There are conflicts of interest involving the AAA that have not been removed or remedied;
- ☐ The proposed agreement to deliver services represents more than 25% percent of the AAA's total budget;
- ☐ The proposed agreements are with an entity that (check all that apply):
 - ☐ Lacks sufficient liability insurance;
 - ☐ Is not appropriately incorporated, as applicable;
 - ☐ Is not in good standing with state and/or local licensing boards, as applicable;

- ☐ Is under investigation by the Internal Revenue Service and/or state and local tax revenue entities;
- ☐ Is under investigation by the State Medicaid agency, Medicaid Fraud Control Unit, State or U.S. Department of Health & Human Services Office of Inspector General (or equivalent), or U.S. Department of Justice;
- ☐ Has been recently (within the last five years) sanctioned by the Internal Revenue Service, state and/or local tax revenue entities;
- ☐ Has recently (within the last five years) lost its state or local license due to non-compliance with state and/or local law;
- ☐ Has recently (within the last five years) lost its status as a Medicaid provider due to non-compliance with Medicaid law or regulation.

If you check-marked any of the items in #2, please complete the rest of this form and submit it to MBA. MBA may contact you to discuss or request additional information on this application prior to issuing a decision.

3. Assurances

By signing below and submitting this form, the AAA attests to the truth of the following assurances:

- a. All conflict of interest requirements under 45 CFR 1321.67 have been met.
 1. Individual conflicts of interest:
 - i. The AAA has performed a screening to identify any actual or perceived conflicts of interest between AAA staff, governing board and advisory council members, and/or awardees who have responsibilities related to this agreement;²³
 - ii. The AAA has performed a screen to identify any actual or perceived conflicts of interest between the immediate family members of the AAA staff, governing board and advisory council members, and/or awardees who have responsibilities related to this agreement;²⁴
 - iii. The AAA has either found that no conflicts of interest exist or has mitigated any actual or perceived conflicts of interest; and
 - iv. The AAA's officers, employees, agents, and their immediate family members have not received any gratuities, favors, or anything of monetary value related to this agreement except where allowed by MBA and/or AAA's policies and procedures in situations where the financial interest is not substantial, or the gift is an unsolicited item of nominal value.²⁵
 2. Organizational conflicts of interest:
 - i. The AAA has performed a screening to identify any actual or perceived conflicts of interest between the AAA's functions to advocate and carry out the objectives of the OAA and this agreement; and
 - ii. The AAA has either found that no conflicts of interest exist or has mitigated any actual or perceived conflicts of interest.

²³ Older Americans Act section 307(a)(7)(B); 42 CFR § 1321.47(a); 42 CFR § 1324.67(a)(2); 42 CFR § 1321.7(b)(xiv)(B)(1)(i).

²⁴ Older Americans Act section 307(a)(7); 42 CFR § 1321.47(a)(6); 42 CFR § 1321.67(a)(6).

²⁵ 42 CFR § 1321.47(a)(8); 42 CFR § 1321.67(a)(10).

- b. All required assurances and conflict of interest policies required by MBA's policies and procedures will be memorialized in writing as a component of finalizing the proposed contract(s) or commercial relationship(s).
- c. Section 212(a) assurances.
 - 1. If funds provided under the OAA are initially used to pay part or all of a cost incurred by the AAA in developing and carrying out an agreement, the agreement will guarantee that the cost is reimbursed to the AAA;
 - 2. If an agreement provides for the provision of one or more services, of the type provided under the OAA by or on behalf of the AAA, to an individual or entity seeking to receive such services:
 - i. The individuals and entities will only be required to purchase such services at their fair market rate;
 - ii. All costs incurred by the AAA in providing such services (and not otherwise reimbursed), are reimbursed to the AAA;
 - iii. The AAA will report the rates for providing such services under the agreement in accordance with sections 212(b) and 212(c) of the OAA, and the rates will be consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by MBA or AAA (as applicable); and
 - iv. Any amount of payment to the AAA under the agreement that exceeds reimbursement of the AAA's costs will be used to provide, or support the provision of, OAA services.
- d. Section 212(b) assurances. The prospective contract(s) or commercial relationship(s) for which the AAA is seeking approval will not:
 - 1. Be made without the prior approval of MBA, after timely submission of all relevant documents related to the agreement including information on all costs incurred;²⁶
 - 2. Directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual or entity in an amount that exceeds the fair market value of the services subject to such agreement;
 - 3. Result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual who is at risk for institutional placement; or
 - 4. In any other way compromise, undermine, or be inconsistent with the objective of servicing the needs of older individuals, as determined by the Assistant Secretary for Aging, U.S. Department of Health and Human Services.
- e. Section 306(a) assurances. The AAA will:
 - 1. Maintain the integrity and public purpose of services provided, and service providers, under the OAA in all contractual and commercial relationships;
 - 2. Disclose the identity of each nongovernmental entity with which they have a contract or commercial relationship relating to providing any service to older individuals and the nature of such contract or such relationship;
 - 3. Demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under the OAA by such agency has not resulted and will not result from such contract or such relationship;

²⁶ Submission of this form and any subsequent documentation requested by MBA constitutes satisfaction of the obligation to submit all relevant documents related to the agreement, including information on all costs estimated to be incurred.

4. Demonstrate that the quantity or quality of the services to be provided under the OAA by such agency will be enhanced as a result of such contract or such relationship;
 5. If requested, disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals; and
 6. Avoid giving preference in receiving services under this title to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title; and use funds provided under this title to provide benefits and services to older individuals, giving priority to older individuals identified in section 306(a)(4)(A)(i), and in compliance with these assurances and the limitations specified in section 212.
- f. The AAA will annually disclose the information required by section 306(a)(13) to MBA, including:
1. The name and type of entity of any parties to contracts or commercial relationships with the AAA; and
 2. The services the AAA provides as a party to those contracts or commercial relationships.
- g. The AAA attests that it will comply with SUA data use policies, including maintaining confidentiality and compliance with the Health Insurance Portability and Accountability Act (HIPAA) and other state and federal laws related to privacy and confidentiality.

4. Signatures

Submitting AAA Authorized Organizational Representative Name, Title,

Date: Any AAAs included in the agreement(s) described in this form:

AAA Operations Policy #8: Private Pay Programs

Authority Reference	OAA Section 306(g) 45 CFR Part 1321.3 (definitions) and 1321.9(c)(2)(xiii)
Operating Category	AAA Operations

Policy

1. Private pay programs are a type of contract or commercial relationship and are programs, separate and apart from programs funded under the Act, for which the individual consumer agrees to pay to receive services under the programs. Because private pay programs are a form of contracts and commercial relationships, they are also subject to AAA Operations Policy #7: Contracts and Commercial Relationships.
2. Private pay programs must promote equity, fairness, and inclusion.
3. AAAs are permitted to use Title III administrative funds or program development and coordination funds to develop private pay programs consistent with MBA policies.
4. Regardless of whether Title III funding is initially used to develop the private pay program, an AAA contract to provide services through a private pay program must have MBA's prior approval as described in AAA Operations Policy #7: Contracts and Commercial Relationships.
5. AAAs offering private pay programs must abide by conflict of interest requirements as established in Title III Administrative and Financial Requirements Policy #2: Conflicts of Interest.
6. AAAs offering private pay programs must meet financial accountability requirements, including the following:
 - a. If Title III funds are initially used by a AAA to pay part of all of the cost incurred to develop and carry out a private pay program, the Title III funds must be reimbursed through revenue earned in the private pay program.
 - b. If the services being offered in the private pay program are of the same type provided under the Older Americans Act, the following conditions apply:
 - i. Consumers may only purchase those services at their fair market rate
 - ii. All costs incurred in providing such services (and not otherwise reimbursed under paragraph 6(a) of this policy) are reimbursed.
 - iii. The AAA or service provider reports the rates for providing services and the rates are consistent with the prevailing market rate for providing those services in the relevant geographic area as determined by MBA or the AAA (as applicable)

- iv. The AAA or service provider is encouraged to use a sliding scale fee for the private pay program to promote affordability.
 - c. Revenue earned through the private pay program in excess of what is needed to provide the service must be used to expand Title III services provided to individuals receiving Title III-funded services.
- 7. AAAs may not use Title III direct service funding to support provision of service through private pay programs, except as a part of routine information and assistance or case management referrals.
- 8. Individuals who receive information about private pay programs and who are eligible for services provided with Title III funds in the planning and service area must be made aware of Title III-funded and any similar voluntary contributions-based service options, even if there is a waiting list for those services on an initial and periodic basis to allow individuals to determine whether they will select voluntary contributions-based services or private pay programs.

Procedures

- 1. AAAs must follow procedures for developing and obtaining prior approval for private pay programs as outlined in AAA Operations Policy # 7: Contracts and Commercial Relationships.

AAA Operations Policy #9: AAA Monitoring of Service Providers

Authority Reference	45 CFR Part 75.341 – 343; 351 – 353 Thompson Publishing – “Techniques for Monitoring Federal Subawards” Circ. A-133 OGM 08-06 Policy on the Financial Review of Nongovernmental Organizations OGM 08-10 Policy on Grant Monitoring
Operating Category	AAA Operations

Policy

1. The AAA shall conduct ongoing monitoring and assessment of service providers under the Area Plan to ensure that funds are expended in keeping with the purposes for which they were awarded.
2. Although the level of oversight required for each service provider will vary according to the dollar value of the service provider’s contract or grant agreement and according to the outcome of the service provider’s pre-award risk assessment, AAAs must perform at least a minimum amount of monitoring as described in this policy.
 - A. AAAs must conduct an in person on-site monitoring visit to each service provider with a grant or contract agreement of \$50,001 or more before the end of the grant or contract period. This dollar value applies to the initial contract period as well as any extension amendments. In extraordinary circumstances, such as a pandemic or another significant unanticipated situation of extended duration, AAAs may conduct monitoring visits virtually.

The monitoring visits described in this section 2(A) are intended to be with the service provider’s management team and are separate from and in addition to nutrition site visits described below. The purpose of monitoring visits is to review and ensure progress with objectives in the grant or contract, to address any problems or issues before the end of the grant or contract period, and to build rapport between the AAA and the service provider. An effective grant monitoring visit may cover topics including but not limited to statutory compliance, challenges faced by the service provider, new requirements, program outcomes, service provider policies and procedures, and training

and technical assistance needs. Provided the AAA otherwise meets the minimum requirements of this policy, the AAA may determine what additional topics to cover during the annual monitoring visit.

During the on-site monitoring visit, AAAs must pull a sample of at least 20 records from the provider's PeerPlace data and document the following:

- i. Does the client have a current NAPIS form on file (meaning has it been completed in the past year)?
- ii. Does the number of units received by the client for the past three months raise any concerns? (For example, has the client received a number of meals that seems unlikely for the time period?)

B. AAAs must also conduct a financial reconciliation of service providers' expenditures at least once on grants or contracts of \$50,001 or more before final payment is made. A financial reconciliation involves reconciling a grantee's request for payment for a given period with valid supporting documentation for that request and occurs before a final payment is made. Examples of valid supporting documentation include purchase orders, receipts, bank statements, and payroll records. AAAs must maintain documentation used for financial reconciliation for six years.

3. AAA monitoring practices for all service providers, regardless of the amount of their grant or contract, must include the following:

- A. Review of half year narrative reports submitted by each service provider;
- B. Monthly or quarterly review of expenditures submitted by each service provider commensurate with the time period expenditure data are submitted (for example, if the service provider submits expenditure data monthly, the AAA must review the data monthly);
- C. Monthly review of data entered into PeerPlace, including monitoring number of units provided;

4. AAAs shall also conduct site visits to at least one third of its congregate and home-delivered meal sites (or twenty sites, whichever is less) each year. For purposes of counting, each visit counts as one visit regardless of the number of types of services or number of additional sites a central site supports.

- A. In addition, AAAs shall make unannounced spot-check site visits to congregate and home-delivered meal sites as needed as part of its monitoring responsibility.
- B. In addition to the annual criteria for visiting 1/3 or at least 20 of its congregate and home-delivered meal service providers, the AAA must ensure a different set of sites are visited each year. The AAA must also ensure each

meal site receives a site visit at least every three years.

C. When a congregate site receives a monitoring visit, the AAA must check the following:

- i. That the on-site kitchen is preparing a meal in accordance with the health and safety standards of the Nutrition Policy;
- ii. That the site has a menu plan that meets the standards outlined in the Nutrition Policy;
- iii. That voluntary contributions are being solicited for the meal, that they are stored in a secure manner if a meal participant makes a cash voluntary contribution, and that any non-eligible participants in the meal pay the advertised cost of the meal.

D. When a home-delivered meal site receives a monitoring visit, the AAA must check the following:

- i. That the site at which the meal was prepared cooked the meal in accordance with health and safety standards described in the Nutrition Policy (or, alternatively, if the meal being delivered is a frozen meal, that any meals currently being prepared at the service provider's central food preparation site meets health and safety standards);
- ii. A NAPIS form has been completed for the individual(s) receiving the meal.
- iii. That the meal has been transported using an insulated bag as required in the Nutrition Policy;

Procedures

1. AAAs must develop plans, procedures, and templates for monitoring visits and follow up summary reports so that each service provider receiving a site visit goes through a standard monitoring process.
2. By March 1 of each year, AAAs must identify which grants require a monitoring visit and which grants require a financial reconciliation, where the monitoring visits and financial reconciliations will take place, and the position titles for which AAA employees will

participate. This monitoring plan must be submitted to MBA.

3. AAAs must work with service providers to schedule monitoring visits (unless an unannounced spot check is being conducted for a nutrition provider), giving service providers adequate notice and preparation time. AAAs should advise service providers on how to prepare for the monitoring visit and financial reconciliation, the format for the visit and which service provider staff members should be involved in the visit.
4. AAAs should review all financial and progress reports that have been submitted prior to the on-site visit.
5. When AAAs are on site for the monitoring visit, they should document activities carried out and any findings from the visit. AAAs must maintain documentation about the site visit in the grant file.
6. AAAs must provide each service provider with a follow up summary report from their site visit within 14 business days. The summary report must include any areas where changes or improvements are required, including whether any corrective action plans are required.

AAA Operations Policy #10: Evaluating Service Provider Performance

Authority Reference	Minnesota Statutes, section 16B.98 Office of Grants Management Policy 08-13 Evaluating Grantee Performance
Operating Category	AAA Operations

Policy

1. It is the policy of the State of Minnesota to evaluate and consider a potential grant or contract awardee's past performance before awarding subsequent grants or contracts to them. AAAs must consider a service provider's performance on prior grants and contracts issued by the AAA before making a new grant or contract award to that service provider.
2. AAAs must implement a process that allows the AAA to evaluate a service provider's timeliness, quality, and overall performance under a grant or contract for purposes of this policy after the full period of performance is complete.
3. For grant or contracts, including any amendments, for \$25,000 and less, the AAA must evaluate and document a service provider's performance as described in this policy. This evaluation report must be retained by the AAA and made available for review upon request.
4. To evaluate grantee performance, AAAs should consider all information contained in the service provider's grant or contract file, including:
 - Service provider name, grant/contract award amount, and amount of grant/contract paid to service provider.
 - The start and end dates of the grant award or contract period.
 - Description and purpose of the grant or contract and proposed outcomes.
 - Description of actual outcomes.
 - If applicable, additional conditions specified in the grant or contract agreement as a result of the pre-award risk assessment process.
 - Compliance with reporting requirements.
 - Monitoring and financial reconciliation results.
 - Any fraud, waste, or abuse concerns.
 - If the grant or contract was terminated for cause.
 - Any unresolved issues or concerns
 - Agency's satisfaction with the grantee's timeliness, quality of work, and overall performance.

5. For grants or contracts, including any amendments, over \$25,000 issued on or after April 1, 2024:

A. The AAA must evaluate the service provider's performance as outlined in #4 above and submit a report of their evaluation to the commissioner of the Department of Administration as required by state law.

B. These reports will be publicly available online. Service providers have a right to respond to performance evaluations and agencies must keep the responses in the grant or contract file.

Procedures

1. AAAs must inform prospective service providers in their Requests for Proposals that a written evaluation of their performance will be prepared in accordance with this policy.

2. MBA will make a template for these service provider evaluations available to AAAs each year.

3. The report evaluating the service provider's performance for grants and contracts under \$25,000 should be completed within 60 days following completion of all other grant requirements, which means either after the final payment is made to the service provider OR, if the service provider is required to have a Single Audit conducted, when the provider submits the Single Audit report.

4. The report evaluating the service provider's performance for grants and contracts for \$25,000 or more should be submitted to the Department of Administration within 60 days following completion of all other grant requirements, which means either after the final payment has been made to the service provider OR, if the service provider is required to have a Single Audit conducted, when the provider submits the Single Audit report.

AAA Operations Policy # 11: Emergency Preparedness

Authority Reference	Older Americans Act Section 307(a)(28) 45 CFR 1321.97 & § 1321.103
Operating Category	AAA Operations

Policy

1. AAAs shall establish emergency plans. Such plans must include the following elements:

A. The AAA's continuity of operations plan (COOP) and an all-hazards emergency response plan based on completed risk assessments for all hazards and updated annually;

i. A COOP plan addresses continuation or resumption of priority services after a disruption of normal activities. Priority services are defined as follows:

a. A *Priority 1* function is a function that, for purposes of planning business continuity during an emergency or disaster, must continue 24 hours per day and 7 days per week, or be recovered within hours.

b. A *Priority 2* function is a function that, for purposes of planning business continuity during an emergency or disaster, must be resumed within 25 hours to 5 days. MBA Priority 2 services include Nutrition Services and Pre-Admission Screening.

ii. An all-hazards emergency response plan focuses on capacities and capabilities that are critical to preparedness for a full range of emergencies or disasters, including internal emergencies and a man-made emergency (or both) or natural disaster.

B. A description of coordination activities for both development and implementation of long-range emergency and disaster preparedness plans; and

C. Other information as deemed appropriate by the AAA.

2. AAAs shall coordinate with Federal, local, and State emergency response agencies, MBA, service providers, relief organizations, local and State governments, other AAAs, and any other entities that have responsibility for disaster relief service delivery, as well as with Tribal emergency management, as appropriate.

3. MBA will take the lead role in facilitating collaboration for emergency and disaster preparedness planning, response, and recovery between MBA, AAAs, and Title VI grantees. AAAs must partner with the MBA and Title VI grantees to coordinate emergency and disaster preparedness planning, response, and recovery in collaboration with Title VI grantees in their PSA.

Procedures

1. AAAs must have their COOP established and/or updated within 90 days of the start of the Area Plan year to ensure AAAs are able to meet Priority 1 and Priority 2 obligations in the event of an emergency.

2. The COOP must:

A. Outline procedures for the activation of the COOP upon the occurrence of a governor declared emergency;

B. Identify an individual as its Emergency Preparedness Response Coordinator (EPRC), the EPRC shall serve as the contact for MBA with regard to emergency preparedness and response issues, the EPRC shall provide updates to the State as the emergency unfolds;

C. Outline roles, command structure, decision making processes, and emergency action procedures that will be implemented upon the occurrence of an emergency;

D. Provide alternative operating plans for Priority 1 or Priority 2 functions;

E. Include a procedure for returning to normal operations; and

F. Be available for inspection upon request.

3. The all-hazards plan must be established and/or updated annually by July 1 of each year.

4. In the event of a declared emergency situation, MBA will serve as a central point of coordination between the MBA, AAAs, and Title VI grantees. The MBA will take responsibility for convening AAAs and Title VI grantees in the event of a declared emergency. The purpose of this convening would be to identify needs and resources to address the situation and coordinate efforts across various entities.

4. AAAs must establish policies and procedures for service providers related to emergency planning and response activities.

AAA Operations Policy #12: Reallocation of Funds Between AAAs

Authority Reference	45 CFR 1321.49(e)(6)
Operating Category	AAA Operations

Policy

1. For purposes of this policy, “reallocation” refers to the redistribution of funds between Minnesota AAAs. Further, “reallotment” refers to the process of returning federal funds to HHS or the process of receiving additional federal funding redistributed from other states. This policy focuses on reallocation, while the Reallotment policy and procedures is described in MBA Operations Policy #13: Reallotment.
2. MBA expects that AAAs will fully expend their allotted Title III awards within the original timeframe funds are available (typically two years from the date of award). MBA and AAAs are aware that demand for services exceeds available funding and therefore want to ensure allocated state and federal funding is strategically, efficiently, and fully spent. MBA will take steps within the original award period to ensure funds are spent in Minnesota to the maximum degree possible.
3. MBA may reallocate funding within the State when an AAA voluntarily or otherwise returns funds, subject to MBA policies.
4. If an AAA voluntarily returns Title III funds to the MBA, the AAA must provide evidence that its governing board or chief elected official approves the return of funds.
5. MBA will monitor AAA progress in obligating and spending grant dollars over the course of an Area Plan Year. MBA will use the presence of unobligated balances as an indicator that AAAs are not on track to fully spend their allocations. Unobligated balances are defined as identified funds that are not awarded through a fully signed and executed contract with a provider for the identified calendar year. MBA will provide technical assistance to AAAs to help ensure funding is obligated and spent.
6. Each year, MBA will ask each AAA to report the following:
 - A. Near the end of the Area Plan year: any unobligated balances as well as the AAA’s interest in receiving funds redistributed from other AAAs;

B. Near the end of February: any unspent obligated balances from the immediately preceding Area Plan year

MBA will use this information to implement an annual redistribution process for unobligated funding and unspent obligated funding as described under “Procedures” below.

7. Consistent with this policy, unobligated and unspent obligated Title III funds must be redistributed to all AAAs who request funds available for reallocation after the steps of this policy have been carried out.
 - a. The funds must be reallocated through the IFF; however, the IFF, for this purpose only, must be modified proportionally to include only those AAAs that request redistributed allocations.
 - b. AAAs may indicate they do not wish to receive reallocated funding from other AAAs through an annual reporting process; if an AAA indicates it does not wish to receive additional funding, the AAA will not receive additional funding.
8. MBA also recognizes it is the policy of the Administration for Community Living to ensure Title III awards are fully spent to the greatest degree possible. Federal regulations require MBA to provide notice to HHS if Minnesota has Older Americans Act funds that will not be fully spent within the award period and the state intends to release those funds back to the federal government to be reallocated to other states. This policy and procedure is described in MBA Operations Policy #13: Reallotment.

Although MBA has not historically released OAA funding back to the federal government, it is possible that underspent funds among Minnesota AAAs as described in this policy could trigger the reallotment process.

Procedures

1. Each AAA should carefully track obligated and unobligated balances throughout the course of each Area Plan year and obligate their funding through contracts and/or grant agreements with service providers.
2. Each AAA should carefully track expenditures and ensure they are spending their obligated funding.
3. During each quarterly check in meeting with each AAA, MBA staff will raise any concerns about the rate at which AAAs are obligating and spending their grant dollars.

4. MBA will reach out in writing to AAAs each fall with a form and instructions and ask AAAs to document on a date near the end of the Area Plan Year:
 - A. AAAs must report on the "MBA Area Plan Older Americans Act Title III Awards: Unobligated Reporting and Redistribution Interest Form":
 1. Whether they have fully obligated all Title III funds or whether they have unobligated Title III funds;
 2. If they have unobligated Title III funding, what the specific amount of Title III unobligated funding is; and
 3. Whether or not they request to receiving any Title III funds that may become available through the redistribution process.
5. Near the end of February, on a specific date to be communicated by MBA each year, AAAs must report the amount of any obligated, unspent funding from the immediately preceding Area Plan year.
6. At the end of February, on a specific date to be communicated by MBA each year, AAAs must upload final Area Plan budgets for their Area Plan Grant agreement ending the immediately preceding Area Plan year to Foundant.
7. MBA will use information provided by AAAs under Procedure paragraphs 4 and 5 to determine what amounts are available for redistribution to AAAs interested in receiving redistributed funding. Amounts available for redistribution must be redistributed through the IFF.
 - A. If an AAA does not wish to receive potential reallocated funds from other AAAs, MBA will proportionally adjust the IFF to remove that AAA from distribution of any potentially reallocated funds.
 - B. MBA will communicate by mid-March of each year the amounts of funding to be redistributed to each AAA which expressed interest in receiving redistributed funding.
8. AAAs receiving redistributed funding must upload an updated budget for the current Area Plan year incorporating the redistributed funding amounts on or near March 31 of each year to Foundant.
9. MBA will redistribute funding by April 30 of each year through a contract amendment to the AAAs' current Area Plan year grant agreement.

Title III Administrative and Financial Requirements Policy #1: Defining and Prioritizing Services for Populations with Greatest Social Need and Greatest Economic Need

Authority Reference	OAA Section 312 45 CFR Part 1321.9(c)(1)(iv & v)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. AAAs must use Older Americans Act Title III funding to serve older adults and individuals caregiving with greatest social needs and/or greatest economic needs. These populations must be prioritized to receive services.
2. Greatest social need is defined as the need caused by noneconomic factors, which include for individuals eligible for OAA-funded services:
 - (A) Physical and mental disabilities;
 - (B) Language barriers;
 - (C) Cultural, social, or geographical isolation, including due to:
 - (i) Racial or ethnic status;
 - (ii) Native American identity;
 - (iii) Religious affiliation;
 - (iv) Sexual orientation, gender identity, or sex characteristics;
 - (v) HIV status;
 - (vi) Chronic conditions;
 - (vii) Housing instability, food insecurity, lack of access to reliable and clean water supply, lack of transportation, or utility assistance needs;
 - (viii) Interpersonal safety concerns;
 - (ix) Rural location; or
 - (x) Any other status that:
 - (a) Restricts the ability of an individual to perform normal or routine daily tasks; or
 - (b) Threatens the capacity of the individual to live independently; or
 - (D) At the discretion of the AAA, other needs as further defined by AAAs based on local or individual factors.

3. Greatest economic need for individuals eligible to receive OAA-funded services is defined as the need resulting from an income level at or below the Federal poverty level and, at the discretion of the AAA, other local and individual factors, including geography and expenses.
4. AAAs are encouraged to use reliable data to identify populations of individuals with greatest social need and greatest economic need.
5. MBA requires AAAs to use a multi-faceted approach to prioritize services to those in greatest social need and greatest economic need. This policy identifies those required actions as specified under "Procedures" below.

Procedures

Identifying and Prioritizing Populations with Greatest Social Need and Greatest Economic Need

1. AAAs and service providers must use the definitions in this policy to determine the priority populations to be served by Older Americans Act funding.
2. AAAs, in preparing their Area Plans, must identify specific populations with greatest social need and greatest economic need within their Planning and Service Area (PSA). To the extent practicable, AAAs should use data to quantify or estimate the numbers of individuals meeting various criteria within the definitions of greatest social need and greatest economic need in the PSA or specific communities within the PSA.
3. If AAAs would like to augment either or both definitions of greatest social need or greatest economic need, the AAA should do so as part of the Area Plan process by describing additional priority populations to be served and data supporting the inclusion of additional priority populations.
4. As part of the Area Plan development and review process, AAAs should consult with their Advisory Councils and community partners about where gaps exist in the PSA to serve these populations and how OAA funding may be used to supplement existing services or fund services where none exist. AAAs must also solicit input on gaps as part of their public comment processes related to review of the draft area plan.
5. Allowable services include those defined in Provision of Title III Services Policy #1: A Listing and Definitions of Allowable Services.
6. AAAs must include a question in their Requests for Proposals asking prospective service providers to identify which populations with greatest social need and greatest economic need they serve.
7. AAAs are required to use a combination of a minimum of three of the following methods to prioritize services.

- a. Locate services in communities with significant populations with greatest social needs and greatest economic needs.
- b. Ensure that service sites are conveniently accessible by public transportation for individuals able to take this mode of transit in geographic areas where public transit is reasonably available in the community.
- c. Engage community partners dedicated to serving specific populations to promote awareness of Title III-funded services. For example, promote OAA-funded services in a newsletter through an organization serving providing services to LGBTQ+ populations or to individuals with low incomes.
- d. Promote Title-III funded services at local events organized around populations of interest.
- e. Conduct a needs assessment, gap analysis, or other analysis of resources available to support one or more subgroups within the definitions of greatest social need and greatest economic need. This may be helpful in informing the AAA how it might fill in gaps in services within the PSA.
- f. Contract or provide grant funds to providers offering culturally competent health and/or social services.
- g. Use inclusive images and language in marketing and promotional materials.
- h. Other strategies proposed by the AAA to reach individuals with greatest social needs and greatest economic needs.

Advisory Committees and GSN/GEN Considerations

8. AAAs are encouraged to consider the full breadth of the populations included in the definitions of greatest social need and greatest economic need in recruiting and nominating individuals to serve on their Advisory Councils and governing boards.
9. AAAs must annually share information with their Advisory Committees about the effectiveness of their strategies to serve populations with greatest social need and greatest economic need. AAAs may determine the optimal timing for such information-sharing. Information may include the following:
 - a. Numbers and proportions of individuals served who meet one or more criteria for greatest social need or greatest economic need based on NAPIS data completion.
 - b. Feedback from community organizations about whether existing strategies are working and how they might be improved
 - c. Numbers of partnerships with organizations dedicated to serving populations with greatest social need and greatest economic need and the populations served by those partner organizations.
 - d. Other information determined relevant by the AAA

Data Collection on Client Demographic Characteristics

10. In the process of making annual updates to National Aging Program Information System (NAPIS) forms, MBA may periodically add select additional questions that may further inform the extent to which services are being provided to individuals with greatest social need and greatest economic need.

11. AAAs must educate service providers through an annual training session about the importance of and process for comprehensive data collection on NAPIS forms for registered services to assess how many individuals in priority populations are being served. Service providers are required to attend such training. AAAs must maintain records of attendance at such training.
12. MBA requires all fields on the NAPIS form to be completed. If a client refuses to provide certain data, the service provider must choose "Unknown", "Unavailable" or "Client Declined to Answer" from a drop-down list of choices. Comprehensive collection of NAPIS form data provides essential information on client demographic characteristics and the degree to which OAA funds are serving individuals with greatest social needs and greatest economic needs.

General

13. AAAs must establish policies and procedures for direct service providers that are aligned with this policy.

Title III Administrative and Financial Requirements Policy #2: Conflicts of Interest

Authority Reference	OAA, Sec. 307(a)(7)(B) 45 CFR Part 75.112 45 CFR 1321.47 MN Stat. Sec. 10A.07 OGM -08-01 Conflict of Interest Policy for State Grant-Making
Operating Category	Title III Administrative and Financial Requirements

Policy

1. A conflict of interest occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it.
2. AAAs and service providers must work to deliberately avoid actual, perceived, and potential conflicts of interest related to grant-making, grant administration and with respect to contracts and commercial relationships at both the individual and organizational levels. When a conflict of interest exists, transparency shall be the guiding principle in addressing it.
3. AAAs and service providers must establish mechanisms to identify, avoid, remove, and remedy conflicts of interest in a Title III program at individual and organizational levels. Every reviewer for competitive procurement processes shall be responsible for identifying where an actual or potential conflict of interest exists and for informing appropriate parties. All reviewers involved in the review of competitive applications must complete and sign a conflict-of-interest disclosure form for each competitive procurement process in which they participate.
4. Actual and Potential Conflicts of Interest
 - A. Actual Conflict of Interest: An actual conflict of interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

B. Potential Conflict of Interest: A potential conflict of interest may exist if a person has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

C. For purposes of this policy, "immediate family member" includes the following:

A spouse, domestic partner, parent, sibling, child, in-law, or other relative living in the home or with whom there is a close personal or significant financial relationship.

5. Individual Conflict of Interest:

A. A conflict of interest that may benefit an individual AAA or service provider employee, Board member, advisory council member, grant/contract reviewer, or volunteer is any situation in which their judgment, actions or non-action in their official capacity could be interpreted to be influenced by something that would benefit them directly or through indirect gain to an immediate family member, business, or organization with which they are involved.

An individual conflict of interest occurs when any of the following conditions are present:

i. An AAA employee, Board member, advisory council member, grant reviewer, or volunteer uses their status or position to obtain special advantage, benefit, or access to the AAA or current and/or prospective service provider's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.

ii. An AAA or service provider employee, Board member, advisory council member, grant reviewer, or volunteer receives or accepts money or anything else of value from a grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization. AAA employees, Board members, advisory council members, grant reviewers and volunteers may not have a financial interest in a Title III program and are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from grantees, contractors, and/or service providers, except where policies and procedures allow for situations where the financial interest is not substantial, or the gift is an unsolicited item of nominal value.

- iii. An AAA employee, Board member, advisory council member, grant reviewer, or volunteer is an employee or board member of a grant applicant or grantee or is an immediate family member of an owner, employee or board member of the grantee or grant applicant.
- iv. An AAA or service provider employee, Board member, advisory council member, grant reviewer, or volunteer has one or more conflicts between competing duties or any conflict between their private interests and official responsibilities.
- v. Instances in which a reviewer works in a volunteer capacity for a grant applicant or grantee organization, or a AAA employee represents the AAA on a stakeholder board should be evaluated on a case-by-case basis. Volunteer status has the potential to but does not necessarily create a conflict of interest, depending on the nature of the relationship between the two parties.
 - a. No AAA or provider may employ, in any capacity, any member of its governing board or any family member of a person on the board (i.e., parent, spouse, child, brother, sister, grandparent or in-laws); and
 - b. No AAA may make a sub-grant or subcontract with any service provider, if a member of the AAA's board is also a member of the provider's staff, board of directors or advisory council.

6. Organizational Conflict of Interest:

- A. A conflict of interest can also occur with an organization that is a grant applicant in a competitive grant process or grantee an AAA. Organizational conflicts of interest occur when:
 - i. A grantee's objectivity in carrying out the grant is impaired or compromised due to competing duties, programs, services and/or loyalties
 - ii. A grantee, potential grantee or grant applicant has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.
 - iii. Particular attention should be paid to any proposed grant contract agreement requirements that provide for the rendering of planning, consultation, evaluation, or similar activities that may inform decisions on future grant awards.

7. Any agency operating or overseeing the administration of a Title III program must have policies in place to prohibit the employment or appointment of Title III program decision-makers, staff or volunteers with a conflict that cannot be adequately removed or remedied.
8. Any agency operating or overseeing the administration of a Title III program must take reasonable steps to suspend or remove Title III program responsibilities of an individual who has a conflict of interest, or who has an immediate family member with a conflict of interest which cannot be adequately removed or remedied.
9. On an annual basis, AAAs must inform current employees, Board members, advisory council members, and volunteers of this conflict-of-interest policy; ask those individuals to disclose any actual or potential conflicts of interest; and maintain that documentation. Should any conflicts of interest arise through this annual screening process, the AAA must take steps to remove or reduce the impact of the conflict of interest.
 - A. Because conflicts of interest may emerge at any time as personal circumstances change, employees should also disclose any new conflicts of interest that may arise between annual processes.
10. AAAs must also be mindful of the potential for organizational conflicts of interest with regard to their advocacy role. While advocacy is an integral and required responsibility for AAAs, federal funds may not be used for lobbying purposes. As ACL explains, "While advocacy may inform an official on an issue, lobbying is meant to influence an official's opinion in a specific way and for a specific purpose. Lobbying is not an allowable use of federal funding, and ACL grantees should be able to provide documentation to show that non-federal funds were used for any lobbying activities."
 - A. According to ACL, "advocacy is the act of engaging with government officials to educate and provide technical, factual, and non-partisan information about relevant issues. For example, a grantee could meet with an elected official to provide information about grant activities and educate them about the beneficiaries of those activities. They may also respond to written requests from government officials for testimony. Advocacy is a permissible use of federal funding, and certain ACL grantees...are required to engage in advocacy. (See 45 C.F.R § 1329.4 for the regulatory definition of "systems advocacy.")

- B. "Lobbying is the act of engaging with local, state, or federal government officials (including elected officials, their staff, and other government employees) with the intent to influence funding, support for, or opposition to a particular issue or piece of legislation or potential appointment. The Anti-Lobbying Act prohibits the direct or indirect use of appropriated funds to pay for "any personal service, advertisement, telegram, telephone, letter, printed or written matter or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law ratification, policy or appropriation." 18 U.S.C. § 1913."
- 11. AAAs must also comply with the Senior Linkage Line conflict of interest policy, which has additional specific protections related to providing information to older adults about options for meeting their service needs.
 - 12. No AAA or service provider will give preference for services to older individuals as a result of a contract or commercial relationship that is carried out to implement Title III, unless stipulated by [OAA](#) or MBA contracts or policies.

Procedures

- 1. Procedures to Avoid, Address, and Resolve Individual Conflicts of Interest with respect to review of applications from potential service providers.
 - A. All reviewers must complete and sign a conflict-of-interest disclosure form for each competitive review process in which they participate. On the conflict-of-interest disclosure form, each reviewer must identify any respondent with which they have an actual or potential conflict of interest. The reviewer may choose to provide the context for the actual or potential conflict of interest; however, this is not required.
 - B. Reviewers who are AAA employees must act immediately upon disclosing or being notified that a conflict of interest exists in the competitive review process. Upon identification, such matters are referred to appropriate agency or program personnel (the employee's immediate supervisor, RFP contact person, or grant program manager) for additional discussion to identify and reduce any potential conflicts. If the conflict involves the AAA employee's immediate supervisor, grant/contract program manager, or RFP contact person, the

employee reviewer should instead contact a different manager or director.

- C. Reviewers who are a Board member, advisory council member, or volunteer that identify a conflict of interest must follow the steps the AAA or service provider has in place to address and resolve the conflict of interest.
- D. Reviewers who are not AAA employees and involved in the competitive review process should choose one of these options for disclosing, reviewing, and discussing the nature of the conflict:
 - i. Refer and discuss with AAA personnel.
 - ii. Follow the AAA's by-laws and policy guidance for how and to whom to disclose actual, perceived, or potential conflicts. Public officials must use this policy's definitions for decision-making on disclosure for competitive grant review.
- E. If it is determined that an actual or potential-conflict of interest exists, as defined by this policy or other relevant law, appropriate steps must be taken to avoid, address or resolve the conflict. These steps may include:
 - i. Reassigning the duties associated with the particular applicant, grant or grantee to another employee or reviewer
 - ii. Requiring the reviewer to remove themselves from the discussion or decision about an applicant(s) that is affected by the conflict and avoid discussing the applicant and/or applications from organizations with which the reviewer has disclosed a conflict of interest with other reviewers
 - iii. At a minimum, all AAA employees who are involved in the competitive review process must be made aware that an actual *or* potential-conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or reviewer.
- F. Any disclosed conflicts and their resolution should be noted in meeting minutes, documents, or records that the AAA maintains as a regular part of its grants process.

2. Procedures to Avoid Organizational Conflicts of Interest

- A. Conflicts of interest should be prevented as early in the competitive procurement process as possible. This includes writing requests for proposals in a manner that avoids conflicts and creates a level playing field for all respondents. Agencies may also consider including questions as part of the Request for Proposal (RFP) process to identify how potential respondents manage conflicts of interest, which may include information such as the applicant's conflict of interest policies or procedures.

- B. If an organizational conflict of interest is in question, disclosed or discovered agency staff must immediately notify the agency's ethics officer or a supervisor, manager, or director.
- C. In cases where an organizational conflict of interest is in question, disclosed or discovered, the service provider or applicant should be notified by the AAA regarding the actual *or* potential conflict and allowed a reasonable opportunity to respond. Based on a review of the response and other relevant facts, one of the following actions may be pursued:
 - i. The potential service provider is disqualified from eligibility for the grant or contract
 - ii. A current service provider's contract or grant agreement or notice of grant award is amended or terminated
 - iii. The service provider is disqualified from subsequent AAA contract or grant awards if it is determined that it improperly failed to disclose a known organizational conflict of interest or misrepresented information regarding such a conflict
 - iv. The responsibility for the contract or grant is reassigned to a different AAA employee
 - v. Actions should be taken to reduce or neutralize actual or potential organizational conflicts of interest. This may include: revising the service provider's duties so that the conflict is reduced; allowing the service provider to propose the exclusion of task areas that create a conflict, if appropriate; asking the service provider to submit an organizational conflict of interest avoidance or mitigation plan; or making all information available to all service providers and/or potential service providers in order to eliminate favoritism toward any one service provider.
- D. AAAs must also sign an assurance they will not use federal funds for lobbying purposes as part of the Area Plan submission process.

3. Other Procedures to Identify and Mitigate Against Potential Conflicts of Interest

- A. AAAs must, in the course of hiring new employees or recruiting new Board members, advisory council members, and/or volunteers, screen for potential or actual conflicts of interest. AAAs may not hire employees or nominate individuals to their Board with known conflicts of interests that cannot be adequately removed or remedied.
- B. AAAs must develop policies and procedures aligned with this policy.

Title III Administrative and Financial Requirements Policy #3: Transfer of Direct Service Funds

Authority Reference	OAA , Sec. 308(b)(4)(A) and (b)(5)(A) 45 CFR Part 1321.9(c)(2)(iii)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. AAAs may request a transfer of funds up to 40 percent of their new obligational authority between Titles III C1 and C2 funds. Transfers up to this amount are permissible in the Older Americans Act and are referred to in this policy as being within the standard transfer threshold. MBA has the authority to approve or disapprove proposed transfer amounts up to the 40 percent standard transfer threshold as part of the Area Plan approval process.
 - A. AAAs may request a waiver to exceed the standard transfer threshold between Titles C1 and C2 by up to an additional 10 percent transfer. Consistent with Section 308 of the Older Americans Act, the waiver request must be based on demonstration the standard threshold amounts are insufficient to satisfy needs for services under subpart 1 or subpart 2 of part C. Such waiver requests should be submitted consistent with MBA Operations Policy #9: Waiver Requests.
 - i. MBA will determine whether it supports AAA requests to exceed the standard transfer threshold by up to an additional 10 percent.
 - ii. If the Board supports this, MBA must also submit a waiver request to HHS. MBA's waiver request is subject to the approval of the Assistant Secretary on Aging.
2. AAAs may request a transfer of funds up to 30 percent of their new obligational authority between Titles III B and III C funds. Transfers up to this amount are permissible in the Older Americans Act and are referred to in this policy as being within the standard transfer threshold. MBA has the authority to approve or disapprove proposed transfer amounts up to the 30 percent standard transfer threshold as part of the Area Plan approval process.

- A. AAAs may also request a waiver to transfer amounts between Titles III B and III C funds in excess of the 30 percent standard transfer threshold.
- B. Waiver requests to exceed the 30 percent transfer amount between Titles IIIB and IIIC funds must demonstrate how additional criteria are met as required by Section 316 of the Older Americans Act. Those criteria include all of the following:
 - i. AAAs have collaborated with other organizations that would be affected with respect to the proposal for which waiver is sought;
 - ii. The proposal has been made available for public review and comment, including the opportunity for a public hearing upon request (and a summary of all of the comments received has been included in the application); and
 - iii. Information to help MBA determine the probable positive and negative consequences of approval of the waiver application, and the probable benefits for older individuals can reasonably be expected to outweigh any negative consequences, or particular circumstances otherwise justify the waiver.
- 3. Funds may only be transferred between these Title III parts under grant awards issued in the same federal fiscal year.
- 4. Transfer limitations apply to the State as a whole. MBA does not have to apply equal limitations on transfers to each AAA.
- 5. If the aggregate transfer requests submitted by all AAAs for a given Area Plan or federal fiscal year exceed the statewide standard transfer thresholds, the MBA must first determine whether it will support the proposed transfers and submit a waiver request to HHS. Any MBA approvals of proposed transfer amounts exceeding the standard transfer threshold limits must be considered conditional and are not final unless and until HHS approves the waiver request.
- 6. No other transfer of funds is permissible. No transfers may involve Title III-D or Title III-E funds.
- 7. The MBA cannot delegate to an AAA or any other entity the authority to make such transfers.

Procedures

- 1. AAAs may request transfers for an Area Plan year as part of the annual Area Plan

submission process.

2. MBA will review transfer requests as part of its Area Plan review process.
 - A. MBA has the authority to approve or disapprove proposed transfer amounts for each AAA between Title III C1 and C2 funds up to the 40 percent standard transfer threshold and between Title III B & III C funds up to the 30 percent standard transfer threshold as part of the Area Plan review, approval, and finalization process.
 - B. Requests to transfer amounts that exceed these standard transfer thresholds are subject to additional process and review. AAAs must submit a waiver request as described in MBA Operations Policy #9: Waiver Requests.
 - i. A waiver request to exceed the 40% threshold between Titles III C1 and C2 by up to an additional 10 percent must include a demonstration of why existing funding is insufficient to meet needs for services under subpart 1 or subpart 2 of part C.
 - ii. A waiver request to exceed the 30 percent threshold between Titles IIIB and IIIC must address all of the criteria described earlier in this Policy under 2(b).
 - iii. Unless there is an emergency or other extraordinary circumstances, the AAA will have to show that if the waiver is approved, other AAAs will not be disadvantaged.
3. MBA will share AAA requested and approved transfer amounts with all AAAs.
4. MBA will act on requested transfer amounts at several points over a given year.
 - A. MBA will first consider whether to approve proposed transfers within the standard threshold requests as part of the Area Plan review and approval process. AAAs may only include transfer amounts up to the 40 percent standard threshold in their Area Plan budgets if approved by the MBA.
 - B. AAAs must submit a final Area Plan Year budget with a final transfer request in June of each year for the Area Plan year that is underway. If an AAA's final transfer request exceeds the standard transfer threshold, the AAA must demonstrate that existing approved transfers up to the 40 percent threshold are insufficient to meet needs.
 - i. If the final aggregate transfer requests submitted by all AAAs in June for a given Area Plan or federal fiscal year exceed the statewide transfer standard

threshold, MBA must consider and determine whether to seek a waiver request from HHS to exceed the standard threshold levels. MBA would decide whether to proceed at its June meeting; if MBA supports the requests to exceed the standard threshold, MBA will submit the waiver request in July. HHS typically responds to waiver requests within four to six weeks of receipt.

- ii. The federal process requires MBA to submit both a waiver request and a separate related request to transfer funds. Waiver requests must be submitted prior to a request to transfer funds. The request to transfer funds typically is made following receipt of a waiver approval from HHS. Requests to transfer funds are due by August 1.
 - iii. MBA will submit a request to transfer funds by August 1 of each year. HHS typically approves a request to transfer funds within a few weeks of receipt, if it has already approved a waiver request.
 - iv. Upon written approval from HHS communicated in a letter and/or Notice of Award, MBA will issue revised Allocation Tables (aka Notice of Grant Award).
- C. When unforeseen circumstances or urgent needs arise in a PSA, new transfer levels may be reviewed and acted upon by the MBA earlier in the year. MBA will review and act on such requests on a case-by-case basis.

Title III Administrative and Financial Requirements Policy #4: Non-Federal Share (Match)

Authority Reference	OAA, Sections 301(d)(1), 304(c), 304(d)(1)(A)), 304(d)(1)(D), 304(d)(2), 309(b), 316(b)(5), and 373(h)(2). 45 CFR Part 1321.9(c)(ii) 45 CFR Part 75.306 Minnesota Statutes 256.975 & 256.9752 Subd. 1(A) – (C)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. The MBA requires AAAs and/or service providers to provide or spend specified proportions of matching funds for each Area Plan year for area plan administration and direct service costs as required by the Older Americans Act (OAA). MBA must also provide specified proportions of matching funds for State plan administration costs as required by the OAA. In the event MBA provides direct services, MBA must also spend specified proportions of matching funds for services. Allowable proportions of federal funding and required non-federal share are as follows:

Type of Cost	Maximum Federal Share of Total Expenditures	Non-Federal Share (Match Requirement)
State Plan and AAA Area Plan Administration	75%	25%
Title III-B Supportive Services	85%	15%
Title III-C 1 & C2 Nutrition Services	85%	15%
Title III-D Evidence-based Disease Prevention and Health Promotion Services	100%	0%
Title III-E Family Caregiver Support	75%	25%

2. Unless otherwise specified, match must be met with expenditures for the same type of services. For example, family caregiver support match requirements must be met with expenditures for family caregiver support services.
3. Unless otherwise specified, the non-federal match is to be met through local sources.
 - A. HHS has approved MIAAA to use tribal self-governance dollars to be used as match.
4. The non-federal share matching requirement has additional requirements for supportive services and nutrition services only as specified in 45 CFR 1321.9 (c)(2) (ii)(J)(2)(iii), which requires a minimum of 1/3 of the 15% match for supportive services and nutrition services to be met from State sources and 2/3 of the 15% match from State or local sources. Match may be pooled for supportive services and nutrition services.
5. The methodology for calculating the amount of the match requirement is described under "Procedures" below.
6. Non-Federal shared costs or match funds and cash and third-party in-kind contributions are acceptable if the funds meet the specified criteria below for match.
 - a. Local funds expended for a non-Title III funded program may be used to meet the match requirement for Title III expenditures when the non-Title III funded program:
 - i. Is directly administered by the area agency;
 - ii. Does not conflict with requirements of the Act;
 - iii. Is used to match only the Title III program and not any other Federal program; and
 - iv. Includes procedures to track and account expenditures used as match for a Title III program or service.
 - b. Proceeds from fundraising activities may be used to meet the match as long as no Federal funds were used in the fundraising activity. Fundraising activities are unallowable costs without prior written approval from the Assistant Secretary on Aging, as set forth in 2 CFR 200.442.
 - i. Should a AAA or one of its contracted service providers wish to conduct a fundraising activity using federal funds, the AAA must submit a written request on its own behalf or for that of its contracted service provider to MBA. The AAA must provide ample lead time for MBA to submit a request on the AAA's or service provider's behalf. Therefore, AAAs must provide MBA at least 90 days advance notice if they wish to conduct fundraising paid for with federal funds.

The AAA must also have a back-up plan for paying for the fundraising costs (or canceling the fundraising activity) if the Assistant Secretary disapproves the AAA's request or does not respond to it in a timely way in order to provide prior written approval. AAAs undertaking these fundraising plans do so at their own risk and with the understanding the Assistant Secretary may decline the request or not respond in a timely manner.

- ii. Should a AAA decide to proceed with a request to use federal funding to pay for a fundraising activity, the AAA must describe the following in writing:
 - a. The nature of the fundraising activity, including how funds are being raised, when the fundraising will begin and end, and how the proceeds are to be used;
 - b. How the fundraiser will be promoted;
 - c. How the fundraiser would otherwise comply with regulations related to allowable costs (for example, federal funds cannot pay for alcoholic beverages).

c. Unrecovered indirect costs may be used as match for administrative costs. An AAA using unrecovered indirect costs must explain and document this through the Area Plan budgeting process.

d. Third-party in-kind donations, including valuation of volunteer time, shall be determined by the criteria stated in CFR Part 75.306(e) and (f) and Sec. 304(d)(2) of the OAA. Those criteria include, but are not limited to, the following:

- i. Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as matching funds if the service is an integral and necessary part of an approved project.
- ii. Rates for third-party volunteer services counted as match must be consistent with those paid for similar work by the AAA or grantee. In those instances in which the AAA or grantee does not have employees or contractors with the same skills as volunteers, rates must be consistent with those paid for similar work in the labor market in which the AAA or grantee competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation for volunteer services.

7. AAAs and service providers may not use the following types of expenditures to meet match requirements:

- a. State funding used by MBA to meet State maintenance-of-effort requirements, including Senior Nutrition Programs.
- b. State or local public resources used to fund a program which uses a means test;
- c. Consistent with 45 CFR Part 75.306(b)(5), other Federal funds may not be used to meet required match unless there is specific statutory authority to do so.

8. AAAs may use the following state funding sources toward their match requirement:

- A. Consumer information and assistance and long-term care options counseling
- B. Long-term care options counseling at critical care transitions
- C. Prescription Drug Assistance
- D. Return to Community Grants
- E. Food Delivery Support

Procedures

1. To calculate the amount of the non-federal match, it is necessary to first calculate the total project cost. For example, for a \$400,000 federal award for nutrition (which has a match of 15%), the calculation process would look like this:

Step One: Determine what number the federal award is as a percentage of the total project cost

$$\frac{\$400,000}{85\%} = \$470,588 \text{ Total Project Cost}$$

Step Two: Calculate the non-federal share match requirement based on the Total Project Cost (which is higher than the amount of the federal award)

$$\$470,588 * 15\% = \$70,588 \text{ (Non-federal share or match requirement)}$$

Typically, the calculation process for non-federal share would stop after completion of Step Two. Because this is a nutrition-based example in which at least one-third of the non-federal share must come from State sources, an additional step is necessary.

Step Three: Calculate the non-federal share requirement for local resources.

\$70,588 is the total non-federal share requirement. Because this is a nutrition-based example, at least one-third of the non-federal share must come from state resources. $\$70,588 * .33$ equals \$23,294, which is the State share amount of the non-federal share.

The non-federal share requirement to be borne by local resources is the remaining two-thirds of the \$70,588 or \$46,588.

2. AAAs shall demonstrate how they will meet the non-federal share match requirements for Area Plan administrative and direct services in their Area Plan budget submission.
 - a. The AAA must identify whether they are using Title III expenditures, non-Title III program expenditures, and/or voluntary contributions to meet each non-federal share match requirement in their Area Plan budget submission.
 - b. If the AAA intends to use non-Title III program expenditures to provide required match, the AAA must explain the nature of their expenditures; how they meet the criteria in 3 (A) above; and demonstrate how it will track and account for those non-Title III expenditures.
3. AAAs shall submit required reporting on match expenditures as part of their standardized reports to MBA.

4. AAAs shall establish written policies concerning non-federal matching requirements for service providers.

Title III Administrative and Financial Requirements Policy #5: Supplement, Not Supplant

Authority Reference	Older Americans Act, Sections 306(a)(9)(B)), 315(b)(4)(E), 321(d), 374, and 705(a)(4). 45 CFR Part 1321 Definitions (local sources) & Part 1321.9(c)(2)(xvi)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Funds awarded under the Older Americans Act must be used to supplement, not supplant, existing Federal, State, and local funds expended to support services for older Minnesotans.
2. Older Americans Act funding is intended to support part of a continuum of community-based services for older adults.
3. Within this context, “supplement” is defined as increasing the amount of resources spent on services for older adults by adding Older Americans Act funding to previously committed Federal, state or local sources paying for services for older adults or providing a new service not previously paid for by another funding source. Local sources include “funds from fundraising activities, reserve funds, bequests, or cash or third-party in-kind contributions from non-client community members or organizations.”
4. Conversely, “supplant” means reducing other Federal, state, or local funding sources spent on services for older adults by substituting Older Americans Act funding in their place.

Procedures

1. AAAs must ensure their local and regional partners, including local and regional governmental entities with whom they coordinate as well as service providers, are aware of this policy.
 - a. AAAs can demonstrate they have met this requirement by including information about this policy in their requests for proposals and their Area Plans when the Area Plans are available for public comment.

- b. AAAs may choose to ensure local and regional partners are aware of this policy through other additional actions as well.
- 2. AAAs must not allow Older Americans Act funding to supplant or substitute for existing Federal, state, or local funding available to provide services to older adults. An example of supplantation is if an AAA used Older Americans Act funding to pay for services paid for with other Federal, state, or local funding sources in the prior year.
- 3. AAAs must attest that no supplantation is occurring as part of the annual Area Plan submission process by signing an assurance stating this is so.
- 4. AAAs must establish policies and procedures for service providers aligned with this policy and procedure.
 - a. Service providers should be aware they should bill the most appropriate source of federal funding for client services. For example, meals for clients on the Alternative Care/Elderly Waiver should be billed to AC/EW rather than Title III C-1 or C-2 funding.
 - b. In signing an agreement with a AAA to provide services, service providers must attest to the AAA that, to their knowledge, no supplantation is occurring as a result of Title III dollars paying for services through their agreement.

Title III Administrative and Financial Requirements Policy #6: Title VI & Title III Coordination

Authority Reference	OAA Sections 306(a)(11)(B), 307(a)(21)(A) & 614(a)(11) 45 CFR 1321.53
Operating Category	Title III Administrative and Financial Requirements

Policy

1. The Older Americans Act establishes legal obligations for state units on aging, AAAs, and service providers to serve American Indians throughout Minnesota.
2. Further, the OAA requires state units on aging, AAAs, service providers, and Title VI grantees to coordinate programs under Title III and under Title VI.
3. Federal rules require state units on aging to have policies and procedures in place to identify the following:
 - A. How the State's aging network, including area agencies on aging and service providers, will provide outreach to Tribal elders and family caregivers regarding services for which they may be eligible under Title III and/or VII;
 - B. The communication opportunities the State agency will make available to Title VI programs, including technical assistance on how to apply for Title III and other funding opportunities, meetings, email distribution lists, presentations, and public hearings;
 - C. The methods for collaboration on and sharing of program information and changes, including coordinating with area agencies and service providers where applicable;
 - D. How Title VI programs may refer individuals who are eligible for Title III and/or VII services.
 - E. How services will be provided in a culturally appropriate and trauma-informed manner; and
 - F. Opportunities to serve on advisory councils, workgroups, and boards, including area agency advisory councils, as set forth in § 1321.63.
4. Coordination needs to occur between AAAs and Title VI grantees in their PSA as well as for AAAs to serve American Indian elders living in their respective PSAs who are

unaffiliated with a Tribal nation in Minnesota. The goal of meaningful coordination is providing access to services and avoiding duplication in services.

5. AAA Operations Policy #11: Emergency Preparedness includes additional requirements for AAAs related to coordination with Title VI grantees on emergency preparedness planning, response, and recovery efforts.

Procedures

1. MBA will work through its Native American Elders Coordinator and as part of ongoing Tribal consultation to promote active opportunities for communication and collaboration with Title VI grantees related to Title III and other funding opportunities as well as key meetings, presentations, workgroups, or public hearings occurring in their geographic area.
2. AAAs are strongly encouraged to work through MBA's Native American Elders Coordinator to connect with organizations serving American Indian elders across Minnesota as well as with Title VI grantees.
3. AAAs must annually provide Title VI grantees with the names and contact information for service providers offering Title III services, as well as a description of those services, in order to assist with referrals for individuals who are eligible for Title III and/or VII services. AAAs operating in PSAs with larger population centers must also share this same information with representatives of Tribal urban offices, regardless of whether the Tribe managing the urban office is also a Title VI grantee.
4. On an annual basis, AAAs should share staff contact information with Title VI grantees located in their PSA to help keep up-to-date on key staff contacts. AAAs operating in PSAs with larger population centers must also share staff contact information with representatives of Tribal urban offices, regardless of whether the Tribe managing the urban office is also a Title VI grantee.
5. AAAs are strongly encouraged to invite Title VI grantee representatives to serve on their advisory councils, governing boards, and any special committees or workgroups.
6. AAAs are encouraged to meet with Title VI grantees in their PSA at least annually to share information about programs, services, and future plans. AAAs are encouraged to include service provider representatives in these meetings and solicit input about how to make services more culturally responsive and trauma-informed.
7. AAAs must invite Title VI grantees to participate in caregiver consultation training at no cost.
8. Regularly occurring opportunities for communication include the following:
 - Urban Indian Elders Meeting conducted with Mille Lacs Urban Office

- University of Minnesota Indian List-Serve
- Tribal Health Directors Quarterly meeting
- Minnesota Indian Affairs Council (MIAC)

Title III Administrative and Financial Requirements Policy #7: Procurement Process Requirements and Exceptions for Single and Sole Source Contracts and Grants

Authority Reference	45 CFR Part 75.326-335 45 CFR Part 75.352 Minn. Stat. §16B.97 and §16B.98 Minnesota Office of Grants Management Policies: 08-02: Policy on Rating 08-03: Policy on Writing and Publicizing Grants Notices and Requests for Proposal 08-07: Policy on Single and Sole Source Grants
Operating Category	Title III Administrative and Financial Requirements

Policies

1. It is the policy of the federal government and the State of Minnesota that grants and contracts are to be competitively awarded as much as possible. This policy applies to all grants and contracts, including for direct services, professional/technical contracts, and other agreements. With limited exceptions described elsewhere in this policy, AAA grants and contracts for over \$5,000 shall be awarded through competitive contract and grant review processes.
2. AAAs may generally determine how frequently to conduct their procurement processes, but must conduct a competitive process at least every five years. AAAs are strongly encouraged to facilitate more frequent opportunities for potential service providers to offer Title III services.
3. AAAs must issue Requests for Proposals as part of the competitive process and promote the RFP to ensure as many potential respondents are aware of the opportunity as possible. RFPs shall include information about the grant program, application criteria, application and proposal requirements, AAA contacts and grant reporting requirements. This is essential so that potential applicants may make informed decisions about applying for and managing Title III grants and contracts.
4. In developing the RFP, AAAs must develop review criteria that are identified in the

notice of grant opportunity or request for proposal and a standardized scoring system to rate each application against the chosen criteria.

A. Competitive grant review criteria and standardized scoring systems must include and identify how an AAA's grant process will implement diversity in grant-making, which is defined as "a process that intentionally identifies how a grant program serves diverse populations, and especially populations experiencing inequities and/or disparities."

5. A competitive contract or grant is awarded through an application process in which multiple applications are reviewed and grants are awarded to those applicants that most closely meet the selection criteria identified by the AAA. Procedurally, in a competitive grants process, an AAA issues a grant or contract opportunity notice or request for proposal and eligible grant-seekers submit a response. Contracts or grants are awarded to the applicants that are rated the highest against the selection criteria, based on the availability of funds.
6. A standardized scoring system is a rating system that assesses how well each response aligns with each of the selected criterion. As AAAs create a scoring system, the most important criteria to the success of the grant program should be weighted to count more toward the total score as compared to other factors that are less important. If weights are not published, it is assumed the criteria have equal weight.
7. Responses are assigned a score for each criterion, based upon the extent to which they meet the standard. Scores for each criterion are tallied to arrive at a cumulative score for each application. The scoring system must include weighted criteria that identifies verifiable and measurable diversity, equity, and inclusion in grant-making outcomes and/or grantee performance. The applicant's past performance as a grantee of that state agency should also be considered when evaluating a grant application.
8. Criteria recommended include:
 - a. Proposed service plan
 - b. Past performance
 - c. Unit cost
 - d. Geographic coverage
 - e. Knowledge of the community being served.
 - f. Coordination with other service providers
 - g. Quality of service and quality assurance plan
9. In addition to the recommended criterion listed above, AAAs shall consider:
 - a. How the potential grantee or contractor proposes to prioritize services to

individuals with greatest social needs and greatest economic needs.

- b. A budget that reflects the full cost of the service including the nonfederal share, when required. Third party in-kind donations shall be determined according to [45 CFR Part 75.306](#).
- c. Minority ownership of the agency or business.

10. Limited Exceptions for Required Procurement Processes

- A. Grants and contracts up to \$5,000
- B. Use of Targeted Group (TG), Economically Disadvantaged (ED) and Veteran Owned (VO) businesses for up to \$100,000. See the [State of Minnesota's Certified TG/ED/VO Business Directory](#) for more information.
- C. Use of the State of Minnesota's Cooperative Purchasing Venture process for goods, certain services, and utilities. See [the State of Minnesota's Cooperative Purchasing Venture website](#) for more information.
- D. Single and Sole Source Grants and Contracts as described under Policy #11 below.

11. Sole and Single Source Grants and Contracts

- A. For purposes of this policy, a sole source grant or contract is defined as a type of non-competitive grant or contract that is awarded to an entity because it is the only provider of a particular service.
- B. For purposes of this policy, a single source grant or contract is a type of non-competitive grant or contract that is awarded to an entity that is selected due to specific reasons, such as a geographic location or community knowledge and relationships that make that entity uniquely able to fulfill the intent of the grant or contract.
- C. Single and sole source grants and contracts are to be used when only one entity is reasonably able to meet a grant's intended purpose and objectives, due to their geographic location, specialized equipment, specialized knowledge and/or community relationships, or as a funder designated sub-recipient.
- D. If more than one entity is reasonably able to meet the contract or grant's purpose and objectives, a competitive process must be used.
- E. A single/sole source grant or contract may not be based solely on an AAA's convenience and/or on prior relationships with a potential service provider.
- F. If a single or sole source grant or contract of over \$5,000 is made, AAAs must document why a single/sole source process was the only reasonable option by completing the Single and Sole Source Grant Justification Form and submitting it to

MBA for approval prior to entering into the single/sole source contract or grant or obligating funds to the service provider.

Procedures

1. AAAs determine which Title III services need to be procured and develop a Request for Proposals.
2. As part of the process to develop the RFP, review criteria are selected, ranked, and weighted relative to their importance. These criteria must be finalized prior to issuing the RFP and included in the RFP.
3. Essential elements of a notice of a grant opportunity or RFP include:
 - A. A description of the services being procured
 - B. The AAA's goals and priorities in making the grants
 - C. How services provided under the grant or contract will serve individuals with greatest social needs and greatest economic needs
 - D. Eligibility requirements for applicants
 - E. A statement on whether a multi-organization collaboration is required, welcome or not allowed for this grant program
 - F. Grant or contract outcome expectations and reporting requirements
 - G. Deadlines and timelines for each step in the application and award process
 - H. Amount of money for distribution and how it will be allocated
 - I. A description of the selection criteria and their relative weight in the ranking system (see #2 above)
 - J. Detailed application formatting instructions or an application template
 - K. General information about the review process and a general overview of the composition of the review committee
 - L. Requirements for in-kind or matching funds
 - M. Core program requirements, such as solicitation of voluntary contributions

N. The name and contact information of a contact person at the state agency

O. A statement about when information in their response becomes public data

4. At a minimum, the RFP must be posted on the granting agency's website per M.S. 15.994. AAAs should pursue additional methods to reach potential applicants that may include: promotion through social media, identifying communities that have not historically participated in the grant application process, culturally-specific and community-based organizations, e-mail, AAA distribution lists, targeted newspapers, notifying prior applicants and recipients and the Minnesota State Register.

5. Notices of grant opportunities and RFPs must clearly communicate grants program information that will help potential applicants determine whether and how to submit an application. AAAs should pursue additional methods to provide clear instructions to potential applicants such as conducting webinars or conference calls.

6. AAA staff develop a grant application scoring sheet that facilitates the scoring process and the scoring sheet is used by all reviewers. To score responses with the highest degree of precision, AAAs must use a numeric (quantitative) scoring system rather than qualitative rating or ranking systems.

7. AAAs must assemble a review team that includes at least a member of a community with greatest social needs and/or greatest economic need to review responses to the Request for Proposals. AAAs should recruit and utilize community-based grant reviewers.

8. Review team members should review each response and assign preliminary scores for each criterion in advance of the review meeting.

9. Review teams meet to conduct a review meeting in person, virtually, or by phone to discuss each application and its score.

10. After the review team has met and the scores have been finalized, AAAs may incorporate the scores into final funding recommendations that may also be based on geographic distribution, services to special populations, and the applicant's history as an AAA's grantee or contractor and their capacity to perform the work.

Single and Sole Source Procedures

1. AAAs determine the purpose and objectives of each grant and contract they wish to establish as part of the Area Plan development or annual update process.

2. If the AAA is concerned there may only be a single service provider capable of delivering the needed service, the AAA shall conduct a search by using established contacts in the field, the internet, or other directories to determine whether there are multiple service providers that are reasonably able to provide needed services under the grant or contract. If there is more than

one provider that is reasonably able to meet the purpose and objectives of the grant or contract, a competitive process must be used.

3. If, after conducting the search, the AAA determines that there is only one entity that is reasonably able to meet the purpose and objectives of the grant or contract, the AAA may begin the process to make a single or sole source grant or contract to that entity.

4. The research and justification for this decision must be documented in a Single and Sole Source Grant Justification Form signed by the AAA's financial management director and Executive Director as well as by MBA prior to encumbrance.

5. Completed Single and Sole Source Grant Justification Forms should be maintained in the corresponding grant or contract file. If the contract or grant is randomly selected for review during an MBA site visit, MBA would expect to see this documentation as part of the site review process.

Title III Administrative and Financial Requirements Policy #8: MBA Grant Agreements and Amendments between MBA and AAAs

Authority Reference	2 CFR 200 Subpart D 45 CFR 1321.65(b)(4) Minnesota Office of Grants Management Policies 08-04 & 08-12
Operating Category	Title III Administrative and Financial Requirements

Policy

1. MBA enters into grant contract agreements with AAAs in order to fund the administration of Area Plans and other federal and state programs. Per Minnesota Statutes, section 16B.97, subdivision 1 (a), a grant contract agreement is "a written instrument or electronic document defining a legal relationship between a granting agency and a grantee when the principal purpose of the relationship is to transfer cash or something of value to the recipient to support a public purpose authorized by law". This policy hereafter refers to grant contract agreements as "grant agreements".

2. Grant agreements must be fully executed prior to when AAAs execute contracts or grant agreements with service providers and prior to when MBA may make an advance payment to an AAA.

3. Grant agreements must only fund activities that are approved as part of the Area Plan approval process, a subsequent review/approval process conducted by the MBA, or another federal or state program. The Area Plan is a central component of the grant agreement between the MBA and an AAA.

4. The grant agreement must conform to the following requirements:

A. Conform to Minnesota Statutes, section 16B.98, subdivision 5, "Creation and Validity of Grant Agreements," including approval by the commissioner of the Department of Administration

B. Cite the MBA's authority to enter into grant agreements and the Older Americans Act.

C. Specify the scope and timeline for the work, the AAA's duties in carrying out the grant, and details about the disbursement of grant payments or payment for services provided according to contractual terms.

D. Contain standard contract language and assurances, including clauses regarding liability, data practices and intellectual property, contracting and bidding requirements that include use of targeted vendors, Worker's Compensation, and provisions concerning federal funds as applicable.

E. Incorporate requirements such as work plan and budget into the grant agreement by reference and as an addendum so that both MBA and the AAA can easily locate and understand the information.

F. Include the name and phone number of the MBA's and the AAA's Authorized Representatives.

5. Changes to fully executed grant agreements must be made through amendments. An amendment is an addition, deletion, or change to a fully executed grant agreement.

A. When a modification to a grant agreement results in a change to the total obligation, compensation, expiration date, or duties associated with the agreement, those changes must be made through an amendment.

B. Grant agreements may be amended only when the purpose of the amendment is similar to the original purpose of the grant agreement.

C. Grant agreement attachments and exhibits may also be revised as part of a grant agreement amendment.

6. A grant agreement, plus any amendments to it, must not exceed five years.

7. Amendments to grant agreements between MBA and AAAs

A. Changes to funding amounts during an Area Plan year generally require an amendment to the grant agreement between MBA and each AAA with the exception noted below.

i. Shifting of funds between administrative budget line items does not require an amendment if the amount shifted does not exceed 10% of that budget line total and the total obligation remains unchanged. This 10 percent variance does not apply to personnel, fringe, or PD & C.

ii. If a subsequent change to the budget is made that does require an amendment, any items adjusted under item (i) immediately above must be incorporated into the amendment to ensure a fully current view of the approved budget.

B. Annual changes to Area Plans that are processed as amendments must be presented at a public hearing for purposes of soliciting public comment. Mid-year changes to Area Plan budgets typically would not rise to the level of requiring a public hearing.

Procedures

1. AAAs must identify the service providers with which they intend to enter into grant agreements or contracts (to the extent this is known at the time of Area Plan submission), the services they will provide, and a budget including these services as part of the Area Plan development and submission process. The MBA will issue annual Area Plan instructions and provide additional detail in that guidance.
2. Following review and approval of the AAA's Area Plan and negotiation of any final issues, the MBA and AAA will enter into a grant agreement between the MBA and the AAA. The approved Area Plan is a central component of the grant agreement between MBA and the AAA. The MBA will make every reasonable effort to have this agreement fully executed by December 15 of each year.
3. Grant agreements between MBA and AAAs typically begin on January 1 and expire on December 31 of each calendar year.
4. From time to time, grant agreements between MBA and AAAs may need to be amended for a variety of reasons, including adjustments to federal funding levels; AAA-initiated changes in how the AAA intends to spend their funding; or other circumstances.
5. If the MBA needs to initiate an amendment to grant agreements due to changes in federal funding levels or other circumstances, MBA staff will notify AAAs in writing to inform them about the pending change.
6. If an AAA needs to initiate any type of change to its grant agreement (including the Area Plan, which is incorporated by reference), the AAA must inform MBA of this pending action by sending a request through the Area Plan inbox. MBA staff will open Foundant so that AAAs may upload documents.
 - A. MBA will review the proposed budget change and determine next steps with respect to formalizing the proposed change through an amendment to the grant agreement.
 - B. AAAs must also inform the MBA if there are changes to personnel and upload position descriptions to Foundant.
7. MBA will make every reasonable effort to have amendments to grant agreements between MBA and AAAs executed within 30 calendar days of when the amendment is formally initiated by an AAA uploading its amendment documents to Foundant.

Title III Administrative and Financial Requirements Policy #9: AAA Contracts and Grant Agreements with Service Providers

Authority Reference	Minnesota Office of Grants Management Policies 08-04 & 08-12 45 CFR 1321.59(d) & 1321.71(e) 2 CFR 200 Subpart D
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Each AAA must enter into contracts and/or grant agreements with service providers in order to ensure the provision of Title III-funded services within its PSA. Service providers may be regional or local public entities, nonprofit agencies, or for-profit organizations.
 - A. Grant agreements and contracts with a for-profit organization are subject to prior approval of the MBA. To enter into a grant or contract with a for-profit organization, the AAA must allow sufficient time for MBA to review and approve the AAA establishing a grant or contract with the for-profit organization by the Program Operations Committee and vote of the full MBA. This typically occurs during the annual Area Plan review and approval process.
2. The contract or grant agreement must, with narrow exceptions, be awarded after a competitive procurement process has been conducted consistent with Title III Administrative and Financial Requirements Policy #7: Procurement Requirements and Sole Source.
3. Contracts and grant agreements must be fully executed prior to when service providers begin to provide services and/or prior to when the AAA may make an advance payment to the service provider.
4. Contracts and grant agreements must only fund activities that are approved as part of the Area Plan approval process or a subsequent review/approval process conducted by the MBA.
5. Consistent with federal requirements at 45 CFR 1321.59(d), AAAs "may not delegate to another agency the authority to award or administer funds under this part". While service providers may enter into subcontracts with other organizations that will also provide direct services to recipients of OAA-funded services, the AAA must both approve these subcontracts or subgrants in advance of their execution and retain administrative responsibilities and oversight of these agreements.
 - A. This policy allows a service provider to respond to a competitive request for proposals process and name other service providers as subcontractors or subgrantees in their responses. A service provider including names of proposed subcontractors or subgrantees as part of their response must indicate whether the

proposed subcontracted organization is a for-profit organization. The disclosure of this information facilitates the ability of AAAs to approve the award as required under federal rules and allows the MBA to approve work with for-profit organizations in advance.

- B. The AAA must review any subcontracts or subgrants between service providers prior to their execution and ensure their terms are compliant with state and federal law. For example, these subcontracts or subgrants must be in place prior to initiation or services and may not be longer than five years in duration.
- C. Because the AAA may not delegate administrative responsibilities, the AAA itself must conduct all aspects of administration and monitoring that AAAs are required to perform for all service providers (which vary according to the dollar value of agreements as noted in related policies, including the following):
 - a. Conducting a pre-award risk assessment for subcontracts or subgrants that are \$50,000 and greater;
 - b. Conducting site visits;
 - c. Paying invoices;
 - d. Managing financial reconciliation processes where applicable;
 - e. Reviewing service provider data for completion and accuracy;
 - f. Closing out grant and contract awards; and
 - g. Writing provider evaluations.

MBA will provide more detailed implementation guidance in a separate, forthcoming document.

- D. Within the context of Title III, service providers wishing to serve in an intermediary capacity may do the following:
 - a. Cultivate relationships with smaller and/or culturally-specific community-based organizations;
 - b. Respond to AAA requests for proposals and include other service providers in their responses;
 - c. Provide direct service to individuals with greatest social need and greatest economic need who are not receiving the same service from subcontracted service providers;
 - d. Provide outreach to prioritized populations with greatest social need and greatest economic needs;
 - e. Perform client intake and completion of NAPIS forms on behalf of subcontracted service providers;
 - f. Gather and/or aggregate data reported by subcontracted service providers for submission to the AAA;
 - g. Assist with educating subcontracted service providers about their responsibilities in management of federal funds;
 - h. Assist subcontracted service providers with organizing documents for pre-award risk assessments where applicable;
 - i. Assist with strategies and solicitation process for voluntary contributions (and/or cost sharing where applicable).

- i. All contributions, whether voluntary or cost sharing must be made directly to the subcontracted service provider and not to the intermediary service provider);
 - j. Prescreen requests for payment to ensure they include necessary information and align with program income requirements;
 - E. Service providers may also enter into subcontracts with other organizations using Title III funds for purchasing food, commodities, supplies, equipment, or other activities necessary to provide services.
- 6. With the exception of Nutrition services, AAAs may use either a contract or grant agreement as a vehicle for creating an agreement with a service provider to provide services. AAAs may not require a minimum threshold for services (for example, a minimum number of meals to be provided annually) as a condition of eligibility to be a Title III service provider. Agreements for Nutrition services must be structured as contracts. Either type of agreement is subject to the same monitoring requirements.
- 7. The grant or contract agreement must conform to the following requirements:
 - A. Cite the AAA's authority to enter into contracts or grant agreements and the Older Americans Act.
 - B. Specify the scope and timeline for the work, the grantee's or contractor's duties in carrying out the grant or contract, and details about the disbursement of grant payments or payment for services provided according to contractual terms.
 - C. Contain standard contract language and assurances, including clauses regarding liability, data practices and intellectual property, contracting and bidding requirements that include use of targeted vendors, Worker's Compensation, and provisions concerning federal funds as applicable.
 - D. As applicable, per Minnesota Statutes, section 16B.981 and OGM Policy 08-06, include additional conditions or requirements such as a risk mitigation plan or implementation of other internal controls to protect the interests of the State and federal government.
 - E. Incorporate requirements such as work plan and budget into the contract or grant agreement by reference and as an addendum so that a grantee or contractor can easily locate and understand the information.
 - F. Include the name and phone number of the AAA's and grantee's or contractor's Authorized Representative and, if appropriate, project manager.
 - G. Due to state monitoring requirements, contracts and grant agreements may not be structured as fixed amount subawards under 2 CFR 200.201(b)(1).

8. Changes to fully executed grant agreements or contracts must be made through amendments. An amendment is an addition, deletion, or change to a fully executed contract or grant agreement.

A. When a modification to a contract or grant agreement results in a change to the total obligation, compensation, expiration date, or duties associated with the agreement, those changes must be made through an amendment.

i. Extensions of an existing contract or grant agreement from one year of an Area Plan cycle to a subsequent year are informally referred to as “renewals” and must be processed as an amendment.

B. Contracts or grant agreements may be amended only when the purpose of the amendment is similar to the original purpose and when the contractor or grantee duties are within the scope of the original request for proposal, notice of grant opportunity, or grant application.

C. Contract and grant agreement attachments, exhibits, and approved grant application materials with corresponding grant award notices may also be revised as part of a contract or grant agreement amendment.

D. Successor Agencies and Changes in Ownership

i. When a contractor/grantee agency/organization changes its name, but doesn’t change ownership, the new agency/organization is a successor agency. The AAA must amend any contracts or grant agreements with that entity to reflect the change.

ii. When a contractor/grantee agency/organization changes ownership and has a new or different governing body, the new agency/organization is a different entity. The AAA must terminate the existing contract and execute a contract or grant agreement to the new agency. If the new entity is a for-profit entity, the AAA must seek approval from the MBA.

9. A contract or grant agreement, plus any amendments to it, must not exceed five years.

Procedures

1. AAAs must identify the service providers with which they intend to enter into grant agreements or contracts, the services they will provide, and a budget including these services as part of the Area Plan development and submission process. The MBA will issue annual Area Plan instructions and provide additional detail in that guidance.

2. If an AAA wishes to enter into a grant agreement or a contract with a for-profit entity, the AAA must identify the organization as such in its proposed Area Plan or through a waiver request.

3. When the MBA's Program Operations Committee (POC) reviews whether an AAA may proceed in entering into a grant agreement or contract with a for-profit entity, the POC will consider the following:

A. Whether the unit cost or cost to the AAA reflects only allowable direct and indirect cost as defined in 45 CFR Part 75, Subpart E.

B. Whether its terms require audits of the for-profit entity using standards found in 45 CFR Part 75, Subpart F.

C. Whether the for-profit entity will follow all provisions of 45 CFR 75.215 and the Older Americans Act, Sections 306 (a)(13) and 212.

4. Following review and approval of the AAA's Area Plan and negotiation of any final issues, the MBA and AAA will enter into a grant agreement between the MBA and the AAA. The MBA will make every reasonable effort to have this agreement fully executed by December 15 of each year.

5. After the execution of the grant agreement between the MBA and the AAA, the AAA may execute its contracts and grant agreements with service providers. Pending action from the MBA to have agreements with AAAs fully executed, AAAs will make every reasonable effort to have grant agreements or contracts fully executed with service providers by January 1.

A. Direct service grant agreements and contracts normally begin on January 1 for a maximum period of 12 months. Grant agreements and contracts may be extended or renewed for up to one-year increments for a total of five years.

B. Direct service grant agreements and contracts not beginning January 1 must, in any case, end no later than December 31. Renewals of grant agreements and contracts normally begin on January 1.

6. Contracts and grant agreements, as well as amendments to contracts and grant agreements, including attachments and exhibits related to work plans and budgets, must be uploaded into Grant Utility within 14 calendar days of when they are executed. MBA uses these documents as a reference source to evaluate payment requests and will not issue either an advance payment or reimbursement without having access to the contract or grant agreement.

Title III Administrative and Financial Requirements Policy #10: Pre-Award Risk Assessment

Authority Reference	45 CFR § 75.205 Office of Grants Management Policy 08-06 Pre-Award Risk Assessment
Operating Category	Title III Administrative and Financial Requirements

Policy

1. To protect the interests of the federal government and the State of Minnesota, AAAs must complete a pre-award risk assessment before awarding a contract or grant of \$50,000 or more to a potential service provider to assess the risk that they cannot or would not perform the required duties specified in the contract or grant agreement. This needs to occur prior to when a contract or grant is awarded and does not need to be conducted when the contract or grant agreement is amended, unless the amendment increases the dollar value of the agreement above the \$50,000 threshold for the first time.
2. In making this assessment, AAAs must consider the following as applicable:
 - (i) the potential service provider's history of performing duties similar to those required by the grant or contract;
 - (ii) whether the grant or contract requires the potential service provider to perform services at a significantly increased scale and, if so, whether the service provider has the capability and organizational capacity to do so;
 - (iii) review the potential service provider's financial information and/or internal controls;
 - (iv) reports and findings from audits; and
 - (v) review compliance with certain other state and federal requirements.
3. If the service provider does not have a history of performing similar duties, does not demonstrate the capability and capacity to perform the duties at the scale and pace required in the grant or contract, or the results of analyzing the financial information and internal controls review raise concern, then the AAA may:
 - (i) require additional information to determine whether there is a substantial risk that the potential service provider cannot or would not perform the required duties of the contract or grant agreement; and
 - (ii) create a risk mitigation plan in response to the substantial risks that may include technical assistance and increased oversight; or
 - (iii) not award the grant or contract.
4. MBA is not required to conduct a pre-award risk assessment for AAAs because the policy is not applicable to formula grants.

Procedures

1. The AAA must review the following information for all potential service providers prior to contract or grant award and determine whether a risk mitigation plan and/or enhanced oversight is required to responsibly award the funds. The financial information and internal control review must include the respective requirements in (c) through (e) below as applicable to the type of entity (nonprofit, business entity, political subdivision).
 - a. Potential service provider's history of performing duties similar to those required by the grant or contract:
 - i. Determine if the potential service provider has received other grants or contracts for similar amounts and similar duties, including the history of performance at the granting AAA.
 - ii. If the potential service provider has not demonstrated the ability to perform the same or similar duties, on a comparable scale, then the AAA may do the following: (i) request more information for the purpose of satisfying the AAA's concerns; (ii) develop a risk mitigation plan to accompany the grant contract agreement; and/or (iii) provide enhanced technical assistance and oversight.
 - b. Potential service provider's organizational capabilities and capacity to perform at the scale required by the grant or contract:
 - i. Determine whether the grant requires the potential service provider to perform services at a significantly increased scale.
 - ii. If the grant requires the potential service provider to perform services at a significantly increased scale, then the AAA must determine if the potential service provider has the capabilities and organizational capacity (such as skills, knowledge, resources, processes, leadership) to perform services at the increased scale.
 - iii. If the AAA determines the potential service provider has substantial organizational risks, then the AAA may do the following: (i) request more information for the purpose of satisfying the AAA's concerns; (ii) develop a risk mitigation plan that accompanies the grant contract agreement and describes how the service provider will make organizational changes to increase its capabilities and capacity to perform the duties at the increased scale; and/or (iii) provide enhanced technical assistance and oversight.
 - c. **Potential nonprofit service provider's** financial information review:
 - i) Review the nonprofit's most recent Form 990 or Form 990-EZ filed with the Internal Revenue Service.
 - ii) If the nonprofit has not been in existence long enough or is not required to file Form 990 or Form 990- EZ, then review the following documentation of the nonprofit: (i) proof of its tax-exempt status; (ii) its most recent board-reviewed financial statements; and (iii) documentation of internal controls.

- iii) If there is no nonprofit board, then review the financial statements and internal controls documentation from the nonprofit's leadership or managing group.
- iv) Review the nonprofit's most recent certified financial audit if the nonprofit is required to complete one under Section 309.53 Subd. 3.
- v) Confirm the nonprofit's good standing with the Office of the Secretary of State.
- vi) Confirm none of its current board members or staff with authority to access grant funds have been convicted of a felony financial crime in the last ten years. This does not require a DHS background study. This process may be completed through local law enforcement, the [Minnesota Department of Public Safety](#) or the FBI.
- vii) If the AAA determines the nonprofit has substantial financial risks that inhibit its ability to perform the required duties under the grant contract agreement, then the AAA must either request more information for the purpose of satisfying the AAA's concerns, develop a risk mitigation plan to protect the interests of the state, or not award the grant.

d. **Potential business entity** contractor's or grantee's financial information review:

- i) Collect the business entity's most recent federal and state tax returns and review current financial statements.
- ii) If the business entity has not been in business long enough to have a tax return, then review current financial statements and documentation of internal controls.
- iii) Receive certification that the business entity is not under bankruptcy proceedings and disclosure of any liens on its assets.
- iv) Confirm the business's good standing with the Office of the Secretary of State.
- v) Confirm none of its current principals, board members or staff with authority to access grant funds have been convicted of a felony financial crime in the last ten years. This does not require a DHS background study. This process may be completed through local law enforcement, the [Minnesota Department of Public Safety](#) or the FBI.
- vi) If the AAA determines the business has substantial financial risks that inhibit its ability to perform the required duties under the grant contract agreement, then the AAA must either request more information for the purpose of satisfying the AAA's concerns, develop a risk mitigation plan to protect the interests of the state, or not award the grant.

e. **Potential political subdivision** contractor's or grantee's review:

- i) Confirm none of its current public officials, board members, or staff with authority to access grant funds have been convicted of a felony financial crime in the last ten years. This does not require a DHS background study. This process may be completed through local law enforcement, the [Minnesota Department of Public Safety](#) or the FBI.
- ii) If the AAA determines the political subdivision has substantial risks as applicable per (1) and (2) that inhibit its ability to perform the required duties under the grant contract agreement, then the AAA must either request more

information for the purpose of satisfying the AAA's concerns, develop a risk mitigation plan to protect the interests of the state, or not award the grant.

2. AAA procedures should document the following steps:
 - a. Before awarding a grant or contract of \$50,000 or higher, AAAs must complete a pre-award risk assessment for all potential grantees or contractors as defined in this policy.
 - b. AAAs request that all potential grantees and contractors, including sole and single source grantees and contractors, submit, as applicable, the required information as outlined in this policy. In a competitive grant process, instead of requesting financial documents from every potential grantee, AAAs are only required to request this information from the finalists in the selection process.
 - c. AAA staff document their review and analysis of the submitted documents.
 - d. If no substantial risks are identified, the AAA takes steps to award the grant or contract.
 - e. If substantial risks are identified, the AAA follows procedures to mitigate or resolve substantial risks before making a grant award or contract. If it is determined that enhanced monitoring is needed, the AAA must create enhanced monitoring procedures related to the identified risk and incorporate those enhanced procedures under its monitoring plan.
 - f. If the AAA is unable to work with the potential grantee or contractor to resolve the substantial risks or develop a risk mitigation plan, the agency should follow procedures to not award the grant or contract.

Title III Administrative and Financial Requirements Policy #11: Availability of Funds and Payments from MBA to AAAs

Authority Reference	45 CFR Part 75.305 45 CFR 1321.9(c)(2)(xviii) Minnesota Statutes 16A.124 and 16A.1245 OGM 08-08 Policy on Grant Payments
Operating Category	Title III Administrative and Financial Requirements

Policy

1. AAAs may not enter into grants or contracts or in any way encumber monies until after receiving, signing, and returning an official Area Plan contract from the MBA. Payments will not be made to AAAs or service providers until funds are encumbered and grant agreements or contracts are fully executed.
2. The MBA shall make periodic payments to AAAs for Area Plan administration and for provision of direct service. Methods and procedures for payment shall minimize the time elapsing between receipt of funds by the AAA and their disbursement, in accordance with federal and state requirements. The method and schedule for requesting reimbursement (payment) shall be specified in the grant contract agreement.
3. The MBA encourages AAAs to plan carefully for their cash management needs.
4. The MBA will make payments either in advance or reimbursement or a combination of both. Payments shall not be made on grants or contracts with past due progress reports, unless MBA has provided the AAA a written extension. Reimbursement is the preferred method of payment. However, MBA will make advance payments in certain situations as described below.
5. Grantee requests for reimbursement must correspond to the line items in the approved grant budget (for example, personnel costs or equipment). MBA will review each request for reimbursement against the approved grant budget, grant expenditures-to-date and the most recent grant progress report prior to approving payment.

6. Advance payments are permissible in the following circumstances:
 - A. In order to make advance payments, MBA must include a written justification in the grant agreement or otherwise prepare a written justification that describes the specific need to utilize advance payments. The written justification must be approved prior to encumbrance. A record of the signed justification must be maintained in the grant file.
 - B. The terms of advance grant payments and settlements must be reflected in the grant contract agreement. All advance payments on grants over \$50,000 must be reconciled prior to requesting another advance payment, within 12 months of issuance, or within 60 days of the end of the grant period.
 - C. Advance payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the AAA in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the AAA for direct program or project costs and the proportionate share of any allowable indirect costs.
 - D. The AAA must maintain advance payments of Federal awards in interest-bearing accounts, unless the best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances and the depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
 - E. Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services.
7. The MBA has 30 days from the date payment request was received to complete payment for a valid, complete and accurate payment request. MBA must promptly review an invoice and communicate any concerns to the AAA within 10 days of the receipt of the payment request. If it is

necessary for the AAA to provide additional information and/or resubmit a corrected invoice, the 30-day time limit ends. When the AAA provides the needed information and/or submits a corrected invoice, a new 30-day period starts. MBA must pay the corrected invoice within the 30-days from the date the corrected invoice is received from the AAA. MBA prioritizes payment of all AAA corrected invoices or requests where additional information is needed.

- A. As required by Minnesota Statutes 16A.124, MBA shall pay interest to an AAA for undisputed billings when MBA has not paid the invoice within 30 calendar days following receipt of the invoice, merchandise, or service. For purposes of this provision, "paid" means that MBA has initiated the ACH or check payment to the AAA within 30 calendar days of receipt of an undisputed invoice. A negotiated contract or agreement between MBA and an AAA which requires an audit by MBA prior to acceptance and payment of the AAA's invoice shall not be considered past due until 30 calendar days after the completion of the audit by MBA.
 - B. Before any interest payment is made, the AAA must invoice the MBA for such interest.
 - C. The rate of interest paid by the agency on undisputed bills not paid within 30 days shall be 1-1/2 percent per month or any part thereof.
 - D. No interest penalties may accrue against MBA if MBA delays payment of an invoice due to a disagreement with the AAA; provided, that the dispute must be settled within 30 days after the invoice became overdue. Upon the resolution of the dispute, MBA must pay the AAA accrued interest on all proper invoices for which payment was not received within the applicable time limit.
 - E. The minimum monthly interest penalty payment that MBA shall pay an AAA for the unpaid balance for any one overdue invoice equal to or in excess of \$100 is \$10. For unpaid balances of less than \$100, MBA shall pay the actual penalty due to the AAA.
8. In accordance with both federal regulations and state law, the AAA must make timely payment to subgrantees and contractors. AAAs must pay subgrantees and contractors within ten days of the AAA's receipt of payment from the state for undisputed services provided by subgrantees or contractors.
- A. As required by Minnesota Statutes 16A.1245, AAAs must pay interest of 1-1/2 percent per month or any part of a month to a service provider on any undisputed amount not paid on time to the service provider. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the AAA shall pay the actual

penalty due to the service provider.

Procedures

1. When AAAs submit requests for either an advance payment or reimbursement, the AAA must:
 - A. Complete the payment request workbook that provides MBA the necessary information to evaluate the payment request.
 - B. Use the most current version of the payment request workbook and complete all tabs in the workbook.
 - C. Provide signed PDFs of payment workbook tabs where requesting an advance payment or reimbursement.
 - D. Provide a copy of the Excel version of the payment workbook when any tab is updated to generate a PDF payment request. Failure to provide the Excel version of the payment workbook may result in a request from the MBA to AAA to provide additional information.
2. AAAs are expected to upload all executed grant agreements and contracts into Grant Utility prior to submitting a payment request. MBA uses those grant agreements and contracts in reviewing an AAA's payment request. MBA will not issue either an advance payment or reimbursement for direct services until a contract for which a payment request is submitted is uploaded to Grant Utility.
3. Payments requests must be made via email to MN.DHS.MBAFinance@state.mn.us.
 - A. Subject line should be: "AAA Name" "Payment type" Month-Yr (for example, XXAAA Nutrition January 2024)
 - B. AAAs should include only one payment request per email.

Title III Administrative and Financial Requirements Policy #12: Payments from AAAs to Service Providers

Authority Reference	45 CFR Part 75.305 45 CFR 1321.9(c)(2)(xviii) Minnesota Statutes 16A.124 and 16A.1245 OGM 08-08 Policy on Grant Payments
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Payment of direct service funds by an AAA to a service provider may be either in the form of a reimbursement or an advance payment under certain circumstances as outlined below.
2. Before making payments to a service provider, the AAA must evaluate the service provider's cash requirements including cash on hand. Advance payments for grant awards shall be limited to the cash requirements for the period and not merely make predetermined payments during the grant year. Initial advances to a recipient under a contract shall be limited to no more than 60 days; thereafter, reimbursement shall be made on a periodic basis (e.g., monthly, quarterly) as determined by the AAA. The AAA must establish written procedures which minimize the time elapsing between receipt of funds by each recipient and their disbursement.
3. Payments may not be made to service providers until funds are encumbered and grant agreements or contracts are fully executed.
4. The method and schedule of payments from the AAA to the service provider shall be specified in the grant or contract agreement.
5. Payments shall not be made on grants or contracts with past due progress reports, unless the AAA has given the service provider a written extension.
6. Reimbursement is the preferred method of payment. However, AAAs may make advance payments in certain situations as described below.

7. Service provider requests for reimbursement must correspond to the line items in the approved grant or contract budget (for example, personnel costs or equipment) and to the number of units provided and individuals served. AAAs must review each request for reimbursement against the numbers of units provided and individuals served as recorded in PeerPlace (or, in the case of unregistered services, in Grant Utility), approved contract/grant budget, grant expenditures-to-date, and the most recent service provider progress report prior to approving payment.
8. Advance payments are permissible in the following circumstances:
 - A. Before making an advance payment, the AAA must be confident the service provider will be able to account for the grant funds and abide by the terms of the grant agreement based on their past performance and the evaluation of the service provider's recent financial statements as required under other state grants management policies.
 - B. In order to make advance payments, the AAA must include a written justification in the grant agreement or otherwise prepare a written justification that describes the specific need to utilize advance payments. The written justification must be approved prior to encumbrance. A record of the signed justification must be maintained in the service provider's file.
 - C. The terms of advance grant payments and settlements must be reflected in the grant or contract agreement. All advance payments on agreements over \$50,000 must be reconciled prior to requesting another advance payment, within 12 months of issuance, or within 60 days of the end of the grant period.
 - D. Service providers may only request advance payments to meet their immediate cash needs for paying for allowable costs under their agreement. Service providers must minimize the time elapsing between receipt of funds and their disbursement.
 - E. To the extent available, the service provider must disburse funds available from program income before requesting additional cash payments from a AAA.
 - F. Service providers must maintain advance payments of Federal awards in interest-bearing accounts, unless the best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances and the depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
 - G. Interest earned amounts up to \$500 per year may be retained by the service provider for administrative expense. Any additional interest earned on Federal

advance payments deposited in interest-bearing accounts must be remitted annually to the U.S. Department of Health and Human Services.

9. In accordance with both federal regulations and state law, the AAA must make timely payment to service providers. AAAs must pay service providers within ten days of the AAA's receipt of payment from the state for undisputed services provided by service providers.

Procedures

1. AAAs must establish policies and procedures that align with this policy.
2. When service providers submit a payment request to their AAA, the service provider must identify the appropriate source of funding to pay for the expenditure.

Title III Administrative and Financial Requirements Policy #13: Data Collection and Reporting Requirements

Authority Reference	45 CFR 1321.9(b) Minnesota Statutes 256.975
Operating Category	Title III Administrative and Financial Requirements

Policy

1. The MBA is required to report various programmatic and financial data to state and federal agencies; therefore, the MBA needs to gather programmatic and financial data from AAAs, who in turn need similar data from service providers.
2. The MBA also performs essential monitoring functions based on data, including (but not limited to) monitoring of grant spending, units of service provided, and populations served.
3. This policy is intended to describe data submission requirements from AAAs to the MBA outside of the Area Plan submission process. The policy includes monthly, quarterly, semi-annual, annual, and periodic data reporting requirements.

Procedures

1. AAAs must submit certain data on a monthly basis to the MBA by the close of business on the 15th of each month. MBA will provide AAAs with the form(s) to report the required information at least 10 days prior to the applicable reporting deadline.
 - a. Payment request workbooks must be submitted on a monthly basis between the first and 15th of each month if the AAA wishes to be paid on a monthly basis. AAAs may submit payment request workbooks on a quarterly basis if they prefer to get paid on a quarterly basis. The MBA will provide updated payment request workbooks to each AAA in advance of their reporting deadline. Payment request workbooks include critical information on AAA expenditures.
 - b. For most registered services, PeerPlace data for the prior month of services must be complete and updated by the 15th of each month. For example, data on individuals served and the services they received for the period of June 1 – June 30 must be updated and complete in PeerPlace by July 15th. PeerPlace data for nutrition services, however, must be submitted on a weekly basis as outlined in the Provision of Title III Services Policy #6: Nutrition.

Please also refer to Provision of Title III Services Policy #2: Client Eligibility and Periodic Assessment for more information about ensuring client data are entered into PeerPlace in a timely manner.

- c. Grant Utility data, including match and program income.
2. AAAs must submit certain data on a quarterly basis to the MBA.
 - a. AAAs shall submit the 305A report to MBA through the Foundant portal 30 days after the end of each quarter. MBA will provide AAAs with the form(s) in Foundant to report the required information 30 days prior to the applicable reporting deadline.
 - b. Legal reporting Performance Measures must be submitted to MBA through the Foundant portal 30 days after the end of each quarter.
3. Report progress outlined in the Area Plan on a semi-annual basis through Foundant. Half Year Area Plan Program Reports shall be completed in the MBA's Foundant website and submitted via that portal by the 20th of July for the period of January 1 through June 30 and by the 20th of January for the period of July 1 through December 31.
4. AAAs must submit certain data, information, and reports annually to the MBA.
 - a. AAAs must upload their contracts and grant agreements with service providers to Grant Utility within five business days of when those agreements are executed. Payments to AAAs will not be approved until agreements are uploaded into Grant Utility so that MBA can reference them as part of the payment review and approval process.
 - b. AAAs shall submit Performance Measures to MBA through the Foundant portal 30 days after the end of quarter 3.
 - c. AAAs must submit their federally required Single Audit report to the MBA within ten business days after the audit is completed and the AAA receives the audit report.
5. AAAs must share significant updates with the MBA as they occur on an ad hoc basis.
 - a. When staff changes occur involving senior level positions at the AAA, such as the transition or departure of the Executive Director or grants manager.
 - b. When the AAA receives a formal complaint. Please refer to the Title III Administrative and Financial Requirements Policy #19: Grievance Process for more information.
 - c. Submission of information for applicants for certain positions within the AAA.
6. AAAs must establish policies and procedures for service providers that allow AAAs to meet their obligations under this policy.

Title III Administrative and Financial Requirements Policy #14: Confidentiality and Disclosure of Information

Authority Reference	45 CFR 1321.75 Minnesota Statutes 13.04 (MN Government Data Practices Act, Chapter 13, Rights of Subjects of Data) Minnesota Statutes, section 13.055
Operating Category	Title III Administrative and Financial Requirements

Policy

1. MBA, AAAs, Senior LinkAge Line, and Title III service providers shall have procedures to protect the confidentiality of information about older individuals and family caregivers collected in the conduct of their responsibilities. The procedures shall ensure that no information about an older person or family, friends, and neighbors caregiving, or obtained from an older person or family, friends and neighbors caregiving by a service provider, MBA, or AAA, is disclosed by the provider or agency in a form that identifies the person without the informed consent of the person or of their legal representative, unless the disclosure is required by law or court order, or for program monitoring and evaluation by authorized Federal, State, or local monitoring agencies.
2. For purposes of this policy, "confidential information about individuals" includes both of the following:
 - A. Personal Identifiable Information (PII), which means "information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual". (Office of Management and Budget (OMB) Memoranda M-17-12, January 3, 2017). Examples of PII include name, Social Security number, address, email address, and date of birth.
 - B. Personal Health Information (PHI), which includes individuals' medical records and other individually identifiable health information.
3. For purposes of administering Title III services, Title III service providers, AAAs, and MBA must not collect social security numbers for older individuals or individuals caregiving interested in or receiving Title III services.
4. Entities providing Title III services must promote the rights of individuals receiving services, including the right to confidentiality of their records. Information gathered by service providers about Title III clients may not be used for other purposes without the consent of the client.

5. The MBA has a multi-faceted approach to protecting confidential information collected, maintained, used, and exchanged by service providers, AAAs, and MBA in the course of their duties. This approach includes training, use of clear language to explain under what circumstances information may be disclosed, limitations on access to data about individuals, and security protocols.
6. The MBA, AAAs, and service providers must use practices consistent with the Minnesota Government Data Practices Act when collecting information about individuals.
 - A. Prospective clients are asked to provide information about themselves as part of a screening and registration process with NAPIS forms. As required by [Minnesota Statutes, section 13.04, subdivision 2](#), service providers must either read the "Tennessee warning notice" to clients or ensure clients have reviewed it as they work with a client to complete a NAPIS form.
 - i. The Tennessee warning notice requires that an individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting government entity; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data.
 - ii. Service providers must inform clients that individual information and records may be shared with other State and local agencies, community-based organizations, and health care providers and payers to facilitate the provision of services.
7. The MBA requires MBA employees, AAAs and service providers to participate in training courses described in the "Procedures" section below to ensure employees and volunteers are aware of federal and state requirements related to certain types of personal data and information.
8. AAAs and service providers must have measures in place to prevent not public data from being shared with or accessed by those who do not have a work assignment requiring access to not public data. These measures may include, but are not limited to:
 - A. securing not public data within locked work spaces and in locked file cabinets;
 - B. limiting access to shared folders or databases containing not public information;
 - C. locking computers and/or office spaces when leaving them unattended;
 - D. using secure print functions (e.g., "hold badge" print options) when printing not public data on shared printers;
 - E. securely disposing of not public data (e.g., disposing of hard copies in locked shred bins); and
 - F. limiting attendance in meetings involving discussion of not public data to only those whose work assignment requires access to the data.
9. Prohibitions on disclosure

- A. The MBA and AAAs or other contracting or granting or auditing agency may not require a provider of long-term care ombudsman services to reveal any information that is protected by disclosure provisions in 45 CFR part 1324, subpart A.
 - B. The MBA and AAAs shall not require a provider of legal assistance under this part to reveal any information that is protected by attorney client privilege.
10. MBA, AAAs, and service providers must comply with all applicable Federal laws as well as guidance as the State of Minnesota determines, for the collection, use, and exchange of both Personal Identifiable Information (PII) and personal health information in the provision of Title III services under the Act.
11. The “Procedures” section of this policy refers to PeerPlace, which is a software program currently used by Minnesota’s aging network. This policy applies both to PeerPlace or any successor program used for similar purposes.
12. MBA, AAAs, and service providers must exercise caution to prevent data breaches.
- A. A data breach occurs when all of the following apply:
 - i. A person
 - ii. Views or takes private or confidential data
 - iii. Without permission or statutory authority, and
 - iv. With the intent to use the private or confidential data for nongovernmental purposes
 - B. AAA and service provider employees, contractors, volunteers, external auditors, interns, and any individuals having access to MBA data and systems are required to promptly and appropriately respond to all data privacy and security incidents. This means reporting all incidents of possible unauthorized access, use, or disclosure of not public data. If a data privacy and security incident occurs, this should first be immediately reported to a supervisor, who must in turn notify the MBA Executive Director. This process helps safeguard the security of not public data by allowing incidents to be timely investigated and mitigated, by facilitating the timely notification of individuals if an incident is determined to be a breach, and by allowing DHS to reduce the risk of future incidents.
 - C. Any entity receiving MBA funds (OAA, CMS, and/or State of Minnesota funding), including AAAs and service providers, must disclose any breach of private or confidential data to affected individuals who are the subjects of the data when they reasonably believe a qualifying breach has occurred. The required notice to individuals must:
 - Be in writing
 - Inform the individual that a report will be prepared about the breach investigation
 - State that an individual may request a copy of the report by mail or email

- Be sent without unreasonable delay

Please refer to the Procedures section of this policy for a template notification letter.

13. MBA, AAA and service provider employees, contractors, volunteers, external auditors, interns, and any individuals having access to data and systems shall not use, disclose, or access not public data, including data about themselves, for any reason except what is required to complete a work assignment or is permitted by state or federal law. Sanctions and penalties may be imposed for willful violations of this policy or the provisions of the MGDPA, as provided for in Minnesota Statutes, section 13.09, as necessary. Sanctions include disciplinary action, up to and including termination, and/or referring the matter to the appropriate prosecutorial authority to determine possible criminal charges.

Procedures

1. AAA employees are required to take a suite of State of Minnesota trainings called "Handling MN Information Securely" that collectively relate to confidentiality and disclosure of information. This training is available on-line in an on-demand format. New employees must take this training within three business days of starting their position. All employees must take the training on an annual basis. MBA will monitor whether training has been completed.
2. The MBA uses the State of Minnesota's Tennessen warning to ensure clients understand the purpose of collecting data about them and for what purposes the data may be disclosed. The Tennessen warning language is included on all NAPIS forms and must be reviewed with participants as part of the NAPIS form completion process.
3. AAAs are strongly encouraged to require service providers to directly enter or to use approved technological devices to submit client data into PeerPlace whenever possible. This reduces the number of individuals with access to or handling client data.
4. Service provider employees who need access to PeerPlace to perform their professional responsibilities must sign and return the PeerPlace Memorandum of Understanding to MBA prior to when they first obtain access to PeerPlace and annually as long as their system access is needed. MBA will disseminate this Memorandum of Understanding form on an annual basis.
5. Users of the PeerPlace system must not share their access credentials.
6. MBA, AAAs, and service providers must promptly terminate access for employees whose employment relationship with the organization ends or if the employee no longer needs access to PeerPlace because such access is no longer required to perform professional responsibilities.
7. AAAs and service providers may use this [sample breach notification letter](#) if a breach occurs.

Title III Administrative and Financial Requirements Policy #15: Voluntary Contributions

Authority Reference	OAA Section 315(b) 45 CFR Part 1321.9 (c)(1)(vii) & (c)(2)(x)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Voluntary contributions, as defined in the OAA, means "donations of money or other personal resources given freely, without pressure or coercion, by individuals receiving services under the Act".
2. Voluntary contributions shall be allowed and may be solicited for all Title III-funded services.
3. The suggested contribution levels shall be based on the actual total cost of services.
4. Voluntary contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the Federal poverty level (FPL). Assets, savings, or other property owned by an older individual or family caregiver may not be considered when seeking voluntary contributions from any older individual or family caregiver.
5. The method of requesting voluntary contributions must be noncoercive, and the solicitation:
 - A. Must meet all the requirements of this policy; and
 - B. Be conducted in such a manner so as not to cause a service recipient to feel intimidated or pressured into making a contribution.
6. All recipients of services shall be provided:
 - A. An opportunity to voluntarily contribute to the cost of the service;
 - B. Clear information, including information in alternative formats and in languages other than English upon request, explaining there is no obligation to contribute, and the contribution is voluntary;

- C. Protection of privacy and confidentiality of each recipient with respect to the recipient's income and contribution or lack of contribution.
7. Means testing, meaning the use of the income, assets, or other resources of an older person, family caregiver, or the households of these individuals in order to deny or limit that person's eligibility to receive services, is prohibited.
 8. Services shall not be denied because the older individual or family caregiver will not or cannot make a voluntary contribution;
 9. Amounts collected are considered program income and must be used to expand services. See Title III Administrative and Financial Requirements Policy #17: Program Income.

Procedures

1. AAAs must inform prospective service providers of the obligation to offer clients an opportunity to make voluntary contributions in their Requests for Proposals and contracts or grant agreements.
2. Service providers must offer clients the opportunity to make a voluntary contribution for all Title III services. Contributions may be made on site at the service delivery location or by mail or electronic payment if the service provider accepts electronic payments.
3. Service providers are not required to collect income information from participants in all services in order to implement this policy.
4. Service providers must establish a suggested voluntary contribution schedule based on the actual total cost of the service. AAAs must review this proposed schedule annually and approve it prior to its use.
5. MBA will issue a communication to AAAs each year advising them of annual updates to the FPL as determined by the federal government. This will inform AAAs and service providers of the income threshold for 185% of the FPL for households of various sizes.
6. Service providers must develop clear communications materials explaining voluntary contributions, including the suggested schedule, that there is no obligation to contribute, and the contribution is voluntary. AAAs must review these communications materials within the first month of the Area Plan year to ensure they reflect this policy.

- A. This information must be provided in alternative formats and in languages other than English upon request in compliance with Federal civil rights laws.
- 7. Service providers must send out at least one written communication (either by email or by U.S. mail) per Area Plan year to each participant they have collected income information for and whose self-declared income is at least 185% of the FPL to encourage the participant to make a voluntary contribution.
- 8. Service providers and AAAs must protect privacy and confidentiality of each recipient with respect to the recipient's income and contribution or lack of contribution.
- 9. Service providers must establish and follow procedures for regular accounting of all voluntary contributions received.
 - A. If the client mails a contribution to the service provider and does not specify the service to which the contribution relates, the service provider should examine their records to determine what services the client receives.
 - i. If the client receives only one service, the service provider should associate the contribution with that service.
 - ii. If the client receives more than one service, the service provider should pro-rate the voluntary contribution equally across the various service types received.
 - B. If a client specifies they are making a charitable contribution to the service provider and directs the contribution to be used in a particular manner, that contribution is not subject to this policy.
 - C. Service providers may not encourage clients to make general charitable contributions to their organizations in lieu of voluntary contributions for Title III-funded services.
- 10. Service providers must establish and follow procedures for safeguarding contributions received, including secure handling of any cash contributions, checks, or electronic payments and prompt deposit of such payments into a bank account.
- 11. AAAs must monitor and compare voluntary contribution levels across providers and services on an annual basis. Suggested metrics to use in making these comparisons include the percentage of clients making voluntary contributions and the average amount of voluntary contributions by service. Such comparisons are intended for learning purposes about strategies that effectively encourage

voluntary contributions and to monitor for client understanding of the voluntary contribution policies. MBA will provide a forum for informal sharing of this information across AAAs.

12. AAAs must report voluntary contributions separately from other sources of program income on a discrete line in their standard budget reporting.

Title III Administrative and Financial Requirements Policy #16: Cost Sharing and Required Actions by AAAs and Service Providers

Authority Reference	OAA , Sec. 315 45 CFR 75.307 45 CFR 1321.9(c)(1)(vii) and 1321.9(c)(2)(xi)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. In order to generate revenue to provide services to more older Minnesotans and to diversify funding streams to pay for services, MBA requires the use of cost sharing as permitted by Sec. 315(a) of the OAA.
2. Cost sharing is required for all of the following [OAA](#) Title III-funded services (unless provided to an individual with income at or below the federal poverty level, an individual receiving services through a Medicaid waiver or Alternative Care program, or for any service provided through a tribal organization):
 - A. Homemaker
 - B. Chore
 - C. Transportation
 - D. Home Modification
 - E. Assisted Transportation
 - F. Counseling funded by III-B
 - G. Health Promotion Activities
 - H. All Caregiver Support Services
 - I. Respite Care
3. Cost sharing is prohibited for the following services and populations:
 - A. Information and assistance, outreach, and benefits counseling.
 - B. Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services.
 - C. Congregate and home delivered meals.
 - D. Any services delivered through tribal organizations.

- E. To persons at or below the federal poverty level.
 - F. Persons receiving services through a Medicaid Waiver Program (CADI, CAC, DD, EW, BI), the Alternative Care Program, or the Essential Community Supports Program.
4. An AAA may request and receive a waiver to the cost sharing requirement if it can be adequately demonstrated that:
- A. A significant proportion of persons receiving services under the [OAA](#) subject to cost sharing in a specific geographic area within the PSA have incomes below the Federal Poverty Level.
 - B. Cost sharing would be an unreasonable administrative or financial burden upon the AAA.
5. AAAs must report cost sharing contributions as part of their financial reporting to MBA. Cost sharing contributions must be recorded separately from voluntary contributions.
6. Amounts collected are considered program income. See Title III Administrative and Financial Requirements Policy #17: Program Income for further information.
7. For those services for which cost sharing is required:
- A. The recommended level of cost-sharing is 50%. For those individuals unable to cost-share at the 50% level, a cost-share sliding scale — based solely on gross income levels and cost of delivering services — provided by MBA shall be used to determine the cost-share amount. Each service provider must identify their unit of service cost as the basis for the cost-share sliding scale.
 - B. The service provider must share information about each Title III service it offers on its website and in a hard copy, print format. This information must include a description of the service, the value of the service expressed as a dollar amount, and a sliding fee scale. The information must also advise clients of the opportunity to contribute towards the cost of the service.
 - C. The service provider must protect the privacy and confidentiality of each individual (with respect to the declaration or non-declaration of individual income and to any share of costs paid or unpaid by an individual).
 - D. Participant income level will be based on self-reported gross income of the older adult service recipient. Personal assets, savings, and/or other property are not to be considered. Income verification is not allowed. A means test shall not be utilized to determine eligibility for Title III services.
 - E. Related to caregiver services, in cases where the caregiver and the care receiver are

married and at least one is 60+ years old, both incomes will be used to determine the cost-share amount. The two- person household income column on the cost-share sliding scale will be used to determine the cost share amount.

- F. The service provider may not deny service to any individual unable or unwilling to make a contribution for service. All primary sources of payment, including home and community-based Medicaid waiver programs, the Alternative Care Program, and Essential Community Supports should be maximized and used first for qualifying clients.
 - i. The service provider may waive individuals from cost-sharing participation for extreme hardship (meaning an unexpected emergency situation such as a flood or fire or other significant problem) on a case-by-case basis. An exemption would waive the cost-sharing sliding fee scale for clients who are experiencing extreme hardship. Exemption decisions should be documented in client files.
- G. Co-payment "statements" may be provided to clients, but must not carry forward a balance due amount.
- H. The service provider shall have written policies and procedures on how they will implement and administer the cost-sharing policy.
- I. The service provider shall establish and maintain separate fund codes established for cost sharing revenue for each service. The funds shall not be co-mingled with funds received under any other agreement. The service provider is responsible for regular deposit of program income.

Procedures

1. AAAs must ensure language in requests for proposals and contracts or grant agreements with service providers accurately describes their required activities with respect to requesting, collecting, and tracking cost sharing as well as their obligations to maintain confidentiality about whether contributions are made and secure handling of cost share payments.
2. Service providers must request a cost sharing contribution for those Title III services for which cost sharing applies. Contributions may be made on site at the service delivery location or by mail or electronic payment if the service provider accepts electronic payments.
3. Service providers must only solicit cost sharing contributions from clients they know to have income at or above 100% FPL.

4. Service providers must apply the MBA-provided sliding scale contribution schedule to their unit cost of service.
5. MBA will issue a notification to AAAs each year advising them of annual updates to the FPL as determined by the federal government. This will inform AAAs and service providers of the income threshold for 100% of the FPL for households of various sizes.
6. Service providers must develop clear communications materials explaining cost sharing contributions, including the suggested schedule, that there is no obligation to contribute, and the contribution is voluntary. AAAs must review these communications materials within the first month of the Area Plan year to ensure they reflect this policy.
 - A. This information must be provided in alternative formats and in languages other than English upon request in compliance with Federal civil rights laws.
7. Service providers and AAAs must protect privacy and confidentiality of each recipient with respect to the recipient's income and payment of cost sharing contribution or lack of cost sharing contribution.
8. Service providers must establish and follow procedures for regular accounting of all cost sharing contributions received.
9. Service providers must establish and follow procedures for safeguarding cost sharing contributions received, including secure handling of any cash contributions, checks, or electronic payments and prompt deposit of such payments into a bank account.
10. AAAs must report cost sharing contributions separately from other sources of program income on a discrete line in their standard budget reporting.
11. AAAs seeking a waiver from soliciting cost share must submit the waiver through the Area Plan submission process. The waiver request shall be evaluated based on consideration of the substantial share of the population served within the PSA that is below the income thresholds required for cost sharing or how implementation of cost sharing creates undue administrative burden for the AAA.

Title III Administrative and Financial Requirements Policy #17: Use of Program Income

Authority Reference	45 CFR Part 1321.9(c)(2)(xii) 2 CFR 200.307 45 CFR 75.307
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Program income means gross income received by the grantee/contractor that is directly generated in whole or in part by a grant/contract supported activity or earned as a result of the grant/contract agreement during the grant/contract period. For example, voluntary contributions, cost sharing payments, and income from the use of property acquired with grant/contract funds are all considered program income.
2. Gross income may be an amount larger than program income. If the cost of generating the program income has not been charged to the federal grant/contract, a service provider may deduct the cost of generating the program income from gross income to arrive at the amount of program income.

For example, if a provider generated \$1,000 in gross income through voluntary contributions and spent \$100 in mailing letters to clients to generate those voluntary contributions (and did not already charge the \$100 to the grant or contract), the amount of program income would be \$900.

3. Program income shall be used together with the funds committed to the grant/contract agreement by the AAA and the grantee/contractor. Program income must be used to expand a service funded under the Title III grant award pursuant to which the income was originally collected. For example, if the Title III contract/grant amount was for \$50,000 and, using the example above, \$900 in program income was generated, the total amount of allowed project costs become \$50,900.
4. Program income must be expended or disbursed prior to requesting additional Federal funds and must be used to pay for allowable costs.
5. Program income may not be used to match grant awards funded by the Act without prior approval.

Procedures

1. Service providers are responsible for regular and prompt deposits of program income.
2. In billing the AAA for services provided under the grant or contract, the service provider must use and account for the program income first before calculating the amount to be billed to the contract and requesting reimbursement for expenses or services.
3. Service providers must report all program income using the addition alternative to the AAA per the signed grant/contract agreement.
4. The AAA is obligated to report all Program Income to the MBA as part of its standard reporting cycle. AAAs must use the addition alternative as set forth in 2 CFR 200.307(e)(2) and 45 CFR 75.307(e)(2) when reporting program income.

Various types of program income (cost sharing, voluntary contributions, etc.) should be recorded on separate lines of the Program Budget Summary and the Budget Explanation of Non-Federal Revenue.

5. If the service provider contracts with the AAA for an initial and subsequent year(s), program income earned during the first calendar year, but received in the subsequent calendar year must be utilized to expand services in that subsequent calendar year.
6. Contracts and grant agreements between AAAs and service providers are to be written for the amount of federal funds awarded to the service provider. As noted above, the required use of the addition alternative increases the amount of allowed project costs commensurate with the program income received.
7. MBA will provide more detailed implementation guidance about the additive method at a future point.
8. AAAs must develop policies and procedures related to use of program income for service providers that are aligned with this policy and procedure.

Title III Administrative and Financial Requirements Policy #18: Program Accessibility and Civil Rights Requirements

Authority Reference	OAA , Sec. 306 45 CFR Part 1321, Subpart C Title VI of the Civil Rights Act of 1964 (governing regulations in 45 CFR Part 80) Sec. 504 of the Rehabilitation Act of 1973 (governing regulations contained in 45 CFR Part 84) Minnesota Human Rights Act of 1989 , MN Stat. 363A Americans with Disabilities Act of 1990 and amendments thereto
Operating Category	Title III Administrative and Financial Requirements

Policy

1. In accordance with Sec. 306 of the [OAA](#) and [45 CFR Part 1321, Subpart C](#), the MBA sets forth standards for AAA operations which are reflected in the Area Plan Assurances.
 - A. The MBA must ensure non-discrimination in its programs and services and specific outreach efforts to targeted populations. All Title III funds must be administered in compliance with the above referenced citations and amendments thereto. The MBA, AAAs and direct service grantees and contractors receiving federal funds must periodically review their policies and practices to determine whether discriminatory practices are occurring, and take corrective action when necessary, to assure compliance with the above statutes and regulations. Assurances must be signed in the Area Plan, and in grant and contract awards, verifying this.
2. It is the policy of the MBA to make services available to all older persons without regard to race, color, creed, religion, national origin, disability, or sex. All programs receiving federal funding must include a non-discrimination notice, which includes all of the above protected categories on all written communications to the public, including brochures, bulletins, and posters.
 - A. AAAs must make available to employees, applicants, participants, beneficiaries, and all other interested persons information regarding this part in a manner necessary to apprise individuals of the protections against discrimination assured them by Section 504.

- B. AAAs must notify the general public and persons with disabilities about the reasonable accommodations that are available.
3. AAAs shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. For purposes of this policy, "companion" means a family member, friend, or associate of an individual seeking access to a program or activity of an AAA, who, along with such individual, is an appropriate person with whom the AAA should communicate.
- A. The AAA shall furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, beneficiaries, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of the AAA's program or activity. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, the AAA shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
 - B. An AAA shall not require an individual with a disability to bring another individual to interpret for him or her. An AAA shall not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or when the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
 - C. An AAA shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public when there is no interpreter available.
 - D. When the AAA chooses to provide qualified interpreters via video remote interpreting services (VRI), it shall ensure that it provides real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high quality video images that

do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of their body position; a clear, audible transmission of voices; and adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

4. Where an AAA communicates by telephone with applicants and beneficiaries, text telephones (TTYs) or equally effective telecommunications systems shall be used to communicate with individuals who are deaf or hard of hearing or have speech impairments. When an AAA uses an automated-attendant system, including, but not limited to, voice mail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of Federal Communications Commission (FCC)- approved telecommunications relay systems, including internet-based relay systems. An AAA shall respond to telephone calls from a telecommunications relay service established under title IV of the ADA in the same manner that it responds to other telephone calls.

5. An AAA shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities. An AAA shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

This may include a cooperative communications agreement with a Regional Service Center and/or local resource agencies that can assist in obtaining sign language interpreters, Telecommunications Devices for the Deaf (TDDs), and other auxiliary aids.

6. AAAs shall ensure that the following are readily accessible to and usable by individuals with disabilities:

A. Web content, which means the information and sensory experience to be communicated to the user by means of a user agent, including code or markup that defines the content's structure, presentation, and interactions. Examples of web content include text, images, sounds, videos, controls, animations, and conventional electronic documents that an AAA provides or makes available, directly or through contractual, licensing, or other arrangements; and

B. Mobile apps that an AAA provides or makes available, directly or through contractual, licensing, or other arrangements.

- C. Beginning May 11, 2026, an AAA with fifteen or more employees shall ensure that the web content and mobile apps that the recipient provides or makes available, directly or through contractual, licensing, or other arrangements, comply with Level A and Level AA success criteria and conformance requirements specified in WCAG 2.1, unless the recipient can demonstrate that compliance with this section would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. (2)
- D. Beginning May 10, 2027, an AAA with fewer than fifteen employees shall ensure that the web content and mobile apps that the recipient provides or makes available, directly or through contractual, licensing, or other arrangements, comply with Level A and Level AA success criteria and conformance requirements specified in WCAG 2.1, unless the recipient can demonstrate that compliance with this section would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.
- E. Information related to WCAG 2.1 may be obtained from the World Wide Web Consortium (W3C) Web Accessibility Initiative ("WAI"), 401 Edgewater Place, Suite 600, Wakefield, MA 01880; phone: (339) 273-2711; email: contact@w3.org; website: www.w3.org/TR/2018/RECWCAG21-20180605/ and [https:// perma.cc/UB8A-GG2F](https://perma.cc/UB8A-GG2F).
- F. These specific requirements under this Policy #4 A – D for web and mobile app accessibility do not apply to the following:
- i. Archived web content, which means web content that was (1) created before the date the AAA is required to comply with this policy, reproduces paper documents created before the date the recipient is required to comply with this policy, or reproduces the contents of other physical media created before the date the AAA is required to comply with this policy; (2) is retained exclusively for reference, research, or recordkeeping; (3) is not altered or updated after the date of archiving; and (4) is organized and stored in a dedicated area or areas clearly identified as being archived.
 - ii. Conventional electronic documents that are available as part of an AAA's web content or mobile apps before the date the AAA is required to comply with this policy, unless such documents are currently used to apply for, gain access to, or participate in the AAA's programs or activities. "Conventional electronic documents" means web content or content in mobile apps that is in the following electronic file formats: portable document formats (PDF), word processor file formats, presentation file formats, and spreadsheet file formats.
 - iii. Content posted by a third party, unless the third party is posting due to contractual, licensing, or other arrangements with the AAA.
 - iv. Conventional electronic documents that are: (1) About a specific individual, their property, or their account; and (2) Password-protected or otherwise secured.
 - v. An AAA's social media posts that were posted before the date the recipient is required to comply with § 84.84.

- G. An AAA may use conforming alternate versions of web content, as defined by WCAG 2.1, to comply only where it is not possible to make web content directly accessible due to technical or legal limitations. Information on WCAG 2.1 may be obtained from the World Wide Web Consortium (W3C) Web Accessibility Initiative ("WAI"), 401 Edgewater Place, Suite 600, Wakefield, MA 01880; phone: (339) 273-2711; email: contact@w3.org; website: www.w3.org/TR/2018/RECWCAG21-20180605/ and <https://perma.cc/UB8A-GG2F>.
- H. Nothing in this policy prevents the use of designs, methods, or techniques as alternatives to those prescribed, provided that the alternative designs, methods, or techniques result in substantially equivalent or greater accessibility and usability of the web content or mobile app.
- I. Where an AAA can demonstrate that compliance with the requirements of this policy would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, compliance is required to the extent that it does not result in a fundamental alteration or undue financial and administrative burdens. In those circumstances where personnel of the AAA believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the AAA has the burden of proving that compliance would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the AAA or their designee after considering all resources available for use in the funding and operation of the program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the AAA shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the AAA to the maximum extent possible.
- J. An AAA that is not in full compliance with these requirements will be deemed to have met these requirements in the limited circumstance in which the recipient can demonstrate that the noncompliance has such a minimal impact on access that it would not affect the ability of individuals with disabilities to use the AAA's web content or mobile app to do any of the following in a manner that provides substantially equivalent timeliness, privacy, independence, and ease of use:
- i. Access the same information as individuals without disabilities;
 - ii. Engage in the same interactions as individuals without disabilities;
 - iii. Conduct the same transactions as individuals without disabilities; and
 - iv. Otherwise participate in or benefit from the same programs and activities as individuals without disabilities.
7. No qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under

any program or activity of an AAA provided through kiosks.

8. Except as otherwise provided in § 84.22, no qualified individual with a disability shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the programs or activities of a recipient, or be subjected to discrimination by any recipient.
9. **With respect to use of existing facilities**, AAAs shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This policy does not:
 - A. Necessarily require an AAA to make each of its existing facilities accessible to and usable by individuals with disabilities; or require an AAA to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.
 - B. In those circumstances where an AAA's personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the AAA has the burden of proving that compliance with this policy would result in such an alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the AAA or their designee after considering all the AAA's resources available for use in the funding and operation of the program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the AAA shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the AAA.
 - C. An AAA may comply with the requirements of this section through such means as redesign or acquisition of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. An AAA is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. An AAA, in making alterations to existing buildings, shall meet the accessibility requirements. In choosing among available methods for meeting the requirements of this section, an AAA shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.
 - D. Elements that have not been altered in existing facilities on or after July 8, 2024, and that comply with the corresponding technical and scoping specifications for those elements in the American National Standard Specification (ANSI) (ANSI A117.1–1961(R1971)) for facilities constructed between June 3, 1977, and January 18, 1991) or for those elements in the Uniform Federal Accessibility Standards (UFAS), appendix A to 41 CFR part 101–19, subpart 101–19.6 (revised as of July 1, 2002), for those facilities constructed between January 18, 1991, and July 8, 2024, are not required to be

modified to comply with the requirements set forth in the 2010 Standards.

10. With respect to new or altered facilities:

- A. Each facility or part of a facility constructed by, on behalf of, or for the use of an AAA shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after June 3, 1977.
- B. Each facility or part of a facility altered by, on behalf of, or for the use of an AAA in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after June 3, 1977.
- C. Federal rules establish different requirements for public and private entities related to accessibility of new or altered facilities. Public entities are any State or local government; any department, agency, special purpose district, or other instrumentality of a State or States or local government. Private entities are any person or entity other than a public entity.

Those requirements are further differentiated by the dates when new construction or alteration occurs. AAAs contemplating new construction or making alterations to facilities using any source of funding should consult the detailed requirements of § 84.23.

11. Administrative Requirements

AAAs with 15 or more employees must designate an individual to coordinate efforts to comply with the rule and must adopt grievance procedures that provide for a prompt and equitable resolution of complaints.

Procedures

- 1. AAAs should assess their electronic communications, including website and social media, and determine what actions will be needed to comply with these new standards.
- 2. Participants of meetings, training sessions, programs or other activities must be informed of the availability of reasonable accommodations by including the following language on bulletins, flyers, brochures and letters:
 - A. If you need a reasonable accommodation for a disability (e.g., wheelchair accessibility, interpreter, Braille or large print materials) such an accommodation can be made available upon advance request.

Please contact (name of contact) at (voice phone and TDD or Relay Service number) as soon as possible.

3. In order to effectively communicate with individuals with visual impairments, all written communications for distribution to the public must contain the following statement indicating that alternative formats will be provided upon request:
 - A. Upon request, this information will be made available in an alternative format, such as Braille, large print or audiotape.
 - B. Notice of TDD numbers must be added to all written materials whenever a telephone number is listed, including on letterhead and bulletins. If the volume of calls you receive from people using TDDs is not great, you may use the Minnesota Relay Service and include the following statement in lieu of a TDD number:
 - i. For TDD, contact Minnesota Relay Service at 1-800-627-3529.

Title III Administrative and Financial Requirements Policy #19: Grievance Process for Older Individuals and Family Caregivers

Authority Reference	45 CFR Part 1321.9(c)(1)(viii)
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Individuals served through Title III-funded programs have the right to respectful and responsive services. MBA is committed to ensuring a simple grievance process is available to older individuals and family caregivers, as well as their designated representatives. The grievance process is designed to bring complaints forward related to dissatisfaction with or denial of services under the Older Americans Act and have them resolved in a timely manner.
2. The grievance process must be designed to facilitate a path for resolution closest to the point of service delivery. Therefore, service providers must have a policy and procedure in place to notify recipients of services and those interested in receiving services of the grievance process available to them. The first steps of the grievance process must be managed by the service provider and is ideally resolved by the service provider.
3. MBA recognizes the limited funding available to provide services. The grievance process is not in place to require service providers or AAAs to provide services to individuals or family caregivers if resources are not available to provide those services, if the individuals filing a grievance are not eligible to receive services, or if individuals filing grievances do not meet prioritization criteria related to having greatest social need and/or greatest economic need. However, the grievance process must be available to all older individuals and family caregivers to address complaints related to dissatisfaction with or denial of services under the Older Americans Act.
4. The grievance process must include an opportunity for individuals to file an appeal if they are unsatisfied with the initial resolution by the service provider. AAAs must have a grievance process for individuals if they wish to appeal of the grievance resolution from the service provider. Likewise, the individual may subsequently appeal the AAA's decision to MBA.

5. Service provider, AAA and MBA employees have the right to be treated with respect. If an individual filing a complaint behaves inappropriately by using profane or derogatory language or threatens the employee or employee's family in any way, the service provider, AAA or MBA employee has the right to terminate the interaction. Service provider, AAA and MBA employees must first provide a verbal warning to the individual engaging in inappropriate behavior; if the individual continues to engage in inappropriate behavior, the service provider, AAA, or MBA employee may terminate the interaction or phone call. Should this occur, the service provider, AAA or MBA employee should document the situation.
6. The terms "grievance" and "complaint" are used interchangeably within this policy. Feedback and suggestions (for example, comments provided by a client satisfaction survey) are not considered a documented grievance or complaint and are therefore not subject to this policy. Service providers and AAAs should, however, take feedback and suggestions seriously as part of their ongoing quality assurance processes.
7. Concerns Related to Abuse, Neglect, or Financial Exploitation of Vulnerable Adults

All members of Minnesota's aging network must be mindful of the Vulnerable Adults Act, maltreatment issues, and mandated reporting requirements. Maltreatment includes abuse, neglect, and/or financial exploitation. Any concerns about abuse, neglect, and/or financial exploitation should be reported by calling 1-844-880-1574.

If a grievance raises concerns about potential maltreatment, those concerns must be addressed through mandated reporting processes. This grievance policy is not the appropriate avenue to address those concerns.

8. Concerns about Fraud

Any concerns about potential fraud should be reported either on line at <https://fraudhotline.dhs.mn.gov/> or by calling the Minnesota Fraud Hotline toll-free at 1-800-627-9977.

Procedures

1. Service providers must develop policies and procedures for a grievance process and must make information available about how to file a grievance related to dissatisfaction or denial of services. Notices about grievance processes must be

posted prominently at congregate dining sites; at the offices of service providers; and on the websites of service providers.

- A. Service providers must make an electronic or paper form available to individuals requesting to file a complaint. The complaint form must include fields for an individual's contact information as well as the nature of the complaint and what, specifically, the individual would like to have resolved. The MBA will provide a template form that may be used; service providers may choose to use their own form if it includes at least the same information as the MBA template form. Forms must be made available in alternate languages upon request.
 - i. Service providers must also have a form that allows an older Minnesotan to designate a representative to act on their behalf only for purposes of filing a complaint. The MBA will provide a template form that may be used for this purpose; service providers may choose to use their own form if it includes at least the same information as the MBA template form.
 - ii. If an individual provides documentation of an established Power of Attorney, the service provider must accept that as documentation the individual designated as having Power of Attorney is the designated representative with no further documentation required.
 - iii. A designated representative may receive information about the older adult filing the complaint.
 - iv. The completed form designating a representative, or other legal documentation establishing the same, must be maintained on file and shared with the AAA and/or MBA.
- B. Service providers must accept verbal or written complaints. Individuals may request assistance in filing a complaint; if such a request is made, the service provider must assist the individual in filing a complaint. If the complaint is verbal, the service provider must document the filing of the complaint in writing as explained by the individual filing the grievance.
- C. A service provider who has received a complaint must assess the complaint and determine whether the complaint involves immediate health or safety issues for the individual filing the complaint. The service provider must address any health and safety-related complaints promptly, including by referring an individual to other community-based services if that service provider is unable to provide services to the individual.

- D. A service provider must also make a determination as to whether the underlying circumstance may be reasonably remedied. Service providers must make reasonable efforts to address the underlying grievance within the limits of available funding and other relevant circumstances.
 - E. A service provider must follow up in writing with the individual filing a grievance with a response to the issue the individual has raised within 14 calendar days of receiving the complaint. The response must include whether or not the individual's grievance can be remedied, how it can be remedied, or if the complaint cannot be remedied, an explanation of the reason why this is the case. Service providers should aim to resolve all complaints within 30 calendar days of receipt. If the complaint is not resolved in 30 calendar days, the service provider will document the reason for the delay and a plan for resolution.
 - F. Service providers receiving a documented grievance must report this information in writing to the AAA with which they are contracted, within seven calendar days of receiving the complaint. Service providers must also report resolution of the complaint, within 30 calendar days of receiving the complaint. Information reported to the AAA must include the written complaint, the completed form authorizing a representative to act on the older adult's behalf if one was completed, and the service provider's written response to the grievance.
2. AAAs must also develop policies and procedures for a grievance process and must make information available about how to file a grievance related to dissatisfaction or denial of services. Notices about grievance processes must be posted prominently at AAA offices and on AAA websites.
- A. AAAs must accept verbal or written complaints if an individual has already filed a complaint directly with a service provider and has received a documented response from the service provider as outlined in 1.D above.
 - B. The AAA must review the original complaint and the service provider's response. The AAA may choose to conduct additional inquiry based on the unique circumstances of the situation or may determine the service provider already appropriately addressed the situation.

- C. The AAA may work with the service provider to more fully address the individual's complaint or refer the individual to another service provider as a potential avenue to remedy the complaint. AAAs must make reasonable effort to address the underlying grievance within the limits of available funding and other relevant circumstances.
 - D. In any case, the AAA must respond to the complainant in writing within 21 calendar days of receiving the grievance.
 - E. AAAs receiving a documented grievance must report this information in writing to MBA, along with the resolution to the complaint, within 30 calendar days of receiving the complaint. Information reported to MBA must include the written complaint, the completed form authorizing a representative to act on the older adult's behalf if one was completed, and the AAA's response.
 - F. AAAs must also maintain documentation about complaints filed and use that information as part of their monitoring and oversight processes for service providers.
 - G. Service providers and AAAs must maintain documentation associated with grievances for four years from the date the complaint or grievance was filed.
3. The final step of the grievance process within the aging network is with the MBA.
- A. If an individual chooses to appeal previous responses to their complaint from both the service provider and the AAA, the individual or their representative may file a grievance with the MBA. The MBA must provide the individual appealing the prior responses to their grievance with an opportunity to explain why they are appealing.
 - B. The MBA may work with the AAA to more fully address the individual's complaint or refer the individual to another service provider as a potential avenue to remedy the complaint. The MBA must make reasonable effort to address the underlying grievance within the limits of available funding and other relevant circumstances.
 - C. The MBA must respond to the complainant in writing within 21 calendar days of receiving the grievance.

Title III Administrative and Financial Requirements Policy #20: Flexibilities Under a Major Disaster Declaration

Authority Reference	45 CFR 1321.101
Operating Category	Title III Administrative and Financial Requirements

Policy

1. The goal of this policy is to provide a simple, clear set of expectations with regard to communication between MBA, AAAs, and service providers during and after a federally declared emergency (specifically, a “major disaster declaration” under the Stafford Act (42 U.S.C. 5121–5207) and hereafter referred to as an MDD), to protect the health and safety of older Minnesotans during a MDD within the federally permissible uses of OAA funds; and to protect the integrity of public funds during emergency situations.
2. According to the Federal Emergency Management Agency, the federal government can declare a major disaster for any natural event, including a tornado, storm, high water, wind-driven water, earthquake, landslide, mudslide, snowstorm, or drought, or, regardless of cause, fire, flood, or explosion, if the federal government determines damage of such severity has occurred that it is beyond the combined capabilities of state and local governments to respond. A major disaster declaration provides a wide range of federal assistance programs for individuals and public infrastructure, including funds for both emergency and permanent work.
3. If the federal government declares an MDD in any portion of Minnesota, MBA may use disaster relief flexibilities to provide eligible services to affected older adults and family caregivers in areas of the State where the MDD is authorized.
4. Under a federally-declared MDD, MBA may take any of the following actions at its discretion:
 - a. Allow use of any portion of the funds of any open grant awards under Title III of the Act for disaster relief services for older individuals and family caregivers. For purposes of this policy, MBA intends this to mean any portion of a grant award already allocated to the MBA or to an AAA that has not yet been spent.
 - b. Award portions of State plan administration, up to a maximum of five percent of the Title III grant award or to a maximum of the amounts set forth at §

1321.9(c)(2)(iv), for use in a planning and service area covered in whole or part under a MDD without the requirement of allocation through the intrastate funding formula for direct service provision.

- c. Award of funds set aside to address disasters, as set forth in § 1321.99, or as determined by the Assistant Secretary for Aging, in the following ways:
 - i. to an AAA serving a planning and service area covered in whole or part under a MDD without the requirement of allocation through the intrastate funding formula;
 - ii. to be used for direct service provision, direct expenditures, and/or procurement of items on a statewide level, if the MBA adheres to the following:
 - (A) MBA judges that provision of services or procurement of supplies by the State agency is necessary to ensure an adequate supply of such services and/or that such services can be provided/supplies procured more economically, and with comparable quality, by the State agency;
 - (B) MBA consults with AAAs prior to exercising the flexibility, and includes the Ombudsman as set forth in part 1324, subpart A if funding for the Ombudsman program is affected;
 - (C) MBA uses such set aside funding, as provided at § 1321.99, for services provided through AAAs and other aging network partners to the extent reasonably practicable, in the judgment of the MBA; and
 - (D) MBA reports any clients, units, and services provided through such expenditures.
- 5. Services considered to be “disaster relief services” may include any allowable services under the OAA to eligible older individuals or family caregivers during the period covered by the MDD. AAAs may not use OAA funding for services not allowable under the OAA, even during a MDD.
- 6. AAAs must request use of MDD flexibilities in advance of any adjustments to their planned use of OAA grant funds and receive approval from MBA prior to spending their OAA funds in any other manner than stated in their grant agreement. MBA, must, in turn, respond promptly to AAAs requesting such flexibility. Processes and corresponding timeframes are described under “Procedures” below.

7. The general principle to be followed in emergency situations is to be responsive to emergency circumstances on the ground, knowledgeable about how funds may and may not be used in such circumstances, and communicative with state and local colleagues.
8. AAAs and service providers must carefully track expenditures for disaster relief services.
9. MBA must record expenditures for disaster relief flexibilities separately from the grant where funding was expended. MBA may expend funds from any source within open grant awards under Title III and Title VII of the Act, but must track the source of all expenditures.
10. MBA may only make obligations exercising this flexibility during the MDD incident period or 90 days thereafter or with prior approval from the Assistant Secretary for Aging.

Procedures

1. MBA will communicate in writing with an AAA if a major disaster declaration (MDD) is declared for a part of the state that includes any area within the PSA the AAA serves within 72 hours of such declaration and/or as soon possible after written notification from the federal government. This communication will include the intended duration of the MDD if specified and as determined by the federal government.
2. AAAs are encouraged to reach out to service providers in any serious situation in which disaster relief services might reasonably be anticipated. AAAs must especially be proactive with respect to Title III-C Nutrition Services. After receiving notification from MBA that an MDD was declared, AAAs are required to reach out to each of their Title III-C service providers within 48 hours and to each of their Title III-B, III-D, and III-E service providers within one week of notice from the MBA to find out the following:
 - a. What is the ability of the service provider to maintain a normal level of service for their current clients given the circumstances of the MDD and for what duration of time;
 - b. Does the service provider have capacity to provide services to additional clients if they receiving funding to do so?
 - c. What is the service provider hearing from clients about their needs for services and/or emergency situations, especially with regard to nutrition services?
 - d. If the service provider is unable to provide a normal level of service, what is/are the specific challenge(s) the service provider is experiencing that need to be addressed in order for the service provider to resume service?
3. The purpose of the initial information gathered under Paragraph 2 of this Procedure is to serve as a basis of timely collaborative planning and communication between the MBA and an AAA about disaster-related needs with a PSA experiencing an MDD.

- a. The AAA must communicate their findings to the MBA within 24 hours of receiving such information from their providers.
 - b. The MBA will evaluate the information provided by the AAA and follow up with the AAA in writing within 24 hours.
 - c. The MBA and AAA must work together to determine the level of urgency and what flexibilities the AAA may need to support older Minnesotans and caregivers.
4. In this process, AAAs are strongly encouraged to identify what would be most useful to address the urgent needs of older Minnesotans and their caregivers within the PSA. If the MBA determines an AAA may use an open grant award for disaster relief services, the MBA must communicate this decision in writing to the AAA and indicate which grant award(s) may be used for this purpose and how much may be spent.
5. In using any flexibilities under an MDD, the AAA must report:
 - a. the specific entities receiving funds;
 - b. the amount, source, and intended use for funds; and
 - c. other such justification of the use of funds.
6. When AAAs have expenditures to report from their flexible use of funding under an MDD and as approved under these Procedures, AAAs must report the spending separately from other Area Plan expenditures. This will also require service providers to track any spending under MDD authorities separately from their normal expenditures. For example, if Nutrition Provider A normally provides congregate dining services, but opens or staffs a new site because of an MDD, expenditures for meals served at the additional congregate site should be tracked and reported separately from their normal congregate site meals when the service provider submits its expenditures to the AAA. The MBA will provide a reporting format for such expenditures.
7. If MBA and/or AAAs use any of the flexibilities under an MDD, the use of these procedures requires MBA to prepare and submit a State plan amendment as set forth in § 1321.31(b). The State plan amendment must at a minimum include the specific entities receiving funds; the amount, source, and intended use for funds; and other such justification of the use of funds.

Title III Administrative and Financial Requirements Policy #21: Equipment, Supplies, Maintenance, and Buildings, Alterations or Renovations

Authority Reference	OAA Section 312 45 CFR Part 1321.9(c)(2)(xv) 2 CFR Part 200 45 CFR Part 75
Operating Category	Title III Administrative and Financial Requirements

Policy

1. Buildings and equipment, where costs incurred for altering or renovating, utilities, insurance, security, necessary maintenance, janitorial services, repair, and upkeep (including Federal property unless otherwise provided for) to keep buildings and equipment in an efficient operating condition, including acquisition and replacement of equipment, may be an allowable use of grant funds, and the following conditions apply:
 - a. Costs are only allowable to the extent not payable by third parties through rental or other agreements; and
 - b. Costs must be allocated proportionally to the benefiting grant program.
2. Consistent with 2 CFR 200.1, equipment purchases are allowable up to \$10,000. For equipment purchases in excess of \$10,000, AAAs must seek a waiver consistent with MBA Operations Policy #9: Waiver Requests.

A. Equipment

- i. Consistent with 2 CFR 200.313, if a service provider no longer needs the purchased equipment and the fair market value of the equipment is greater than \$10,000, the AAA which approved the equipment purchase must seek disposition instructions from the MBA. The MBA must respond to the request for disposition instructions within 120 days of receiving the request.
- ii. Except as provided in 2 CFR 200.312, or if the Federal agency or MBA fails to provide requested disposition instructions within 120 days, items of equipment with a current fair market value in excess of \$10,000 (per-unit) may be retained or sold by the recipient or subrecipient. However, the Federal agency is entitled

to an amount calculated by multiplying the percentage of the Federal agency's contribution towards the original purchase by the current market value or proceeds from the sale. If the equipment is sold, the Federal agency or pass-through entity may permit the recipient or subrecipient to retain, from the Federal share, \$1,000 of the proceeds to cover expenses associated with the selling and handling of the equipment.

B. Supplies

i. Supplies include computing devices and the threshold for computing devices is \$10,000.

ii. Consistent with 2 CFR 200.314, title to supplies acquired under the Federal award will vest upon acquisition in the recipient or subrecipient. When there is a residual inventory of unused supplies exceeding \$10,000 in aggregate value at the end of the period of performance, and the supplies are not needed for any other Federal award, the AAA may retain or sell the unused supplies. Unused supplies means supplies that are in new condition, not having been used or opened before. The aggregate value of unused supplies consists of all supply types, not just like-item supplies. The Federal agency or pass-through entity is entitled to compensation in an amount calculated by multiplying the percentage of the Federal agency's or pass-through entity's contribution towards the cost of the original purchase(s) by the current market value or proceeds from the sale. If the supplies are sold, the Federal agency or pass-through entity may permit the recipient or subrecipient to retain, from the Federal share, \$1,000 of the proceeds to cover expenses associated with the selling and handling of the supplies.

3. If an AAA purchases supplies or equipment for a service provider, the AAA may – at their discretion - recover remaining supplies and useful equipment from the service provider when the service provider no longer provides Title III services.
4. Construction and acquisition activities are only allowable for multipurpose senior centers.
 - a. In addition to complying with the requirements of the Act, as set forth in section 312, as well as with all other applicable Federal laws, the AAA must file a Notice of Federal Interest in the appropriate official records of the jurisdiction where the property is located at the time of acquisition or prior to commencement of construction, as applicable.
 - b. The Notice of Federal Interest must indicate that the acquisition or construction, as applicable, has been funded with an award under Title III of the Act, that the requirements set forth in section 312 of the Act apply to the property, and that inquiries regarding the Federal Government's

interest in the property should be directed in writing to the Assistant Secretary for Aging;

- c. Consistent with 45 CFR 75.318, when real property is no longer needed for its original purpose, the AAA must work through MBA to obtain disposition instructions from the Assistant Secretary for Aging. The instructions must provide for one of the following alternatives:
 - (1) Retain title after compensating the HHS awarding agency. The amount paid to the HHS awarding agency will be computed by applying the HHS awarding agency's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the AAA is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
 - (2) Sell the property and compensate the HHS awarding agency. The amount due to the HHS awarding agency will be calculated by applying the HHS awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the AAA is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
 - (3) Transfer title to the HHS awarding agency or to a third party designated/approved by the HHS awarding agency. The AAA is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.
5. Altering and renovating activities are allowable for facilities providing direct services (supportive services, nutrition services, evidence-based disease prevention and health promotion services, and family caregiver support services) subject to Federal grant requirements under 2 CFR part 200 and 45 CFR part 75; and

6. Altering and renovating activities are allowable for facilities used to conduct area plan administration activities, subject to Federal grant requirements under 2 CFR part 200 and 45 CFR part 75.
7. Given the scarcity of Older Americans Act resources and the high demand for services, AAAs are strongly encouraged to spend resources on services rather than facilities.

Procedures

1. AAAs planning to spend grant funds for buildings, alterations or renovations, maintenance, and equipment must include only allowable costs in their Area Plan budget as part of the Area Plan submission process (or through an amendment process should this planned expenditure arise during another point of the year).
 - a. AAAs proposing to spend Older Americans Act resources for these purposes must make a compelling case as to why such expenditures are needed and how the expenditures will assist the AAA in serving older adults with greatest social needs and/or greatest economic needs. This can be done through a letter to the Executive Director explaining why the proposed expenditures are needed; how the proposed expenditures will assist the AAA in serving adults with greatest social needs and/or greatest economic needs; and how the expenditures will help improve future efforts to serve older adults in the Planning and Service Area.
 - b. AAAs must also demonstrate how the following conditions would be met:
 - i. Costs are only allowable to the extent not payable by third parties through rental or other agreements; and
 - ii. Costs must be allocated proportionally to the benefiting grant program.
 - c. If an unplanned need for purchase of equipment emerges during the Area Plan year, the AAA should communicate that to MBA.
2. If the AAA wishes to purchase equipment for amounts greater than \$10,000, the AAA must submit a waiver request via Foundant for review. The request should include the following information:
 - a. AAA name
 - b. service provider
 - c. Funding source
 - d. Funding amount
 - e. Description of equipment to be purchased
 - f. An explanation of why the purchase is necessary.
3. AAAs are encouraged to use State of Minnesota resources for equipment and supply purchases, including the following:

- A. Use of Targeted Group (TG), Economically Disadvantaged (ED) and Veteran Owned (VO) businesses for purchases up to \$100,000. See the [State of Minnesota's Certified TG/ED/VO Business Directory](#) for more information.
 - B. Use of the State of Minnesota's Cooperative Purchasing Venture process for goods, certain services, and utilities. See [the State of Minnesota's Cooperative Purchasing Venture website](#) for more information.
4. In the case of construction or acquisition of a building to be used as a multipurpose senior center, for which a Notice of Federal Interest is required to be filed as outlined above, the AAA must provide a copy of the filed notice to MBA.

Provision of Title III Services Policy #1: A Listing and Definition of Allowable Services

Authority Reference	45 CFR 1321(c)(1)ii OAA , Sec. 306(a)(5)(A), 306(i), 311, 321 Part B, 331 Part C, 336 Part C, 361 Part D, and 371-374 Part E
Operating Category	Provision of Title III Services

Policies

1. General Requirements
 - a. The resources made available to an AAA under the [OAA](#) are to be used to finance those activities necessary to achieve elements of community-based service systems.
2. Allowable Services
 - a. All services financed under the Area Plan must be in accordance with the provisions of the [OAA](#) cited above, programs authorized by the [OAA](#), and the Service Definitions issued by the MBA in this policy.
3. Annual Review
 - a. MBA will annually review the service definitions included in this policy in consultation with AAAs to determine if any adjustments need to be made. This will occur as part of the September MBA/AAA meeting each fall.
4. [OAA](#) Direct Service Definition

Title III-B Services

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Chore	1 hour	Performance of heavy household tasks (including but not limited to washing floors, windows and walls; basic home maintenance; or moving or removal of large household furnishings and heavy appliances) provided in a person's home and possibly other community settings. Tasks may include yard work or sidewalk maintenance in addition to heavy housework.	3B	Yes	Yes
Homemaker	1 hour	Performance of light housekeeping tasks provided in a person's home and possibly other community settings. Task may include assistance such as preparing meals, shopping for food and other personal items, managing money, answering or making telephone calls /other electronic communication or doing light housework (including but not limited to laundry).	3B	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Assisted Transportation	1 one-way trip	Services or activities that provide or arrange for the travel, including travel costs, of individuals from one location to another. This service includes escort or other appropriate assistance for a person who has difficulties (physical or cognitive) using regular vehicular transportation. Provides a gentle arm for assistance from the first door of the rider's residence, to any type of vehicle and from the vehicle to the first door of the destination. Assistance with mobility devices and other types of assistance to ensure the older individual is supported within this service delivery.	3B	Yes	Yes
Transportation	1 one-way trip	Provision of a means for going from one location to another. Does not include other activity.	3B	No	No

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Legal Assistance	1 hour	Legal advice and representation provided by a licensed attorney in good standing to older individuals with economic or social needs as defined in the Older Americans Act, Sections 102 (a) (23 and 24) and in the implementing regulation at 45 CFR Section 1321.93. Legal service includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of a licensed attorney in good standing permitted by law and counseling or representation by a non-lawyer where permitted by law. (Source: OAA) Service providers shall target individuals with the greatest economic or social needs; however, income information may not be required as a precondition of receiving services from provider. Does not include community legal education.	3B	As per definition of Restricted Service	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Information and Assistance	1 contact	<p>A service that:</p> <ul style="list-style-type: none"> •provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology; •assesses the problems and capacities of the individuals; •links the individuals to the opportunities and services that are available; •to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow-up procedures; and •serves the entire community of older individuals, particularly— older individuals with greatest social need; older individuals with greatest economic need; and older individuals at risk for institutional placement. <p>Information and assistance topics include, but are not limited to: Medicare, long- term care insurance, prescription drug programs, forms assistance and pension rights. Information and assistance services can be provided through county coordinators on aging, Senior Linkage Line®, or individual advocacy.</p>	3B	No	Yes
Self-Directed Supportive Services	N/A	Services and supports directly chosen and purchased by an individual through using an individual budget allocation to meet their identified supportive service needs.	3B/ 3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Home Modification	1 project	Home Modification: Physical adaptations to the home that are necessary to ensure the health and safety of an individual or that enables the individual to function with greater independence in their home. Up to \$500 of Title III-B or III-E Supplemental funds may be spent per client at the discretion of the AAA. Proposed projects using between \$501 - \$1,000 may be submitted to MBA through a waiver request. No home modifications above \$1,000 may be considered. See Supportive Services Policy.	3B, 3E Supplem ental	No	Yes
Consumable Supplies	1 delivery	Provision of consumable supplies or material aid to an older adult to meet basic necessities such as: groceries, cleaning supplies, incontinence items or PPE (personal protective equipment i.e.: masks, disposable gloves, face shield).	3B	No	No
Consultation	1 hour	Assistance provided to an individual who is seeking support services to enable them to live independently in their own home. May include assistance in setting goals, identifying needs, determining potential sources of support (informal and formal), and determining if private pay for services is an option. This assistance may also include support planning (the development and implementation of a self-directed service option) and/or the development of a risk management action plan.	3B	No	No

Counseling	1 session	Via interview, discussion or supportive listening to advise and to enable the other person and/or their family to resolve problems or to relieve temporary stress. May be done on a 1-to-1 basis or on a group basis.	3B	No	No
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MBA Service	MBA Unit	MBA Service Definition	Allow-able T3 Funds	Regis-tered	Up-dated?
Education/ Training	1 session	Providing formal or informal opportunities for individuals to acquire knowledge, experience or skills. Includes individual or group sessions designed to increase awareness in such areas as crime or accident prevention; promote personal enrichment, for example, through continuing ed; to increase or gain skills in a specific craft, trade, job or occupation. Does not include wages or stipends.	3B	No	No
Guardianship		Performing legal & financial transactions on behalf of a client based upon a legal transfer or responsibility (e.g. as part of protective services). Includes conservatorship.	3B	No	No
Community Legal Education	1 session	<p>A presentation for older adults by an individual authorized to provide legal assistance, which informs individuals about legal rights or benefits and how to access legal services statewide.</p> <p>A session may include various formats, including the following:</p> <ul style="list-style-type: none"> • A virtual presentation (if recorded, it only counts the first time it is presented); • An in-person session, with an opportunity for participants to ask questions; or • A newsletter, which counts as one session at the time of publication, provided that readers may pose follow up questions or offer feedback. 	3B	No	No

Outreach	1 contact	Interventions initiated by an agency or organization for the purpose of identifying potential clients (or their caregivers) and encouraging their use of existing services and benefits. [NOTE: service units for outreach refer to individual, 1-on-1 contacts between a service provider and an elderly client or caregiver. An activity that involves a contact with several current or potential clients/caregivers (what is considered group services) should not be counted as a unit of outreach.]	3B	No	No
Special Access	1 hour	<ul style="list-style-type: none"> Activities that link elders to community and government services that are not easily accessible due to language and/or cultural barriers. Individual services - information and referral, advocacy, outreach, phone contact, escort, translation, home visit, form completion, and service coordination. 	3B	Yes as of 4.2020	No

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Technology	1 project	Technology that enables an individual or family caregiver to improve their ability to perform activities of daily living; perceive, control, interact or communicate with their environment; monitor for safety or self-management of chronic conditions; or facilitate safe medication use.	3B, 3E Supplem ental	No	No
Telephone Reassurance	1 call	Regular telephone contacts w/isolated older persons or family caregivers to ensure continued well-being of the individual and to provide social contact.	3B, 3E Supplem ental	No	No
Visiting	1 visit	Providing regular visits to isolated, homebound or institutionalized elderly to reduce their isolation and loneliness. Letter writing, reading letters and conversation and typical activities of friendly visitors.	3B	No	No

Title III-C Services

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Home Delivered Meals	1 meal	<p>A meal provided to a eligible individual in his/her place of residence or otherwise outside of a congregate setting. The meal is served in a program that is administered by SUAs and/or AAAs and meets all the requirements of the Older Americans Act and State/Local laws and complies with the most recent Dietary Guidelines for Americans (published by the Secretaries of the Department of Health and Human Services and the United States Department of Agriculture).</p> <p>Additionally, the meal provides to each participating individual a minimum of one-third of the Dietary Reference Intakes, established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, if one meal is served, two-thirds if two meals are served, and 100 percent if 3 meals are served; and meets all of the requirements as above. Meals provided to individual through means-tested programs may be included in the total meal count. These meals are to be identified by the funding source.</p>	3C-2	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Congregate Meals	1 meal	<p>A meal provided by a qualified nutrition project provider to an eligible individual in a congregate or group setting. Up to 25% of C-1 funds may be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals (also referred to as “grab and go” meals). The meal is served in a program that is administered by SUAs and/or AAAs, meets all the requirements of the Older Americans Act and State/Local laws, and complies with the most recent Dietary Guidelines for Americans (published by the Secretaries of the Department of Health and Human Services and the United States Department of Agriculture).</p> <p>Additionally, the meal provides to each participating individual a minimum of one-third of the Dietary Reference Intakes, established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, if one meal is served, two-thirds if two meals are served, and 100 percent if 3 meals are served; and meets all of the requirements as above.</p> <p>Meals provided to individual through means-tested programs may be included in the total meal count. These meals are to be identified by the funding source.</p>	3C-1	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Nutrition Counseling	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A standardized service as defined by the Academy of Nutrition & Dietetics (AND) that provides individualized guidance to individuals who are at nutritional risk because of their health or nutrition history, dietary intake, chronic illness, or medication use, or to caregivers. Counseling is provided one-on-one by a registered dietitian, and addresses the options and methods for improving nutrition status with a measurable goal.	3C-1, 2	Yes	Yes
Nutrition Education	1 session per participant (a session is typically 15 minutes to an hour)	A targeted program to promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information that is consistent with the current Dietary Guidelines for Americans and instruction to participants, caregivers, or participants and caregivers in a group or individual setting overseen by a dietitian or individual of comparable expertise.	3C1 or C2 (or 3B)	No	Yes

Title III-D Services

MBA Service	MBA Unit	MBA Service Definition	Allow-able T3 Funds	Regis-tered	Up-dated?
Evidence-Based Health Promotion Program	N/A	<p>Activities related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition).</p> <p>OAA Title III-D funding may be used only for programs and activities demonstrated to be evidence-based.</p> <p>a. The program meets the requirements for HHS' Evidence-Based Definition (see below)</p> <p>i. Demonstrated through evaluation to be effective for improving the health and well-being or reducing disease, disability and/or injury among older adults; and</p> <p>ii. Proven effective with older adult population, using Experimental or Quasi-Experimental Design;* and</p> <p>iii. Research results published in a peer-review journal; and</p> <p>iv. Fully translated** in one or more community site(s); and</p> <p>v. Includes developed dissemination products that are available to the public.</p> <p>*Experimental designs use random assignment and a control group. Quasi-experimental designs do not use random assignment.</p> <p>**For purposes of the Title III-D definitions, being "fully translated in one or more community sites" means that the evidence-based program in question has been carried out at the community level (with fidelity to the published research) at least once before. Sites should only consider programs that have been shown to be effective within a real-world community setting,</p> <p>or</p> <p>b. The program is considered to be an "evidence-based program" by any operating division of the U.S. Department of Health and Human Services (HHS) and is shown to be effective and appropriate for older adults.</p> <p>MBA reserves the right to incorporate additional state specific Title III D requirements.</p>	3D	No	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow-able T3 Funds	Regis-tered	Up-dated?
Health Promotion: non Evidence-based	1 hour	<p>Health Promotion: non Evidence-based Health promotion and disease prevention activities that do not meet HHS/AoA's definition for an evidence-based program as defined at HHS' website. Activities may include those defined in the OAA (Section 102(14)) for example:</p> <p>(A) health risk assessments; (B) routine health screening; (C) nutritional counseling and educational services for individuals and their primary caregivers; (E) programs regarding physical fitness, group exercise, and music therapy, art therapy, and dance-movement therapy; (F) home injury control services; (G) screening for the prevention of depression, coordination of community mental and behavioral health services, provision of educational activities, and referral to psychiatric and psychological services; (H) 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.); (I) medication management screening and education; (J) information concerning diagnosis, prevention, treatment, and rehabilitation concerning age-related diseases and chronic disabling conditions; (K) gerontological counseling; and (L) counseling regarding social services and follow-up health services based on any of the services described in subparagraphs (A) through (K). The term shall not include services for which payment may be made under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.). (Source: OAA)</p>	3B only	No	Yes

Title III-E Services

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Self-Directed Caregiver Support Services	N/A	Services and supports directly chosen and purchased by an individual through using an individual budget allocation to meet their identified caregiver support service needs.	3E	Yes	No
Caregiver Counseling	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A service designed to support caregivers and assist them in their decision-making and problem solving. Counselors are service providers that are degreed and/or credentialed as required by state policy, trained to work with older adults and families and specifically to understand and address the complex physical, behavioral and emotional problems related to their caregiver roles. Title III-E funded Caregiver Consultants will conduct a Caregiver Minimum Assessment with caregivers receiving ongoing support. Caregiver Consultants meet the Minnesota Board on Aging Title III-E Caregiver Consultant Standards and Competencies. This includes counseling to individuals or group sessions. Counseling is a separate function apart from support group activities or training.	3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Support Groups	1 session	A service that is led by a trained individual, moderator, or professional, as required by state policy, (moderators should have experience working with family, friends and/or neighbors caregiving and older adults, strong interpersonal skills, and access to regular supervision or consultation from a trained professional with comparable training or experience), to facilitate caregivers to discuss their common experiences and concerns and develop a mutual support system. Support groups are typically held on a regularly scheduled basis and may be conducted in person, over the telephone, or online. For the purposes of Title III-E funding, caregiver support groups would not include "caregiver education groups," "peer-to-peer support groups," or other groups primarily aimed at teaching skills or meeting on an informal basis without a facilitator that possesses training and/or credentials as required by state policy. (See also definitions for training and counseling).	3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Training	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A service that provides caregivers with instruction to improve knowledge and performance of specific skills relating to their caregiving roles and responsibilities and builds caregiver capacity to provide, manage and cope with the caregiving role. Skills may include activities related to health, nutrition, and financial management; providing personal care; disease management; managing risk factors; mental health; navigating long-term care systems and communicating with health care providers and other family members. Training may include use of evidence-based programs; be conducted in-person or on-line, and be provided in individual or group settings.	3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Respite	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A service which offers temporary, substitute supports, care, supervision or living arrangements for care recipients. It provides a brief period of relief or rest for caregivers.	3E	Yes	Yes
Caregiver Respite In Home	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A respite service provided in the home of the caregiver or care receiver and allows the caregiver time away to do other activities. During such respite, other activities can occur which may offer additional support to either the caregiver or care receiver, including homemaker or personal care services. Trained volunteers may be utilized to provide companionship respite (e.g., assistance with meals, medication reminders and general supervision). Respite volunteers are screened and trained, per Minnesota State Policy, and matched with older adults and supervised by provider.	3E	Yes	yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Respite Out of Home Day	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A respite service provided in settings other than the caregiver/care receiver's home, including adult day care, senior center or other non-residential setting (in the case of older relatives raising children, day camps), where an overnight stay does not occur that allows the caregiver time away to do other activities. This option may be provided on a group or individual basis and includes licensed Adult Day Services, licensed adult foster care, a senior center, services by a family, friend, neighbor, or volunteer in a non-licensed private residence, or escorted transportation to medical appointments or community activities.	3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Respite – Out- of-Home Overnight	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A respite service provided in residential settings such as nursing homes, assisted living facilities, and adult foster homes (or, in the case of older relatives raising children, summer camps), in which the care receiver resides in the facility (on a temporary basis) for a full 24 hour period of time. This includes services provided in a licensed nursing facility, hospital, or registered housing site that has services provided by a licensed home care agency. The service provides the caregiver with time away to do other activities.	3E	Yes	Yes
Caregiver Respite – Other Respite	Hours (partial hour may be reported to two decimal places, e.g. 0.25 hours.)	A respite service provided using Older Americans Act funds in whole or in part, that does not fall into the previously defined respite service categories. Services must contain structured activities, facilitated by an experienced individual. Services may include: virtual respite (may include but is not limited to virtual reality (VR) experiences, virtual tours, and virtual concerts, customized experiences, interactive storytelling, music activities).	3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Supplemental Services	N/A	<p>Services provided on a limited basis to ease the burden of care or to complement the care provided by caregivers. Domains for “supplemental services” provided under Title III-E include:</p> <ul style="list-style-type: none"> • Assistive technology/durable equipment/emergency response • Consumable supplies • Home modifications/repairs • Legal and/or financial consultation • Homemaker/chore/personal care • Transportation • Nutrition services • Other 	3E	Yes	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Assistance – Information and Assistance	1 contact	<p>A service that links the individuals to opportunities and services that are available. To the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow-up procedures.</p> <p>Information and Assistance Caregiver:</p> <ul style="list-style-type: none"> • provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology; • assesses the problems and capacities of the individuals; and • serves the entire community of older individuals particularly— <ul style="list-style-type: none"> o caregivers who are older individuals with greatest social need; o older individuals with greatest economic need; o older relative caregivers of children with severe disabilities, or individuals with disabilities who have severe disabilities; o family caregivers who provide care for individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction; and o caregivers of “frail” individuals defined as: unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; and/or cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual. 	3E	No	Yes

MBA Service	MBA Unit	MBA Service Definition	Allow- able T3 Funds	Regis- tered	Up- dated?
Caregiver Public Information Services	1 activity	A public and media activity that conveys information to caregivers about available statewide services, which can include an in-person interactive presentation to the public conducted; a booth/exhibit at a fair, conference, or other public event; and a radio, TV, or Web site event. Unlike Caregiver Assistance – Information and Assistance, this service is not tailored to the needs of the individual.	3E	No	Yes

Provision of Title III Services Policy #2: Requirements for Client Eligibility, Periodic Assessment, and Person-Centered Planning

Authority Reference	Older Americans Act 102(40) and 373 (c)(1) 45 CFR Part 1321.3 (definitions of “periodic” and “older relative caregiver”); 1321.9(c)(1)(i); 1321.81; 1321.91
Operating Category	Provision of Title III Services

Policy

1. The Older Americans Act establishes eligibility requirements to receive OAA-funded services.
 - a. The Older Americans Act requires an individual to be at least 60 years old to be eligible to receive most Title III-funded services.
 - b. To receive Title III B-funded registered **supportive services** an individual must be 60 years of age or older;
 - c. To receive Title III C-funded **home-delivered meals**, an individual must meet one of these eligibility categories:
 - i. Client (age 60 or older),
 - ii. Spouse of client (regardless of age), or
 - iii. Individual with disability under age 60 (who lives with an eligible client age 60 or older).
 - iv. Volunteer (individual of any age providing volunteer services during meal hours),
 - d. To receive Title III C-funded **congregate meals**, an individual must meet one of these eligibility categories:
 - i. Client (age 60 or older),
 - ii. Spouse of client (regardless of age),
 - iii. Staff age 60+ (who work at congregate dining site),
 - iv. Volunteer (individual of any age providing volunteer services during meal hours), or
 - v. Individual with disability under age 60 (who lives in a housing facility occupied primarily (i.e., more than 50%) by older adults at which congregate nutrition services are provided).

- e. To receive Title III D-funded **health promotion services**, an individual must be 60 years of age or older;
- f. To receive Title III E-funded **caregiver support**, an individual must meet one of these eligibility categories.
 - i. Adults caring for older adults (meaning the care *receiver* is 60 years or older), who are informal providers of in-home and community care. The caregiver and care receiver do not necessarily live together and do not have to be related.
 - ii. Adults providing informal in-home and community care for individuals of any age with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction. The caregiver and care receiver do not necessarily live together and do not have to be related.
 - iii. Caregivers who are 55 years or older and is a grandparent, step-grandparent, or other relative (other than the parent) of a child by blood, marriage or adoption and is an informal provider of in-home and community care.

The caregiver:

 - 1. Lives with the child;
 - 2. Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and
 - 3. Has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally;
 - iv. Caregivers who are 55 years or older and a parent, grandparent, or other relative by blood, marriage, or adoption of an individual with a disability [as defined in Section 3 of the Americans with Disabilities Act of 1990 (42 USC 12103)] ages 19-59 and is an informal provider of in-home and community care. The caregiver lives with the individual.
 - v. For respite care and supplemental services only, to family caregivers of adults aged 60 and older or of individuals of any age with Alzheimer's disease or a related disorder, the individual for whom they are caring must be determined to be functionally impaired because the individual:
 - (1) Is unable to perform at least two activities of daily living without substantial assistance, including verbal reminding, physical cueing, or supervision;
 - or
 - (2) Due to a cognitive or other mental impairment, requires substantial supervision because the individual poses a serious health or safety hazard to himself or others.

2. Registered services include the following:
 - a. Homemaker
 - b. Chore
 - c. Assisted Transportation
 - d. Home-Delivered Meals
 - e. Congregate Meals
 - f. Nutrition Counseling
 - g. Caregiver Counseling
 - h. Caregiver Support Groups
 - i. Caregiver Training
 - j. Caregiver Respite (In-home, Out-of Home, Out-of Home Overnight, Other Respite)
 - k. Self-Directed Supportive Services
 - l. Self-Directed Caregiver Support Services
 - m. Special Access
 - n. Supplemental Services

3. Service providers are required to assess whether an individual meets the eligibility criteria for a registered service by asking the individual all questions on the National Aging Program Information System (NAPIS) registration form. Service providers may work with an individual by phone, on line, or in person to complete the questions on the form. However, the service provider must obtain the client's signature on the form in person in a timely manner. "Timely manner" varies according to the type of service and is further defined below. The in-person signature is not required for Title III-E services.
 - a. Completion of the NAPIS form must occur near the time an individual begins to receive a registered service as described below and at least annually thereafter.
 - b. During the assessment, the service provider is required to ask every client all of the questions on the NAPIS form related to their needed service. A response must be recorded on the NAPIS form for each question.
 - i. If clients are reluctant to provide requested information, the service provider should explain the information is needed for eligibility purposes and to help build a service plan for them. The service provider should also assure clients their information will be treated as confidential information.
 - ii. If a client refuses to provide certain data, the service provider must record this on the paper form or choose an option from a drop-down list on the electronic form indicating the client refused to respond to the question.
 - iii. This information must be recorded on a NAPIS form in either electronic or hard copy form.
 - iv. These data must also be entered into the PeerPlace data application or its successor.

Comprehensive data collection for all data fields on the NAPIS form should be completed to conduct a more thorough screening of a client's needs as well as to know their demographic characteristics. Such information is needed both to inform a person-centered plan and to help both the service provider and AAA know the degree to which they are serving individuals with the greatest economic need or greatest social need.

- c. In order to use Title III funds to pay for services, service providers must record the client's first and last name and the client's date of birth (with the exception noted under clause "i" below) on the NAPIS form. For services that will be provided at the client's home, such as for home-delivered meals, the service provider must also record and enter the client's address on the NAPIS form.
 - i. For clients who do not know their specific date of birth, the service provider may work with that individual and obtain attestation that they are at least 60 years of age.
- d. Completion of the NAPIS form, including obtaining a signature in person, must occur in a timely manner. "Timely manner" means prior to beginning to receive services or within the following timeframes:
 - i. Within seven calendar days for nutrition services.
 - ii. Within 21 calendar days (or sooner if more urgent circumstances indicate a need) for other registered services.
- e. Clients are not required to verify their stated date of birth with an identification card such as a driver's license or passport.
- f. Clients (or their authorized representatives) must sign and date the NAPIS form in person as described above when they first begin to receive a service and annually thereafter. In signing the form, the individual is attesting to the accuracy of the information they have provided as of the date the information was provided.
- g. A client may not be denied service for refusing to provide date of birth or other information requested on the NAPIS form. However, Title III funds may not be used to pay for meals for individuals without a date of birth on file (or, in the case of an individual who does not know their specific date of birth, an attestation that they are at least 60 years of age). This means the service provider must use another funding source to pay for meals provided to an individual whose date of birth or age attestation is not on file or to charge that individual for the service.
- h. The service provider must read the "Tennessee warning" language included at the end of each NAPIS form that explains what information is being collected, why it is being collected, and how it will be used.

- i. A physical copy of the NAPIS form must be maintained by the service provider. For security reasons, completed NAPIS forms and any data used to populate the NAPIS form may not be stored on a service provider's laptop or transmitted via unsecure email. Service providers must not request or encourage consumers to send a completed NAPIS form via unsecure email.
 - j. Client information may not be directly entered into the PeerPlace database without use of the NAPIS form.
- 4. Service providers must conduct a periodic client assessment for registered services using the NAPIS form, meaning at minimum, once per federal fiscal year (October 1 through September 30). The assessment must involve an updated attempt to gather data to fully complete a NAPIS form.
 - a. NAPIS forms are specific to the type of registered service being offered.
 - b. MBA will provide updated NAPIS forms to AAAs on an annual basis.
 - c. Service providers must use the most current NAPIS forms for initial and periodic assessments. AAAs are responsible for ensuring their service providers have and are using the most current forms.
- 5. Assessments of eligible clients serve as the foundation for their service plan. To the extent possible, service providers must use a person-centered planning approach to build a service plan for each client. ACL describes person-centered planning as "a process for selecting and organizing the services and supports that an older adult or person with a disability may need to live in the community. Most important, it is a process that is directed by the person who receives the support...The person-centered planning approach identifies the person's strengths, goals, medical needs, needs for home- and community-based services, and desired outcomes."
- 6. AAAs must monitor service provider compliance with these requirements.

Procedures

- 1. AAAs must include initial and ongoing periodic assessment, including obtaining a signature in person on the NAPIS form, as a required duty for registered services in service provider contracts and grant agreements. Service providers should build this responsibility into their rates.
- 2. MBA will provide updated service-specific NAPIS forms on an annual basis with updated income thresholds related to the federal poverty level and any changes in other data fields.
- 3. Use of Electronic NAPIS Forms

- a. AAAs must document annually whether each service provider intends to use an electronic version of the NAPIS form. Service providers using electronic forms must annually review and sign the "Minnesota Board on Aging Title III Provider Assurances for use of Fillable NAPIS Forms for Recipients of Older Americans Act Title III Services in Minnesota".
4. Service providers (or, for those AAAs entering data on their providers' behalf, the AAA) should enter initial and periodic assessment data into the PeerPlace data application promptly. This means the data should be entered by the 10th day of the month following when the data were collected.
5. AAAs must monitor client date of birth entered by service providers, specifically with respect to ensuring:
 - a. Clients meet the age eligibility criteria
 - b. That providers appear to be entering actual dates of birth, rather than a "dummy" date of birth.
 - i. AAAs must compare rates of completion of this field and follow up with providers when there are concerns about whether providers are entering actual dates of birth.
6. AAAs must require service providers to participate in annual training on eligibility criteria, initial and ongoing periodic assessment, completion of NAPIS forms, and proper use of electronic NAPIS forms. The training will be provided by MBA in an on-demand format.
7. AAAs must establish policies and procedures for service providers aligned with this policy and procedure.

Provision of Title III Services Policy #3: Limitations on the Frequency, Amount or Type of Service Provided

Authority Reference	45 CFR Part 1321.9(c)(1)(iii)
Operating Category	Provision of Title III Services

Policy

1. As a general policy, the MBA does not impose limitations on the frequency, amount, or type of service as defined in Provision of Title III Services Policy #1: Listing and Definitions of Services provided to individuals served with Title III funds. This policy identifies the exceptions to this practice.
2. Title III funds are intended to serve those with greatest social need and greatest economic need. MBA also prioritizes funding services needed to help individuals with greatest social needs and greatest economic needs to live at home and in the community, such as chore, nutrition support, homemaker, transportation, and assisted transportation.
3. In order to preserve scarce OAA Title III-B funding for priority services to help individuals live at home and in community, MBA's policy prohibits use of Title III-B funding for case management services, adult day services, personal care assistance, and multi-purpose senior centers.
4. MBA encourages AAAs to refer individuals with greater ability to pay for services to private pay programs. This approach will facilitate more Title III resources being reserved for those with greatest social need and greatest economic need.

Procedures

1. AAAs have the option to establish supplemental policies and procedures related to frequency, amount, or type of services funded with Title III dollars, provided those policies align with MBA policies.

Provision of Title III Services Policy #4: Supportive Services

Authority Reference	Older Americans Act Section 321 45 CFR 1321.85
Operating Category	Provision of Title III Services

Policy

1. Supportive Services are essential services to help older Minnesotans live at home and in the community.
2. For purposes of this policy, Supportive Services are those services funded through Title III-B funds and include the following:
 - A. Chore
 - B. Homemaker
 - C. Assisted Transportation
 - D. Transportation
 - E. Legal Assistance
 - F. Information and Assistance
 - G. Self-Directed Supportive Services
 - H. Home Modification
 - I. Consumable Supplies
 - J. Consultation
 - K. Counseling
 - L. Education/Training
 - M. Community Legal Education
 - N. Outreach
 - O. Special Access
 - P. Technology
 - Q. Telephone Reassurance
 - R. Visiting
3. AAAs should refer to Provision of Title III Services Policy #1: A Listing and Definitions of Allowable Services for more information about these services.
4. Eligibility for supportive services includes individuals who are 60 years of age or older.
5. For those Title III, part B services intended to benefit family caregivers, MBA and AAAs shall ensure there is coordination and no inappropriate duplication of such services available under Title III, part E.

6. Home Modification

- A. Home Modifications are those services provided to an older adult (60+) that are necessary to ensure the health and safety of an individual or that enables the individual to function with greater independence in their home and are not available under other programs. Not more than \$500.00 of Older Americans Act Title III B funding, per participant/project, may be expended without a waiver request (which, if approved, can only fund projects up to a \$1,000 maximum).

Home modification projects may include:

1. Home safety devices such as:
 - Door alarms
 - Smoke detectors and/or Carbon Monoxide detectors
 - Anti-scald devices
 - Hand-held shower head
 - Grab bars for the bathroom
2. Adaptive door openers (i.e. replacing doorknobs with levers) and locks
3. Handrails (for stair or hallway)

- B. Unit of service: one project

- C. The following conditions apply to all home modification service(s):

- i. Home modifications are considered when the participant owns a home. Rented homes or apartments or family-owned homes are allowed to be modified only when a signed agreement from the property owner is obtained. The signed agreement must be kept by the provider/contractor, along with other documentation of the service provided.
- ii. Home modification projects must meet applicable Federal, state or local housing codes.
- iii. Must have permits as required for the type of modification being provided.
- iv. Providers/contractors of home modifications are to be licensed, bonded and insured.
- v. Area Agency on Aging (AAA)/providers must show that there has been a home modification assessment for each participant that supports the project. Some examples of assessment:
 - American Occupation Therapy Association [Rebuilding Together's Safe At Home Checklist](#)
 - [CAPABLE](#) model

- D. Home Modification with cost of 501.00 up to \$1,000 per project (of Older Americans Act Title III funds)

Other larger/higher cost types of home modification will be considered on a case-by-case basis through a waiver approval provided by the Administration for

Community Living (dated 5.4.2021) to the state unit on aging, Minnesota Board on Aging (MBA).

The AAA must apply for and receive a waiver, from MBA, for each individual project per the procedures outlined below:

Examples of such projects may include:

- i. Widening of doorways
- ii. Specialized electric and plumbing systems necessary to accommodate medical equipment and supplies
- iii. Floor coverings
- iv. Exterior ramp(s)
- v. Other modifications

For home modification projects above \$500.00 per participant/project, the following apply in addition to the above requirements:

If an AAA has cause/substantial reason to believe a waiver above \$500.00 per participant/project is required, the AAA may make a waiver request to the MBA Executive Director. (see procedure below). Waiver requests have a maximum of \$1000.00 per participant/project. This level of waiver request will require a budget to substantiate the request along with documentation of the credentials of the provider to show that they are meeting housing code, licensing and permit requirements to provide the home modification requested under the waiver. Waivers must be requested for each project.

E. AAAs wishing to spend more than \$500 for a home modification project must submit a waiver request as described below under "Procedures" and in MBA Operations Policy #9: Waiver Requests.

7. For information on Legal Services policies, please see Provision of Title III Services Policy #5: Legal Services.

Procedures

1. AAAs shall provide information in their proposed Area Plan about which Supportive Services they will make available and how they intend to make Supportive Services available throughout the PSA.
2. AAAs shall promote Title III-B services through their community-based partners to ensure populations with greatest social need and greatest economic need are aware of these services.

3. AAAs shall report utilization of registered support services through PeerPlace and unregistered services through Grant Utility.
4. Home modification waiver requests to spend between \$501 - \$1,000 for a home modification project may be submitted by taking the following steps:
 - A. The AAA requesting a waiver must submit an email request to MBA.AreaPlan@state.mn.us, for creation of a Home Modification Waiver Follow Up in Foundant.
 - B. Once the Follow Up is assigned to the AAA, submit the completed Home Modification Waiver Follow Up request with appropriate required documents. (For a list of the questions that will be asked in the Follow Up, see below.)
 - C. AAAs should be prepared to provide the following information as part of the "follow up" request:
 - i. Organization/Provider Name:
 - ii. Older Americans Act Title III Contract number:
 - iii. Anticipated total cost of project:
(Older Americans Act Title III funds may not exceed \$1,000 per project)
 - iv. Describe project being requested.
 - v. What assessment(s) have been done to assure that the participant's needs will be met through this project? How will this project enhance the client's ability to remain at home?
 - vi. For projects of \$501 up to \$1,000, of Older Americans Act Title III funds, the following additional information is to be attached to this request:
 - a. Project budget
 - b. Credentials of provider/contractor including contractor license number
 - c. Any other information that would support this request
 - D. MBA anticipates a 3-5 business day turnaround for waiver requests.

Provision of Title III Services Policy #5: Legal Services

Authority Reference	<ol style="list-style-type: none">1. Older Americans Act of 1965, Pub. L. No. 89-73 § 102, 79 Stat. 218-226 (1965) (codified as amended at 42 U.S.C. § 3002).2. Standards for Title IIIB Legal Assistance Programs, 19943. Standards for the Provision of Civil Legal Aid, 20214. 45 CFR 1321.93
Operating Category	Provision of Title III Services

Policy

Definitions

1. Legal services is the provision of high quality, high impact, cost effective legal services to older adults living within the State of Minnesota. The Minnesota Board on Aging, through its Area Agencies on Aging, fund civil legal service providers to provide a coordinated system of legal services to all older Minnesotans, with a focus on addressing the needs of the most vulnerable including those isolated due to social or economic disparities.
2. Legal assistance is measured on an hourly basis (1 hour = 1 unit of service) and means:
 - A. Legal advice and representation provided by a licensed attorney in good standing (meaning an individual is on active status and authorized by the Supreme Court of Minnesota to practice law within the state) to older individuals with economic or social needs; and
 - B. Includes-
 - i. To the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of a licensed attorney in good standing; and
 - ii. Counseling or representation by a non-lawyer where permitted by law

Legal advice and representation may be provided in-person, by telephone, or by electronic communication and includes, but is not limited to, advice and consultation, litigation, administrative representation, brief services (including preparing legal documents), and *pro se* assistance.

Direct supervision is oversight of the provision of services, by a professional licensed to provide such services, to ensure appropriate quality and scope of services. Direct supervision includes, but is not limited to, personal review of work product and real time availability to respond to questions from the persons being supervised.

3. Community legal education is measured on a per session basis (1 session = 1 unit of service) and means:

Education and information presented to older adults by an individual authorized to provide legal assistance, which informs individuals about legal rights or benefits and how to access legal services statewide.

Education and information is a method of preventing greater legal problems by equipping seniors, caregivers and family members with knowledge about their rights, how to exercise those rights and who to turn to for help in exercising those rights. Therefore, each session should provide general information about legal rights of older Minnesotans, allow for an opportunity to communicate questions directly to a Title III B funded legal service provider, offer resources and/or referrals, and establish adequate follow-up procedures to assure that individuals are aware of opportunities to request assistance from and/ or access to the legal system.

As community legal education sessions are unique events with one session equating to one unit of service, the Final Older Americans Act Service Definitions, the MBA does not count individuals "served" through each education session. Efforts should be made to diversify the venues and/or types of education sessions and align community legal education session formats with targeting requirements.

A session may include various formats, such as the following:

- A. A virtual presentation (if it is recorded, it only counts the first time it is presented as a resource by the agency);
- B. An in-person session, with an opportunity for participants to ask questions; or
- C. A newsletter, which counts as one session at the time of publication, provided that readers may pose follow up questions or offer feedback.

Obligations of the AAA

1. The AAA must select and procure through contract the legal assistance provider or providers best able to provide legal assistance as defined in this policy. AAAs must select and award funds to the legal assistance provider(s) that best demonstrate the capacity to conduct legal assistance, which means having the requisite expertise to fulfill the requirements of the Act and all applicable Federal and State requirements for provision of legal assistance.
2. AAAs must enter into contracts with selected legal assistance providers that demonstrate the appropriate staffing (number of individuals; language access options; etc.) capacity to deliver legal assistance. AAAs must include provisions in their grants or contracts with legal assistance providers that assist older individuals in:
 - Understanding their rights;
 - Exercising choice;
 - Benefiting from services, opportunities and entitlements, and maintaining rights

promised through and protected by law;

- Providing access to the system of justice by offering advocacy, advice and representation to persons 60 and older.

These provisions are described in detail under the Procedures section of this document.

3. AAAs must ensure that providers engage in community legal education and targeted legal outreach to ensure that older adults within historically marginalized populations, including those specifically contemplated under the Older Americans Act, receive information about their rights, benefits and how to access necessary legal services.

4. Recognizing that the resources of the OAA are inadequate to meet the needs of all those seeking services, the AAA will provide oversight and offer direction, based on a review of case statistics, conversation with the Legal Assistance Developer, and information related to OAA priorities and legal trends, to legal service providers, thereby ensuring adoption of case acceptance priorities that focus legal assistance to eligible persons with the greatest social and economic needs with particular attention to low-income minority individuals and socially, physically or geographically isolated individuals. AAAs will additionally provide support and assistance to legal service providers in relation to any older adult legal needs surveys or legal risk detector programs instituted by the provider at the request of the SUA.

5. If the AAA contracts with multiple legal service providers, or if multiple AAAs contract with a single legal service provider, AAAs should coordinate to ensure uniformity in contract standards and reporting requirements related to deliverables.

6. AAAs must engage in joint planning and development sessions regarding the provision of legal needs within the planning and service area and service areas of their Title III B legal service provider. Planning sessions should occur at least every other year, or annually, if determined through contract, and include the AAA, legal service provider and State Legal Assistance Developer. Planning sessions should also incorporate information identified from the most recent applicable Legal Needs Surveys and Surveys of Older Adults. This coordinated approach will help ensure consistency in contracts and requirements, better understanding of need and service provision within regions, and effective priority planning across providers.

7. The AAA shall engage in joint-planning and cross-training efforts with legal assistance providers. Legal assistance is part of the continuum of aging services. The AAA shall make best efforts to communicate the important impacts of legal assistance on the lives of older Minnesotans to other service providers, and coordinate legal assistance with other contracted service areas by inviting participation of legal assistance providers with other AAA contracted services including caregiving, housing, nutrition, special access, respite, etc.

8. The AAA shall, under the direction of and in conjunction with the State Legal Assistance Developer:

- Develop and maximize the use of other resources to expand the provision of legal assistance, with emphasis on partnering with statewide resource networks such as Senior Linkage Line, the Ombudsman's Office for Long Term Care, the Ombudsman's Office for Mental Health and Developmental Disabilities, Legal Services State Support and others,
- Work to strengthen relationships between Title III B legal service providers and other parts of Minnesota's Elder Justice Network, and
- Assist legal providers in connecting with other parts of the AAA's existing network to increase private bar involvement for the benefit of individuals under the OAA. Example: Connecting legal assistance providers to nutrition or caregiver service providers serving homebound or fragile persons that would benefit from the assistance of a volunteer or pro bono panel attorney to address legal issues on a free or reduced fee basis. There is no expectation that the AAA would develop a pro bono panel, or recruit or supervise attorneys in the provision of legal services.

9. The AAA shall use effective monitoring tools to allow for assessment of contractual compliance, ensure consistency with the guidelines outlined in this section and standards, evaluate the quality and impact of programs, review program goals and outcomes, and oversee collection and submission of accurate data from legal providers in accordance with MBA requirements. Monitoring includes ensuring timely submission to the MBA of verified program data such as: quarterly OAAPS reports, quarterly program narrative reports, quarterly updated Grant Utility data, legal service specific site visit documents and other assessment pieces as set out under the Record Keeping and Reporting section of this document.

10. Funding of the Legal Service Provider

A. The AAA shall ensure that legal services are adequately funded pursuant to federal and state guidelines, and that appropriate legal services are provided in every county within the planning and service areas.

B. Each year of the Area Plan, the AAA shall award the legal service provider a **minimum** funding level equal to 10% of the new obligational authority (NOA) under Title IIIB funds. In addition to the 10 percent, AAAs must provide each legal service provider \$1,000 per year to support participation at conferences, trainings, and other continuing education opportunities relevant to serving older Minnesotans as described below.

AAAs shall work to identify additional funding sources and provide technical assistance for legal service providers who choose to apply for these programs.

Examples of potential funding opportunities include funding through other OAA Titles, the Legal Assistance Enhancement Program, the Live Well at Home grants, or other state or federal grant opportunities. Possible program expansions include, but are not limited to: expansion of services to and enhanced supports for caregivers (example: caregiver training to address the legal needs of the person receiving care); focused attention on special access programs targeted at reducing barriers to legal services for marginalized communities (example: pairing legal services with a grantee working

to expand crisis or shelter opportunities for vulnerable older adults in rural communities); language access for LEP elders; or, supplemental services (legal and/or financial consultation) for older adult caregivers per year to contracted legal service providers for the purpose of skills development. These funds are to be used by the legal service provider to attend conferences, trainings or other symposiums that further education in elder law issues or assist with advocacy, writing, trial skills development or other legal and/or technical skills to enhance the quality of legal services provided and benefit clients served through OAA funds. The money cannot be carried over between fiscal years and any money not spent by the provider for this purpose can be reallocated to provision of direct legal services (not legal education or outreach), after consultation with and approval by the AAA.

11. AAAs must monitor data reported by legal services providers as described in greater detail under the Procedures section of this document.

Capacities of Legal Service Provider

Selected legal assistance providers shall exhibit the capacity to:

1. Retain staff with expertise in specific areas of law affecting older individuals with economic or social need, including the priority areas identified in the Act;
2. Demonstrate expertise in specific areas of law that are given priority in the Act, including income and public entitlement benefits, health care, long-term care, nutrition, consumer law, housing, utilities, protective services, abuse, neglect, age discrimination, and defense of guardianship, prioritizing focus from among the areas of law based on the needs of the community served;
 - A. Defense of guardianship includes:
 - i. Representation to maintain the rights of individuals at risk of guardianship, and to advocate for limited guardianship if a court orders guardianship to be imposed; assistance removing or limiting an existing guardianship; or assistance to preserve or restore an individual's rights or autonomy;
 - ii. Representation to advocate for and assert use of least-restrictive alternatives to guardianship to preserve or restore an individual's rights and or autonomy to support decision-making, or to limit the scope of guardianship orders when such orders have or will be entered by a court; and
 - iii. A legal assistance provider shall not represent a petitioner for imposition of guardianship except in limited circumstances involving guardianship proceedings of older individuals who seek to become guardians only if other adequate representation is unavailable in the proceedings, and the provider has exhausted, and documents efforts made to explore less restrictive alternatives to guardianship.
3. Provide effective administrative and judicial advocacy in the areas of law affecting older individuals with greatest economic need or greatest social need; and

4. Effectively provide legal assistance to older individuals residing in congregate residential long-term settings as defined in the Act in section 102(35) (42 U.S.C. 3002(35)), or who are isolated as defined in the Act in section 102(24)(c) (42 U.S.C. 3002(24)(c)), or who are restricted to the home due to cognitive or physical limitations.

Obligations of Legal Service Provider

1. Legal Assistance providers must be licensed in accordance with Minnesota Statutes Chapter 481.

2. The provisions and restrictions in this policy apply to legal assistance provider(s) when they are providing legal assistance under section 307(a)(11) of the Act (42 U.S.C.3027(a)(11)).

3. Legal Assistance providers shall:

A. Provide legal assistance to meet complex and evolving legal needs that may arise involving a range of private, public, and governmental entities, programs, and activities that may impact an older adult's independence, choice, or financial security; and

B. Maintain the expertise and capacity for and provision of effective administrative and judicial representation, which means the expertise and ability to provide the range of services necessary to adequately address the needs of older adults through legal assistance in administrative and judicial forums, as required under the Act. This expertise and capacity includes providing the full range of legal services, from brief service and advice through representation in administrative and judicial proceedings.

C. Conduct administrative and judicial advocacy as is necessary to meet the legal needs of older adults with economic or social need, focusing on such individuals with the greatest economic need or greatest social need:

i. Economic need means the need for legal assistance resulting from income at or below the Federal poverty level, as defined in section 102(44) of the Act (42 U.S.C. 3002(44)), that is insufficient to meet the legal needs of an older individual or that causes barriers to attaining legal assistance to assert the rights of older individuals as articulated in the Act and in the laws, regulations, and Constitution.

ii. Social need means the need for legal assistance resulting from social factors, as defined by in section 102(24) of the Act (42 U.S.C. 3002(24)), that cause barriers to attaining legal assistance to assert the rights of older individuals.

D. Maintain the expertise required to capably handle matters related to the priority case type areas specified under the Act, including income and public entitlement benefits, health

care, long-term care, nutrition, housing, utilities, protective services, abuse, neglect, age discrimination, defense of guardianship, and consumer issues.

E. Maintain the expertise required to address any matters that are related to preserving, maintaining, and restoring an older adult's independence, choice, or financial security.

F. Maintain the capacity to provide effective legal assistance and legal support to other elder justice efforts, including, but not limited to, the Long- Term Care Ombudsman Program serving the planning and service area, as required by section 712(h)(8) of the Act (42 U.S.C. 3058g(h)(8)), and maintain the capacity to form, develop and maintain partnerships with programs or agencies that support older adults' independence, choice, or financial security.

G. Maintain and exercise the capacity to effectively provide legal assistance to older adults regardless of whether they reside in community or congregate settings, and to provide legal assistance to older individuals who are confined to their home, and older adults whose access to legal assistance may be limited by geography or isolation.

H. Maintain the capacity to provide legal assistance in the preferred language used by older individuals seeking and/or receiving legal assistance who are limited-English proficient (LEP), including in oral and written communication.

i. Legal assistance provider(s) shall take reasonable steps to ensure meaningful access to legal assistance by older individuals with limited English-speaking proficiency and other communication needs;

ii. Such reasonable steps require an individualized assessment of the needs of individuals who are seeking legal assistance and legal assistance clients to understand and participate in the legal process (as determined by each individual); and

iii. Legal assistance provider(s) are responsible for providing access to interpretation, translation, and auxiliary aids and services to meet older individuals' legal assistance needs.

I. Maintain staff with knowledge of the unique experiences of older adults with economic or social need and expertise in areas of law affecting such older adults.

J. If not a Legal Services Corporation (LSC) project grantee, coordinate services with existing LSC in the region.

K. Engage in joint-planning and cross-training efforts with the aging network, to include work with the AAAs, the State and direct service programs of the Minnesota Board on Aging.

L. Ensure high quality, cost-effective and high-impact services are delivered, or that clients are appropriately referred to other agencies or organizations for services.

M. Provide the full scope of representation and services as appropriate in applicable Minnesota State and Federal courts and administrative forums.

N. Report aggregate, non-identifying, client and case data in accordance with MBA and AAA monitoring requirements as described in detail in the Procedures section of this document.

O. Work with the AAA and State Legal Assistance Developer to ensure that a legal needs assessment including areas specific to older adults is developed and released on a regular basis.

P. Develop, to the extent possible, a pro bono panel of attorneys and advocates, or coordinate with the local pro bono provider, to expand the provision of legal assistance for older adults within the service area and meet case priorities under the Older Americans Act.

Q. Use AAA funding received for the purpose of legal assistance and legal education to enhance services to eligible individuals and, to the extent practicable, prioritize unmet needs of vulnerable populations. Additionally, any voluntary contributions should be used to expand services and supplement (not supplant) OAA funds.

R. Although a provider may ask about the person's financial circumstances as a part of the process of providing legal advice, counseling, and representation, or for the purpose of identifying additional resources and benefits for which an older person may be eligible, or to meet MBA requirements for reporting on client characteristics; a provider shall not means test as a condition of providing service.

S. Ensure case acceptance priorities for older adult representation and prioritization plans use current OAA guidance, input from the AAA, recent older adult legal needs surveys and other relevant information regarding met and unmet legal needs within the region. Providers will work with AAAs, the LAD, and other aspects of the elder justice community to engage in a survey of the legal needs of older adults on a regular basis. Priorities and prioritization plans should be reviewed jointly, by the AAA and service provider, at least every other year, to ensure appropriate prioritization. Plans should be developed in consultation with the AAA and other partners, as appropriate, to allow for joint identification of sub-groups of elders who are most vulnerable and in need of legal assistance. Based on these plans, providers will establish written procedures for case intake, acceptance and rejection. Sub-groups that should be considered for priority legal assistance services shall include:

- i. Homeless or housing insecure older adults
- ii. Older adults who are part of historically marginalized groups such as black, indigenous, persons of color, and LGBT communities.
- iii. Physically and/or socially isolated older adults, to include those living in rural areas, those with mobility limitations, diminished vision or hearing, and those who are living with disabilities
- iv. Older adults with language barriers or otherwise limited English proficient (including literacy constraints)

- v. Older adults born outside the United States, regardless of immigration status, but special focus on those who are crime victims, those looking to access or maintain eligibility for benefits, and those looking to adjust their immigration status to a more permanent category
- vi. Older adults living in skilled nursing facilities, assisted living facilities, or otherwise receiving waived or government services at the home
- vii. Older adults at risk of guardianship, who are looking to amend or remove guardianship conditions, or are seeking less restrictive alternatives to guardianship such as decisional supports or supported decision-making
- viii. Older adults who are victims of elder abuse, neglect or exploitation (including fraudulent and deceptive financial and consumer practices)
- ix. Older adults with chronic health problems or particular problems of access to health care
- x. Older veterans

This list is not exhaustive, nor in a priority order, but represents a range of possibilities. In addition, consideration should be given on the local level to the existence and availability of other resources to meet the legal needs of locally identified target populations.

T. Offer quarterly community legal education sessions, with a minimum of four distinct sessions per year. Sessions should differ in duration, presentation type (such as: written/ verbal/ in-person/ virtual). Session rate / cost must include items such as staff time for preparation and presentation, driving, supplies and materials, and other aspects as determined necessary through negotiations.

U. Hold office hours and engage targeted outreach efforts (including, but not limited to off-site clinics or legal kiosks), and be available to make home visits as necessary, to make legal assistance reasonably accessible to vulnerable and isolated older persons in the provider's area.

V. Adopt and abide by the Memorandum of Understanding (MOU) between the Office of Ombudsman for Long Term Care and Legal Service Providers as required by section 712(h)(8) of the Act (42 U.S.C. 3058(g)(h)(8)). The MOU will be incorporated into the fully executed contract between the AAA and the provider.

Other Legal Assistance Provider Requirements

1. A legal assistance provider may not require an older person to disclose information about income or resources as a condition for providing legal assistance under this part.
3. A legal assistance provider and its attorneys may engage in other legal activities to the extent that there is no conflict of interest nor other interference with their professional responsibilities under this Act.
4. Legal assistance providers that are not housed within Legal Services Corporation grantee entities shall coordinate their services with existing Legal Services Corporation projects to

concentrate funds under this Act in providing legal assistance to older adults with the greatest economic need or greatest social need.

5. Nothing in this section is intended to prohibit any attorney from providing any form of legal assistance to an eligible client, or to interfere with the fulfillment of any attorney's professional responsibilities to a client.

6. Legal assistance provider attorneys, and non-attorney personnel under the supervision of legal assistance attorneys, must adhere to the applicable Minnesota Rules of Professional Conduct.

Restrictions on Legal Assistance

1. No legal assistance provider(s) shall use funds received under the Act to provide legal assistance in a fee generating case unless other adequate representation is unavailable or there is an emergency requiring immediate legal action. All providers shall establish procedures for the referral of fee generating cases.

A. "Fee generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

B. Other adequate representation is deemed to be unavailable when:

i. Recovery of damages is not the principal object of the client; or

ii. A court appoints a provider or an employee of a provider pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

iii. An eligible client is seeking benefits under Title II of the Social Security Act (42 U.S.C. 401 et seq.), Federal Old Age, Survivors, and Disability Insurance Benefits; or Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), Supplemental Security Income for Aged, Blind, and Disabled.

2. A provider may seek and accept a fee awarded or approved by a court or administrative body or included in a settlement.

3. When a case or matter accepted in accordance with this section results in a recovery of damages, other than statutory benefits, a provider may accept reimbursement for out-of-pocket costs and expenses incurred in connection with the case or matter.

Legal Assistance Provider Prohibited Activities

1. Prohibited activities of legal assistance providers (inclusive of all individuals employed by the provider) include the following political activities:

A. No provider or its employees shall contribute or make available funds, personnel, or equipment provided under the Act to any political party or association or to the campaign of any

candidate for public or party office; or for use in advocating or opposing any ballot measure, initiative, or referendum;

B. No provider or its employees shall intentionally identify the Title III program or provider with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office; or

C. While engaged in legal assistance activities supported under the Act, no provider or its employees shall engage in any political activity.

2. No funds made available under the Act shall be used for lobbying activities including, but not limited to, any activities intended to influence any decision or activity by a nonjudicial Federal, State, or local individual or body.

A. These limitations are not intended to prohibit an employee from:

i. Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;

ii. Informing a client about a new or proposed statute, executive order, or administrative regulation relevant to the client's legal matter;

iii. Responding to an individual client's request for advice only with respect to the client's own communications to officials unless otherwise prohibited by the Act, Title III regulations or other applicable law. This provision does not authorize publication or training of clients on lobbying techniques or the composition of a communication for the client's use;

iv. Making direct contact with the area agency for any purpose; or

v. Testifying before a government agency, legislative body, or committee at the request of the government agency, legislative body, or committee.

B. A provider may use funds provided by private sources to engage in lobbying activities if a government agency, elected official, legislative body, committee, or member thereof is considering a measure directly affecting activities of the provider under the Act;

C. While carrying out legal assistance activities and while using resources provided under the Act, by private entities or by a recipient, directly or through a subrecipient, no provider or its employees shall:

i. Participate in any public demonstration, picketing, boycott, or strike, whether in person or online, except as permitted by law in connection with the employee's own employment situation;

ii. Encourage, direct, or coerce others to engage in such activities; or

iii. At any time engage in or encourage others to engage in:

a. Rioting or civil disturbance; activity determined by a court to be in violation of an outstanding injunction of any court of competent jurisdiction; any illegal activity; any intentional identification of programs funded under the Act or recipient with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

D. None of the funds made available under the Act may be used to pay dues exceeding a reasonable amount per legal assistance provider per annum to any organization (other than a bar association), a purpose or function of which is to engage in activities prohibited under these regulations. Such dues may not be used to engage in activities for which Older Americans Act funds cannot be directly used.

Procedures

Contracts between AAAs and Legal Service Providers

AAA contracts with legal assistance providers must include the following provisions:

1. The contract shall specify that legal assistance provider(s) shall demonstrate capacity to:
 - A. Maintain expertise in specific OAA legal priority areas, as defined elsewhere in this policy.
 - B. Prioritize representation and advice that focus on the specific areas of law that give rise to problems disparately experienced by older adults with economic or social need.
 - C. Maintain staff with the expertise, knowledge, and skills to deliver legal assistance as described in this section.
 - D. Engage in reasonable efforts to involve the private bar in legal assistance activities authorized under the Act, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis.
 - E. Ensure that attorneys and personnel under the supervision of attorneys providing legal assistance will adhere to the applicable Rules of Professional Conduct including, but not limited to, the obligation to preserve the attorney-client privilege.
2. The contract shall include provisions:
 - A. Describing the duty of the area agency to refer older adults to the legal assistance provider(s) with whom the area agency contracts. In fulfilling this duty, the area agency is precluded from requiring a pre-screening of older individuals seeking legal assistance or from acting as the sole and exclusive referral pathway to legal assistance.
 - B. Requiring the contracted legal assistance provider(s) to maintain capacity to provide legal assistance in the preferred language used by older individuals seeking and/or receiving legal assistance, including oral, visual, sensory and written communication, and to ensure effective communication for individuals with disabilities, including by providing appropriate auxiliary aids and services where necessary, including the following:

- i. Requiring legal assistance providers take reasonable steps to ensure meaningful access to legal assistance by older individuals with limited-English proficiency, including an individualized assessment of an individual's need to understand and participate in the legal process (as determined by each individual).
- ii. Stating the responsibility of the legal assistance provider to provide access to interpretation and translation services to meet clients' needs.
- iii. Taking appropriate steps to ensure communications with persons with disabilities are as effective as communication with others, including by providing appropriate auxiliary aids and services where necessary to afford qualified persons with disabilities an equal opportunity to participate in, and enjoy the benefits of, legal assistance. This includes use of ASL/ CART services, relay interpreters and multiple interpreters when working with populations who are deaf, deafblind or hard of hearing.

C. Providing that the area agency will support the legal service provider in marketing education sessions and the AAA will itself engage in outreach activities that include information about the availability of legal assistance to address problems experienced by older adults , such as those referenced in sections 306(a)(4)(B) and 306(a)(19) of the Act (42 U.S.C. 3026(a)(4)(B) and 3026(a)(19)). The AAA will also support the legal service provider in establishing new types of access such as the legal risk detector and outreach or information gathering processes such as an older adult legal needs survey. This support by the AAA will bolster the targeting efforts of the provider ensuring that persons served include:

- i. Older adults with greatest economic need due to low income and to those with greatest social need, including minority older individuals; and
- ii. Older adults of underserved communities, including:
 - a. Older adults with limited-English proficiency and/or whose primary language is not English;
 - b. Older adults with severe disabilities;
 - c. Older adults living in rural areas;
 - d. Older adults at risk for institutional placement; and
 - e. Older adults with Alzheimer's disease and related disorders with neurological and organic brain dysfunction and their caregivers.

D. Providing that legal assistance provider attorney staff and non-attorney personnel under the supervision of legal assistance attorneys must adhere to the applicable Minnesota Rules of Professional Conduct.

E. Requiring that if the legal assistance provider(s) contracted by the area agency is located within a Legal Services Corporation grantee entity, that the legal assistance provider(s) shall adhere to the specific restrictions on activities and client representation in the Legal Services Corporation Act (42 U.S.C. 2996 et seq.). Exempted from this requirement are:

- i. Restrictions governing eligibility for legal assistance under such Act;
- ii. Restrictions for membership of governing boards; and

iii. Any additional provisions as determined appropriate by the Assistant Secretary for Aging.

Annual Meetings and Activities

1. AAAs and legal service providers should discuss community legal education and outreach/prioritization goals on an annual basis. AAAs should encourage providers to offer education and information through a variety of forums and accessible formats including, but not limited to: in-person or virtual presentations; a staffed table/ booth/ exhibit at a public event or outreach engagement; formal presentation of legal issues and provider access information on radio, TV, or web site, and social media platforms. A provider is expected to use a variety of formats in order to engage targeted populations, an example of a work plan reflecting how such sessions could be developed and reported follows this section. AAAs should make efforts to facilitate education events for legal service providers with contracted and partner organizations.
2. On an annual basis, the legal service provider will meet with a representative of the Office of the Ombudsman for Long Term care to discuss ongoing coordination, communication and appropriate targeting of services to the populations served by the OOLTC. The existing MOU between legal provider and OOLTC will also be reviewed on an annual basis. If requested, the State Legal Assistance Developer will assist by facilitating these meetings. As possible, advocacy activities may also be coordinated with the local program office or regional ombudsman.
3. On an annual basis, the legal service provider will meet with a regional Senior Linkage Line representative from the local AAA to enhance understanding, ensure appropriate referral protocols and establish stronger working relationships between the two services of the AAA. If requested, the State Legal Assistance Developer will assist by facilitating these meetings.
4. The legal service provider will develop annual workplans for community legal education programs and outreach strategies that incorporate the most recent information from older adult legal needs surveys, general legal needs studies, regional legal priorities and other relevant information. The AAA should share information regarding education programs and outreach plans with elder justice network providers and other AAA providers to allow for effective collaboration and appropriate prioritization of client subpopulations.
5. The State Legal Assistance Developer, working with AAAs, shall ensure that all state legal assistance providers receiving Title III B monies meet at least once annually to discuss statewide legal needs and propose targets for effective and quality legal services under the Older Americans Act. The purpose of this meeting is to coordinate community legal education sessions and the provision of legal services to older adults, and to engage in joint planning and cross training efforts with other legal assistance providers as well as members of the elder justice community and direct services of the MBA.
6. The State Legal Assistance Developer will schedule a minimum of two annual meetings with AAA staff involved with legal assistance programming. These meetings will be set in the

second and fourth quarters of each year to review contract work plans, goals, progress and updated information regarding legal needs as identified through submitted reports and other data from the regional AAA and legal service provider. One of these meetings must include the legal service provider(s) currently serving as the AAA's Title III legal provider.

Record Keeping and Reporting Requirements

1. Legal assistance providers will use the Older Americans Act Performance System (OAAPS) guidelines to collect and report client and case data to the AAA and MBA on a quarterly basis. The MBA will provide reporting instructions and specific definitions to ensure compliance with the OAAPS system. The OAAPS system follows a federal fiscal year, beginning each October 1 and ending September 30. As AAA contracts with service providers are on a calendar year schedule, beginning January 1 and ending December 31, the reporting timelines to be followed are set out below:

A. On January 10 (or a contractually defined date): Provider sends reporting information directly to AAA. On or before January 15, the AAA submits all reporting information received from provider (OAAPS spreadsheet, narrative, and persons served reports) to State Legal Assistance Developer via Foundant.

- i. Provider will submit an OAAPS report on the Legal Server Upload spreadsheet template. This quarterly report should include all direct representation legal services provided by the entity between October 1 and December 31.
- ii. Provider will submit a report showing the number of persons served and amount of money spent down during the quarter, October 1-December 31.
- iii. Provider will submit a report including case narratives, unmet legal needs, and education/ outreach from October 1- December 31.

B. On April 10 (or a contractually defined date): Provider sends reporting information directly to AAA. On or before April 15, AAA submits all reporting information received from provider (OAAPS spreadsheet, narrative and persons served reports) to State Legal Assistance Developer via Foundant.

- i. Provider will submit an OAAPS report on the Legal Server Upload spreadsheet template. This quarterly report should include all direct representation legal services provided by the entity between January 1 and March 31.
- ii. Provider will submit a report showing the number of persons served and amount of money spent down during the quarter, January 1-March 31.
- iii. Provider will submit a report including case narratives, unmet legal needs, and education/ outreach from January 1-March 31.

C. On July 10 (or a contractually defined date): Legal services provider sends reporting information directly to AAA. On or before July 15, AAA submits all reporting information received from provider (OAAPS spreadsheet, narrative, and persons served reports) to State Legal Assistance Developer via Foundant.

- i. Provider will submit an OAAPS report on the Legal Server Upload spreadsheet template. This quarterly report should include all direct representation legal services provided by the entity between April 1 and June 30.
- ii. Provider will submit a report showing the number of persons served and amount of money spent down during the quarter. Provider will submit a report including case narratives, unmet legal needs, and education/ outreach from April 1- June 30.

D. On October 10 (or a contractually defined date): Legal services provider sends reporting information directly to AAA. On or before October 15, AAA submits all reporting information received from provider (OAAPS spreadsheet, narrative, and persons served reports) to State Legal Assistance Developer via Foundant.

- i. Provider will submit an OAAPS report on the Legal Server Upload spreadsheet template. This quarterly report should include all direct representation legal services provided by the entity between July 1- September 30.
- ii. Provider will submit a report showing the number of persons served and amount of money spent down during the quarter.
- iii. Provider will submit an OAAPS report on the Legal Server Upload spreadsheet template. This **FULL FEDERAL FISCAL YEAR** report should include all direct representation legal services provided by the entity between October 1 and September 30.
- iv. Provider will submit a report including case narratives, unmet legal needs, and education/ outreach from July 1- September 30.

b. Reporting Templates include the following:

- i. [Narrative Template with Fillable Fields](#)
- ii. [Upload Tool- Modified](#)
- iii. [Reporting Documentation](#)
- iv. [Reporting Flow](#)

2. AAA staff will ensure that legal services reporting is accurate, complete and will submit to MBA on or before the 15th day of the month following the end of the quarter. In addition, AAA staff must update legal service information within Grant Utility, including, but not limited to, persons served, units of service, financials, etc., on or before the 15th day of the month following the end of each quarter.

Provision of Title III Services Policy #6: Nutrition Services

Authority Reference	OAA, Sections 307(a)(13), 331, 336, 337 and 339 45 CFR 1321.87 Minnesota Statutes 256.9752 and 148.621-635 Minnesota Rules 4625, 4626, 3250
Operating Category	Provision of Title III Services

Policies

1. Nutrition services are community-based interventions including congregate meals, home-delivered meals, nutrition education, nutrition counseling, and other nutrition services.

A. Congregate meals are meals meeting federal Older Americans Act requirements to eligible individuals and consumed while congregating virtually or in-person. These requirements include providing the following:

- i. A minimum of 33 1/3 percent of the DRIs for one meal per day.
- ii. A minimum of 66 2/3 percent of the DRIs for two meals per day.
- iii. A minimum of 100 percent of the DRIs for three meals per day. To a limited extent defined elsewhere in this policy, congregate meals may also be complemented with shelf-stable, pick-up, carry-out, drive-through, or similar meals paid for by Title III, part C-1 funds.

B. Home-delivered meals are meals meeting federal Older Americans Act requirements to eligible individuals and consumed at their residence or otherwise outside of a congregate setting, as organized by a service provider. Meals may be provided via home delivery, pick-up, carry-out, drive-through, or similar meals.

C. Nutrition education is information provided under Title III, parts C-1 or 2 which provides individuals with the knowledge and skills to make healthy food and beverage choices. Congregate and home-delivered nutrition services providers shall provide nutrition education, as appropriate, based on the needs of meal participants.

D. Nutrition counseling is a service provided under Title III, parts C-1 or 2 which must align with the Academy of Nutrition and Dietetics. Congregate and home delivered nutrition services providers shall provide nutrition counseling, as appropriate, based on the needs of meal participants, the availability of resources, and the expertise of a Registered Dietitian Nutritionist.

E. Other nutrition services include additional services provided under Title III, parts C-1 or 2 that may be provided to meet nutritional needs or preferences of eligible participants, such as weighted utensils, supplemental foods, oral nutrition supplements, or groceries.

2. Nutrition projects are defined as congregate dining sites or home-delivered meal programs that are open and providing service at least five days per week and provide meals as specified in this policy and the citations noted above.

a. Regardless of grab and go meals that may be available at a congregate site, each congregate site must be open and serve congregate meals at least five days per week. Grab and go meals are a complement to the congregate dining program.

b. Home delivered meal providers must deliver at least five meals per week. Home-delivered meal providers may deliver those meals on fewer than five days, but must be open and available to provide nutrition services five days per week, including accommodating urgent service needs and requests. Home-delivered meal providers may deliver fewer than five meals per week to those clients requesting fewer meals per week.

3. Nutrition service providers must use at least the minimum Title III-C Nutrition Standards, which may be accessed at <https://acl.gov/senior-nutrition/nutrition-guidelines>. AAAs have the flexibility to establish higher standards than the minimum standards to meet local needs and circumstances.

4. All provisions of these policies apply to both congregate and home-delivered nutrition projects unless otherwise stated.

5. The AAA shall award funds as available to provide nutrition projects, nutrition education, nutrition counseling, and other nutrition services to older persons. Title III C-1 and C-2 funds and state appropriations for meals shall be awarded on a calendar year basis. The AAA must make available the full amount of the New Obligational Authority for Nutrition each year.

6. Payments for meals shall be based on the number of monthly service unit counts in PeerPlace for eligible individuals who received at least one unit of service during the service period multiplied by the relevant contractual rate. Payment should be made only for units of service delivered to eligible participants.

7. Service providers must ensure the following: for nutrition services, including both home-delivered meals and congregate dining: every unit of service reported for a given week must be tied to a specific person and a specific date of service. These data must be uploaded into PeerPlace on a weekly basis. This can be done electronically through bar code scanning or, if preferred by the service provider, manually.

8. Menus and Meal Standards

A. Menus must be planned on a cycle basis for a minimum period of five weeks. Cycle menus and special menus must be planned and/or approved by a Licensed Dietitian or Licensed Nutritionist at the AAA or nutrition provider level.

B. Meals must provide at least one-third of the Recommended Dietary Allowance (RDA) as established by the Food and Nutrition Board of the National Academy of Sciences Research Council, and comply with the U.S. Dietary Guidelines for Americans.

C. OAA requires that all meals served using OAA funds adhere to the current Dietary Guidelines for Americans, provide a minimum of one-third of the Dietary Reference Intakes.

D. If more than one meal is served daily, the combined meals must contain at least two-thirds of the RDA for two meals, and 100% of the RDA for three meals.

E. Liquid nutrition supplements may be used as a supplement to meals for individuals with special dietary needs, on a case-by-case basis. Prior to receiving liquid supplements, individuals will be assessed by a licensed dietitian or other qualified health professional, to determine nutritional needs appropriate for age, health condition, or illness and to identify special dietary needs and tolerances. The provider must have a system intact to monitor acceptability and consumption of liquid supplements, with follow-up visits as needed. The supplement chosen and amount dispensed must supply at least one-third of the RDA. A physician's order may be required. Nutrition funds may not be used to provide life support. While OAA Title III funds may be used to purchase liquid supplements, a liquid supplement by itself cannot be counted as a meal. When counting meals for purposes of the Nutrition Services Incentive Program (NSIP) funding or for OAA reporting purposes, "meals" containing only liquid supplements cannot be counted. If liquid supplements are served in addition to a meal that meets the OAA nutritional requirements, that meal plus the liquid supplement would count as one meal. Additionally, NSIP funds can only be used to purchase domestically produced foods; not liquid supplements.

F. Vitamin and mineral supplements may not be purchased with nutrition project funds.

G. At a minimum, special meal menus such as diabetic and low sodium meals shall be available. Low fat meals are recommended. The AAA or nutrition provider shall determine the calorie and sodium levels which will be offered. The nutrition provider will provide appropriate instructions to food preparation sites and caterers. Substitutes for the high sugar and sodium items on the regular menus must be available. Information describing modified diets must be accessible for referring agencies.

i. A physician's diet order may be required to receive special menu meals and shall be renewed as agreed upon with the physician.

9. Food Procurement, Health, and Safety Standards

A. All food procurement from a vendor must meet minimum food grades and standards as per Title III Nutrition Standards and Definitions.

B. All goods privately contributed to the nutrition program must meet those standards of quality, sanitation, and safety that apply to foods that are purchased commercially by the program.

C. Foods prepared or canned in the home may not be used in meals provided by the nutrition service providers. Foods that are uncooked and donated by participants may be used and may also be prepared for freezing at the sites for future use.

D. All service providers must adhere to state or local Board of Health Requirements for Food and Beverage Establishments and be subject to review by the Health Department Sanitarians. Exceptions to these regulations must be approved by the State Board of Health in writing.

E. Food temperatures at the time of service and at the time of delivery must adhere to temperatures specified by Minnesota Food Code.

<https://www.revisor.mn.gov/rules/4626.0395/>

F. Raw animal foods shall be cooked to temperatures specified by Minnesota Food Code.

<https://www.revisor.mn.gov/rules/4626.0340/>

G. Nutrition programs must utilize temperature probes for checking food temperatures. In addition, refrigerators and freezers located at food preparation and service site must have thermometers.

H. Insulated hot and cold containers will be used on delivery routes to maintain foods at acceptable temperatures.

I. All nutrition services preparation sites must be licensed and serving sites must be approved by the state and local Boards of Health.

J. Nutrition programs will certify food managers, as required by state and local health boards.

10. Collecting and Analyzing Data to Monitor and Plan Service Delivery

A. AAAs are required to examine patterns of utilization, prioritization, and efficiency with respect to their nutrition programs. These processes are important to help provide a consistent approach to analysis and decision-making about nutrition services on a statewide basis. The methodology for conducting these analyses is described under "Procedures" below.

11. Food Assistance Programs

A. All nutrition providers under Title III must request reimbursement from HHS for meals served to eligible participants through the MBA. A reliable reporting system must be in place to assure accurate recording of Nutrition Services Incentive Program (NSIP) eligible meals.

B. To be eligible for NSIP reimbursement, a meal must meet all of the following criteria, as per the citations above.

- i. The meal or meals must meet federal OAA nutrition requirements. Including that the meal meets the Dietary Guidelines for Americans and Dietary Reference Intakes consistent with OAA Section 339;
- ii. The meal or meals will be available under Title III of the OAA to individuals age 60 and over and their spouses, regardless of age, and may be made available to other eligible participants under the age of 60 which include (a) disabled individuals who reside in housing facilities occupied primarily by older individuals at which congregate nutrition service are provided; (b) individuals with disabilities who reside at home with and accompany older eligible individuals; and (c) individuals providing volunteer services during the meal hours;
- iii. The meal or meals will be available under Title VI of the OAA to older Indians who have attained the minimum age determined by the tribe for services or older Hawaiians, age 60 and over, and may be available to other under age 60 eligible participants as defined under Title III of the OAA;
- iv. The meal or meals must be served by an agency which has a grant or contract with an AAA;
- v. The meal is served to an individual who has an opportunity to voluntarily contribute toward the cost of the meal;
- vi. The meal is provided to the participant without a mandatory fee or on a means-tested basis. Although this may be a means for local organizations to subsidize the program, NSIP reimbursement cannot be authorized for meals with a set fee. Contributions may be collected but only on an understood voluntary basis; and
- vi. The earned NSIP reimbursement is guaranteed not to be used to supplant funds previously earmarked for services for older persons (i.e., replace funds that were awarded through grants/contracts for specific purposes).

12. Other Requirements

- A. All nutrition service providers must establish ongoing outreach services to assure that the maximum number of low income, hard-to-reach, isolated, and withdrawn older people have the opportunity to participate, including older minorities, hearing impaired, and visually impaired older people.
- B. All nutrition service providers must establish and carry out a systematic program of nutrition education. Nutrition education is required quarterly and recommended monthly. Providers will use the MBA/NAPIS service definition to develop nutrition education plans. Nutrition education plans will be approved by the licensed dietitian or licensed nutritionist.

C. Meal providers must establish methods for provision and/or referral to other supportive services such as transportation, in-home services, and housing assistance.

D. Each congregate nutrition site must post in a conspicuous location, the average total cost of the meal and service, and a suggested contribution schedule. All eligible participants must be given the opportunity to contribute towards the cost of the meal and service consistent with the Voluntary Contribution Policy (Policy XX). Service providers may establish procedures to accept SNAP/EBT as a form of voluntary contribution. Non-eligible participants and/or guests must pay the full cost of the meal, or an amount determined by the AAA and service provider.

E. Each service provider must periodically obtain the advice of persons competent in the field of nutrition, older individuals who are participants, and persons knowledgeable in the needs of the elderly and solicit their input about effective delivery of service.

13. Option for "Grab and Go" Meals

A. MBA and AAAs may spend up to 25 percent of C-1 funds to complement the congregate dining program through shelf-stable, pick up, carry-out, drive-through, or similar meals. AAA procedure regarding these meals will be outlined in the area plan. The 25 percent maximum shall be calculated based on the amount of Title III, part C-1 funds available after all transfers under 1321.9(c)(iii) are completed. Meals may be provided in this manner in the following circumstances:

- i. During disaster or emergency situations affecting the provision of nutrition services;
- ii. To older individuals who have an occasional need for such a meal; and/or
- iii. To older individuals who have a regular need for such a meal, based on an individualized assessment, when targeting services to those in greatest economic need and greatest social need.

14. State Nutrition Funds

State nutrition funds allocated to an AAA for nutrition support services may be used for the following:

- A. Transportation of home-delivered meals and purchased food and medications to the residence of a senior citizen;
- B. Expansion of home-delivered meals into unserved and underserved areas;
- C. Transportation to supermarkets or delivery of groceries from supermarkets to homes;
- D. Vouchers for food purchases at selected restaurants in isolated rural areas;
- E. Supplemental Nutrition Assistance Program (SNAP) outreach;
- F. Transportation of seniors to congregate dining sites;

G. Nutrition screening assessments and counseling as needed by individuals with special dietary needs, performed by a licensed dietitian or nutritionist; and

H. Other appropriate services which support senior nutrition programs, including new service delivery models.

I. An AAA may transfer unused funding for nutrition support services to fund congregate dining services and home-delivered meals.

Procedures

1. AAAs need to describe all responsibilities of service providers offering nutrition services in Requests for Proposals and contracts for these services.

2. AAAs shall conduct site visits to at least one third of its congregate and home-delivered meal sites (or twenty sites, whichever is less) each year. In addition, AAAs shall make spot-check site visits as needed as part of its monitoring responsibility. Please refer to AAA Operations Policy #8 (AAA Monitoring of Service Providers) for more information on monitoring requirements.

3. AAAs should analyze utilization, prioritization, and efficiency using the following process:

A. Utilization should be the starting point for review of site level data. Providers are paid on the number of meals served, making the number of meals served a good unit of analysis for utilization.

i. Measure: To what extent is the site providing Title III meals to older adults in sufficient quantity to impact the older adult's nutritional health/intake?

ii. Assumptions:

- Older adults who receive Title III meals only a few times a month are usually not those most in need. They probably have access to healthful foods through other means.
- Older adults who receive Title III meals more than 15 times per month are likely to be those most in need. They probably do not have access to healthful foods through other means.
- Older adults who are most in need may not receive Title III meals every day because they may receive meals through other means (i.e. EW or AC, family support, other services, etc.).
- Older adults may need meals for a short period of time, such as after a discharge from a hospital.

iii. Indicators:

- Number and Percentage of participants by site who receive 5 or fewer meals in a selected one-month period.

- Number and Percent of participants by site who receive 15 or more meals in a selected one-month period.

B. Prioritization

Once utilization patterns are reviewed, it is important to look at prioritization. This process helps answer whether or not the site is serving those most in need.

i. Measure: To what extent is the site providing meals to those most in need of access to healthful foods?

ii. Assumptions:

- Missing data should be considered when reviewing prioritization data. As data collection improves over time, this measure will be more reliable.
- Up-to-date NAPIS registration/screenings also impact the reliability of prioritization data.

iii. Indicators:

Congregate

- The percentage of program participants who have a nutrition risk conclusion of High.
- The percentage of program participants who have incomes less than 200% Federal Poverty Level.
- The percentage of program participants who are from a diverse population.

Home-Delivered Meals

- The percentage of program participants who have a nutrition risk conclusion of High.
- The percentage of program participants who have 2 or more limitations in Activities of Daily Living (ADLs).
- The percentage of program participants who have incomes less than 200% FPL.
- The percentage of program participants who are from a diverse population.

C. Efficiency

Efficiency is important because it helps ensure the maximum impact of limited funds.

i. Measure: To what extent is the site providing meals in an efficient manner?

ii. Assumptions:

- There may be changes that could be made at the site level without having to close a site.
- There needs to be a balance between efficiency and choice (meal type, delivery method, and number of meals).
- Serving individuals with higher need may mean that costs are higher per meal.

iii. Indicators:

- Total # Unduplicated Title III Persons/Year (Actual Prior Yr)
- Total # of Title III Meals (Actual Prior Yr)
- Current Meal Type
- Method of Meal Preparation
- Names of Meal Provider e.g. caterer, central prep, other
- Title III C2 Delivery Type
- Proximity to other nutrition sites

Provision of Title III Services Policy #7: Closing/Relocating or Establishing a New Senior Nutrition Site

Authority Reference	Minnesota Statutes 256.975, Subd 2.7
Operating Category	Provision of Title III Services

Policy

1. A senior nutrition site is defined as either a congregate dining site or a central kitchen that prepares meals for home delivery.
2. Senior dining site locations shall fulfill the requirement of federal regulations to locate congregate nutrition services close to the majority of eligible older people and to have the location acceptable to the participants who will use them.
3. A service provider may not relocate or close an existing senior dining site without obtaining the written approval of the AAA prior to relocating or closing the senior dining site.
 - A. Determination shall be based on having exhausted all options for keeping the site open, or relocated, to serve the same prioritized population if demographic data and utilization of services supports continued need for a senior nutrition site in that community.
 - B. The AAA shall determine if permanent closing of a meal site is justified and properly documented.
 - C. If the site closing is approved, the nutrition contractor shall assure that the participants receive at least a one-month notice and efforts are made to transfer the participants to another site. When highly unusual extenuating circumstances make it impractical to provide participants a full 30-day notice of site closure, the AAA shall consult with the MBA on the situation and best practical measures to assist participants.
 - D. Upon approval for relocation, meals, nutrition education, and outreach will be furnished, as appropriate, to any relocated site in accordance with the terms of the contract.

- E. The AAA and nutrition contractor will equitably adjust the nutrition contractor's fee for furnishing the service based on the actual cost of the new site furnishing the service.
- 4. If the local public health department has determined that a senior dining site shall be closed due to health code violations, the nutrition contractor shall:
 - A. Work with the health department to rectify any violations leading to the closing.
 - B. Submit to AAA a written corrective plan of action within seven days from the time of notification of closing. The plan shall outline the steps to be taken within 30 days, or the time frame established by the health department, to correct the violation and receive another inspection report from the health department.
 - C. The AAA may withhold funds from the nutrition contractor for the portion of the program associated with the closing.
- 5. A service provider must consult with and obtain approval from the AAA prior to opening a new senior dining site.
 - A. Approval for the opening of a new site will be based on, but not limited to, the following:
 - i. Number of older adults in greatest social need and/or greatest economic need in the area;
 - ii. Evidence of community support, including space, staff, etc.;
 - iii. Availability of volunteers;
 - iv. Lack of nutrition services in the area;
 - v. Availability of other services from a community focal point; and
 - vi. Funding beyond Older Americans Act Title III C funding for a specific site or for nutrition services across the PSA.

Procedures

- 1. A service provider requesting to relocate or close an existing senior dining site must begin consulting with the AAA about this request a minimum of 90 days prior to relocation or closure.

2. A service provider must document why it is requesting to close or relocate an existing senior dining site; how the closure or relocation will impact clients currently served by that senior dining site; and how the service provider will mitigate negative impacts to those currently being served.
3. A service provider requesting to open a new senior dining site shall submit the following information in writing to the AAA for the AAA's review, consideration and approval prior to the opening of the new dining site:
 - A. Documentation of need
 - B. Location of new senior nutrition site selected and a brief description on how it meets the senior nutrition site criteria
 - C. A budget showing the cost of operation of a new senior nutrition site as it relates to the program budget and funding sources must be submitted prior to AAA approval for senior nutrition site opening, and
 - D. Staffing plan.
4. The nutrition contractor shall ensure written eligibility criteria for senior dining site participants, and contributions for senior dining site meals are in compliance with Provision of Title III Services Policy #6: Nutrition Services.

Provision of Title III Services Policy #8: Food Delivery Support

Authority Reference	Minnesota Statutes 256.9752, Subd. 1(a) – (c)
Operating Category	Provision of Title III Services

Policy

1. The State of Minnesota created a special revenue account under the provisions of Minnesota Statutes 256.9752, Subd. 1(a) – (c).
2. MBA will annually distribute the funds in the special revenue account to AAAs according to the Intrastate Funding Formula.
3. AAAs must, in turn, distribute these funds for grants to nonprofit organizations to provide transportation of home-delivered meals, groceries, purchased food, or a combination, to Minnesotans who are experiencing food insecurity and have difficulty obtaining or preparing meals due to limited mobility, disability, age, or resources to prepare their own meals.
4. Funds available for this purpose may only be used to pay for the cost of transporting the meals, groceries, or purchased food rather than for the food, groceries, or the cost of preparing the food.
5. Due to the statutory requirement that funds be made available to nonprofit organizations, the funds may not be used to pay for food delivery services provided by private, for-profit companies. AAAs may not seek a waiver for this purpose.
6. A nonprofit organization receiving these funds must have a demonstrated history of providing and distributing food customized for the population that they serve.
7. These grant funds will be managed according to state grants management policies and procedures.

Procedures

1. AAAs must include information about this funding stream and what it can be used to pay for in their Requests for Proposals and contracts for Nutrition

services. The funds may be used to pay for the cost of transporting home-delivered meals, groceries, purchased food or any combination of these for nonprofit service providers.

2. Amounts are typically made available in July of each year and are intended to be spent by December 31 of the year in which they are made available.

Provision of Title III Services Policy #9: Health Promotion Services

Authority Reference	OAA , Sec. 102(14), 361, 362 45 CFR 1321.89
Operating Category	Provision of Title III Services

Policy

1. Evidence-based disease prevention and health promotion services programs are community-based interventions as set forth in Title III, part D of the OAA that have been proven to improve health and well-being and/or reduce risk of injury, disease, or disability among older adults. All programs provided using these funds must be evidence-based and must meet the Act's requirements and HHS guidance.
2. MBA is required to distribute all funds provided under Title III, part D of the Act each year through the Intrastate Funding Formula.
3. The AAAs shall award all new Title III-D (Disease Prevention and Health Promotion) funds each year through grants or contracts with service providers able to provide evidence-based services. Title III-D funding may be used only for programs and activities demonstrated to be evidence-based.
4. There are two ways to assess whether Title III-D funds can be spent on a particular program.
 - A. The program meets the requirements for HHS' Evidence-Based Definition (see below) or
 - i. Demonstrated through evaluation to be effective for improving the health and well-being or reducing disease, disability and/or injury among older adults; and
 - ii. Proven effective with older adult population, using Experimental or Quasi-Experimental Design;* and
 - iii. Research results published in a peer-review journal; and
 - iv. Fully translated** in one or more community site(s); and includes developed dissemination products that are available to the public.

*Experimental designs use random assignment and a control group. Quasi-experimental designs do not use random assignment.

**For purposes of the Title III-D definitions, being "fully translated in one or more community sites" means that the evidence-based program in question has been carried out at the community level (with fidelity to the published research) at least once before. Sites should only consider programs that have been shown to be effective within a real-world community setting;

- B. The program is considered to be an "evidence-based program" by any

operating division of the U.S. Department of Health and Human Services (HHS) and is shown to be effective and appropriate for older adults.

- C. Lists of evidence-based programs are available from the [National Council on Aging](#) and the [Administration for Community Living](#).
5. Health promotion and disease prevention activities that do not meet HHS's definition for use of [OAA](#) Title III D funds, may be funded under other sources such as [OAA](#) Title III B or other non-federal funding sources. Activities may include those defined in the [OAA](#) (Section 102(14)) for example:
- (A) health risk assessments;
 - (B) routine health screening;
 - (C) nutritional counseling and educational services for individuals and their primary caregivers;
 - (E) programs regarding physical fitness, group exercise, and music therapy, art therapy, and dance-movement therapy;
 - (F) home injury control services;
 - (G) screening for the prevention of depression, coordination of community mental and behavioral health services, provision of educational activities, and referral to psychiatric and psychological services;
 - (H) 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.);
 - (I) medication management screening and education;
 - (J) information concerning diagnosis, prevention, treatment, and rehabilitation concerning age-related diseases and chronic disabling conditions;
 - (K) gerontological counseling; and
 - (L) counseling regarding social services and follow-up health services based on any of the services described in subparagraphs (A) through (K). The term shall not include services for which payment may be made under titles XVIII and XIX of the Social Security Act.
6. Disease Prevention and Health Promotion services are targeted to persons 60 years of age or older. Priority shall be given to older individuals with greatest economic and/or greatest social need.
7. AAAs shall give priority to providing services to areas that are medically underserved and in which there are a large number of individuals who have the greatest economic need for such services.

Procedures

1. AAAs must include the requirement for programs to be evidence-based in their Requests for Proposals and contract or grant agreement documents.
2. AAAs are strongly encouraged to promote Title III-D activities with their community-based partners to ensure broad participation involving populations with greatest social need and greatest economic need.
3. Services are to be implemented and provided per the fidelity guidelines of the evidence-based program. There are several fidelity hubs and fidelity evaluation tools available from National Council on Aging (NCOA) and HHS, including these resources:
 - a. [HHS Fidelity Worksheet](#) and [Fidelity Monitoring Tool](#)
 - b. [NCOA Monitoring Tool](#)
4. AAAs must report data on persons served and expenditures in Grant Utility by the 15th of each quarter.

Provision of Title III Services Policy #10: Caregiver Support Services

Authority Reference	OAA, Sections 371 - 373 45 CFR 1321.83 and 1321.91
Operating Category	Provision of Title III Services

Policy

1. The MBA recognizes the value and extensive contributions of caregivers and directs state policy accordingly. The intent of the National Family Caregiver Support Program in Minnesota is to build capacity that affects lives by improving the quality and duration of the care provided by family or informal caregivers, and reduces long-term care expenditures.

A. For maximum benefits for caregivers, the AAAs in partnership with local stakeholders will plan and implement a seamless and flexible support system for their regional community. The MBA's vision is to build a caregiver-focused system that recognizes the realms, phases, and roles of those caregiving (including family, unmarried partners, friends or neighbors) for an older adult or a person of any age with Alzheimer's disease or a related disorder. It offers caregivers easy access to assistance – when they need it - from a variety of entry and referral points across the formal, quasi-formal, and informal health and community service systems network. Assistance to caregivers includes the following: (1) information; (2) access assistance; (3) counseling, education and training, and support groups; (4) respite services; and (5) supplemental services. This system maximizes coverage by primary payers (e.g., Medicare, Medical Assistance, private insurance, etc.). This is a collaborative caregiver system with the informed, trained, and healthy caregiver from any culture or ethnic background directing care decisions and providing quality care for as long as desired.

B. This policy gives direction on how services should be prioritized, funding specifications, service development and delivery, service and support categories, and standards for quality assurance.

2. Prioritization of Services

A. In accordance with Sec. 372 (b) and 373 (c) of the OAA, the AAAs must direct service providers to give priority to the following populations:

- i. Caregivers who are older individuals with the greatest social need, and older individuals with greatest economic need (with particular attention to low-income individuals).

- ii. Caregivers who provide care for older individuals with Alzheimer's disease and related disorders with neurological or organic brain dysfunction.
- iii. Older relative caregivers of children, or adults with severe disabilities.
- iv. AAAs must assure that culturally competent services are provided to prioritized populations in at least the same proportion as found in the general population. This can be accomplished through development of a partnership with one or more organizations that provide culturally competent health and/or social services.

B. The AAAs will implement plans for establishing broad-based community access to caregiver support from a variety of key medical, social services, and other community organizations (e.g., employers, faith-based organizations, community centers, physician clinics, county case management, providers of Title III services, hospital discharge, Pre-Admission Screening(PAS)/ Long-Term Care Consultation, private case management, care coordination through health plans and Minnesota Senior Health Options, tribal health clinics).

C. Each AAA shall make use of trained volunteers to expand the provision of the available services described in 45 CFR 1321.91 and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants in community service settings.

3. Specifications on Use of Funding

A. No more than 10% of the allocation may be used for grandparents or older individuals who are relative caregivers of children who are not more than 18 years of age.

B. No more than 20% of the allocation for Supplemental Services as defined in 45 CFR Part 1321.91 (a)(4) and (5).

C. Funding will address service gaps, but will not duplicate or supplant other programs or services (public or private pay programs).

4. Service Development and Delivery

A. AAAs will use data and local input to plan, develop, implement, and modify Title III-E caregiver services. The AAAs will determine the criteria for which services in the categories listed within 45 CFR 1321.91 will be funded. The AAAs will assure that both initial and on-going collaborative service planning and development activities address all of the following components:

- i. Services that maximize involvement by individuals receiving and providing caregiving in all care decisions including service planning and delivery.

- ii. Coordinated use of volunteer organizations, employers, service clubs, churches, social service agencies, schools, community agencies, professional groups, etc.
- iii. Coordination and management of formal and informal services to produce less expensive alternatives.
- iv. Early intervention whenever possible involving the use of consistent screening and assessment criteria that helps identify caregiver stage, level of stress and needs.
- v. Confidential exchange of client data and information among providers and referral sources.
- vi. Comprehensive menu of services that is adaptable, flexible, and sensitive to caregiver needs, values, preferences, and cultural issues.
- vii. Integration within the existing senior service infrastructure with linkages with county, health and social service systems, payment systems, and other community networks.
- viii. Strategies to assure on-going growth and development to meet changing caregiver needs, including out-of-town caregivers.
- ix. Application of evidence-based or evidence-informed models of caregiver support wherever possible.
- x. Efficient use of resources.

B. In planning, the AAAs must address all of the following allowable service categories for eligible persons as defined in the OAA, 45 CFR 1321.91, and in accordance with state set priorities as defined in area plan instructions [OAA, Part III-E, Sec. 373 (b)]:

- i. Information about Available Services. This includes information via public education for purposes of creating greater public awareness and attention towards caregiving needs, outreach for identifying potential caregivers, and linkages to local and national resources on caregiving through the existing services such as the Senior LinkAge Line® (SLL) and websites (e.g., www.MinnesotaHelp.info®).
 - a. The AAAs should retain sufficient SLL staff to meet the needs of caregivers as demand increases. Development of marketing and training activities should be in accordance with current SLL standards.
 - b. These services may include but are not limited to: SLL, public information, and public awareness.
- ii. Access Assistance. An individual one-on-one service, through the SLL or other health or community networks that: (a) identifies and/or evaluates caregiver need; (b) provides current information on available services and supports; (c)

connects caregivers to services; (d) assures that services are delivered within a practical context; and, (e) offers follow-up opportunities to caregivers. This service also helps track individual needs and makes appropriate referrals throughout the entire senior care or other community networks.

a. Services may include but are not limited to: outreach, senior advocacy, senior coordinators, care coordination, health insurance counseling/benefits review; transportation and assisted transportation, legal services, information and assistance, care coordination, specialized access, and referrals to other home and community-based services.

iii. Counseling/Support Groups/Education and Training. Individual counseling (which is called Caregiver Consultation in Minnesota and must be delivered according to the policies related to Caregiver Consultation), organization of support groups, and caregiver training to assist caregivers in those areas in which they provide support, including health, nutrition, complex medical care, and financial literacy, and in making decisions and solving problems relating to their caregiver roles.

a. These services may include but are not limited to: individual or family counseling (Caregiver Consultation as described below), coaching, skills-based caregiving education and training, support groups, and specialized disease education programs.

Caregiver Consultation: A service designed to support caregivers and assist them in their decision-making and problem solving. Consultants are service providers that are degreed and/or credentialed as required by state policy, trained to work with older adults and families and specifically to understand and address the complex physical, behavioral and emotional problems related to their caregiver roles. Title III-E funded Caregiver Consultants will conduct a Caregiver Assessment with caregivers receiving ongoing support. Caregiver Consultants meet the Minnesota Board on Aging Title III-E Caregiver Consultant Standards and Competencies. This includes counseling to individuals or group sessions. Counseling is a separate function apart from support group activities or training.

iv. Respite care to enable family caregivers to be temporarily relieved from their caregiving responsibilities. This can include (1) an out-of-home placement, (2) an in-home service or (3) a facility-based service. Services may include but are not limited to: medical or social adult day care, adult foster care, personal care assistant, nursing care, and accompaniment to medical appointments.

Priority is given to those caring for:

a. A person needing assistance with at least two Activities of Daily Living;
b. A person who requires substantial supervision due to a cognitive or other mental health impairment.

v. Supplemental. Services that complement, on a limited basis, care provided by family caregivers. Services may include but are not limited to: home safety

management, home modifications, assistive technology, emergency response systems, homemaking, and transportation.

Priority is given to those caring for:

- a. A person needing assistance with at least two Activities of Daily Living;
- b. A person who requires substantial supervision due to a cognitive or other mental health impairment.

5. Standards for Caregiver Consultants

A. Standard 1: Professional Qualifications.

Caregiver Consultant shall possess the knowledge, skills, and experience necessary to competently perform caregiver coaching/consulting service activities, including meeting at least one of the following three options for professional qualification requirements.

1. A bachelor's degree from an accredited program in social work, nursing, counseling, gerontology, health education, rehabilitation therapy, health and human services or a related degree
 - **and** have at least **two** years of experience using assessment, problem-solving and goal-setting skills with individuals
2. A Community Health Worker certificate from an accredited Minnesota program.
 - **and** have at least **two** years of experience using assessment, problem-solving and goal-setting skills with individuals
3. At least **four** years of experience using assessment, problem-solving and goal-setting skills with individuals

B. Standard 2: Ethics and Professional Values

Caregiver Consultant shall have knowledge of ethics and practice according to the ethical guidelines, principles and standards of their discipline and setting (e.g. NASW Code of Ethics).

- Primacy of client needs and self determination
- Clearly communicates the distinctions between coaching, consulting, psychotherapy and other support professions
- Refers client to another support professional as needed, knowing when this is needed and the available resources

- Meets privacy and confidentiality standards – must comply with local, state and federal mandates related to confidentiality and privacy of client information
- Professional judgement in the use of confidential information shall be based on best practice, ethical and legal considerations (including HIPAA)
- Is trained as a mandated reporter per the Minnesota Vulnerable Adults Act

C. Standard 3: Cultural Awareness/Responsiveness

Caregiver Consultants have knowledge and respect for the history, traditions, values, and family systems of client groups, as they relate to home and community-based services, health care services and decision making. Caregiver Consultants adapt standards of practice to meet cultural norms and values.

This includes:

- Knowledge, competency and skills to work with individuals and families from a variety of communities including, but not limited to, communities of color, American Indians, Alaska Natives, veterans, LGBTQ+ communities, and persons with disabilities.
- Skills to meet the needs of individuals and families with disabilities, and lesbian, gay, bisexual and transgender individuals who are caregiving.
- Awareness of disparities and barriers across cultures and economic groups in gaining access to and funding for home and community-based and health care services.
- Taking responsibility for self-reflection regarding the impact of their personal cultural beliefs on their professional and personal life.
- Understanding of the intersectionality of historical trauma, cultural beliefs, self-identity, gender, etc.
- Understanding of the community system and knowledge of specific cultural resources available.
- Committing to ongoing education and knowledge of the resources for new subsets of populations.
- Culturally responsive care, including but not limited to, creating a culturally safe environment, using cultural negotiation, and considering the impact of culture on patients' time orientation, space orientation, eye contact, and food choices.

D. Standard 4: Knowledge Base

Caregiver Consultants have a working knowledge of current best practices. They keep current on emerging knowledge and trends and integrate this knowledge into practice.

This includes:

- Basic knowledge of family systems and family dynamics.
- Basic knowledge of common chronic illnesses and/or conditions.
- Understanding of Alzheimer's disease and related dementias, management of behaviors and communication, and community resources/referrals.

- Assuming personal responsibility for continuing professional education according to standards of their discipline and setting (e.g. geriatric nurse practitioner).

Participates in professional development training by the MBA or a designated contractor (annually or as offered).

E. Standard 5: Assessment

Caregiver Consultants gather information regarding the caregiver/client's situations to create a comprehensive plan. These assessments establish trusting relationships between the consultant and the caregiver.

Consultants completing assessments should:

- Ask questions and probe for clarification.
- Uses strength-based person-centered and family-centered approach.
- Address principles and seven domains of caregiver assessment developed by the Family Caregiver Alliance.

F. Standard 6: Goal setting, intervention, planning and follow-up

Caregiver Consultants facilitate the development and implementation of a self-directed action plan with client.

This can include:

- Using problem-solving techniques and coaching tools and strategies.
- Providing ongoing education, building self-advocacy skills and providing support.
- Assisting caregivers in evaluating outcomes and modifying the plan.
- Obtaining ongoing feedback from caregiver on process and plan.

G. Standard 7: Supporting Self-Advocacy

Caregiver Consultant teach caregivers systems navigation and self-advocacy skills needed to fulfill the plan.

This can include:

- Advising about navigating between health and long-term services and supports.
- Teaching self-advocacy skills, such as communicating needs, identifying, and resolving problems and making decisions related to the care, provider services and benefits, as caregiver is able and willing.
- Developing collaborative relationships with other health, mental health, and allied health professionals, and transfers these relationships to caregiver as able and willing.

Striving to enhance inter-professional, intra-professional, and interagency cooperation on behalf of the caregiver.

H. Standard 8: Documentation/Information Movement

Caregiver Consultants maintains records and provide information updates to persons who need to know.

This includes:

- Maintaining records or documentation of caregiver services reflecting pertinent information for assessment, interventions, and outcomes in accordance with administrative policies within their organization.
- Complying with privacy and confidentiality standards including obtaining release of information forms.

This can include:

- Instructing caregivers about how to organize and manage essential information (e.g., records, prescriptions, treatments, benefits, financial information, advanced directive, power of attorney for health care).
- Facilitating the flow of information between all “care team” members.
- Communicating with a caregiver’s physician to ensure that there is a caregiver designation in the caregiver’s medical record and provide updates to the medical care team as to the health and mental health status of the caregiver as agreed upon (with permission).

I. Standard 9: Performance Improvement

Caregiver Consultants conduct ongoing, formal evaluations of their practice to assess quality and appropriateness of services, to improve practice and to ensure competence.

This includes:

- Monitoring caregiver health and wellness through the caregiver plan with goals (e.g., stress, depression, and other wellness measures)
- Incorporating individual feedback into plans on an ongoing basis
- Incorporating feedback from client satisfaction surveys and other methods into service components.

Procedures

Caregiver Consulting Procedures

1. Training requirements for caregiver consultants include the following courses offered in a virtual format:

A. ***Required***

Minnesota Board on Aging (MBA) Caregiver Consultation Core Curriculum Trainings (4 – 5.5 hours)

- i. Overview of Caregiving
- ii. Defining Caregiver Consultation
- iii. Assessment
- iv. Planning and Follow-up
- v. Common Caregiving Support Needs

MBA 201-205 Tools for Your Practice in Cultural Communities (3.5 hours)
Annual Update Training and recertification* (1 hour)

Additional Topics

Support group facilitation
Family meeting facilitation
ALS caregiving*
Dementia-related training**
Older Relative caregiving*
Elderly Waiver Foundations (AASD-EWF1)

*These trainings yet to be developed

**MBA100 dementia series is currently available. New training may be developed.

2. Required Screenings for Caregiver Consultation Assessments (For Title III-E Providers)

These screenings must be done in each caregiver consultation assessment and recorded in PeerPlace. These screenings MUST be part of a comprehensive assessment that includes all seven areas of assessment for caregivers.

A. Emotional Wellbeing – 1 score

Consultants will use the Zarit Burden Interview Screen (4-item)

- The Zarit Burden 4-item screen results in a single number score.
- The score will be entered into PeerPlace for each assessment.

B. Physical wellbeing – 1 score

Consultants will ask each caregiver the following question, "How would you describe your own health?"

Answer options are

- 5 – Excellent
- 4 – Very Good
- 3 – Good
- 2 – Fair
- 1 – Poor

Consultants will enter the number of the score into PeerPlace.

C. Social wellbeing – 1 score

Consultants will ask each caregiver the following question, "How often do you feel lonely?"

Answer options are

- 1 - Always
- 2 - Usually
- 3 - Sometimes
- 4 – Rarely
- 5 – Never

Consultants will enter the number of the score into PeerPlace.

D. Financial wellbeing – 1 score

Consultants will ask the question: "How much of a financial strain would you say that caring for (care receiver) is for you? On a scale of 1 to 5, with 1 being no strain at all and 5 being very much a strain."

Answer options are on a continuum from 1-5 with 1 being no strain at all and 5 being very much a strain. The score will be entered into PeerPlace.

3. Required elements of Caregiver Consultation Assessment

Caregiver consultants MUST complete an assessment with caregivers that includes the seven areas of assessment identified as best practice by the Family Caregiver Alliance. More information on assessment and details on each area are available on their [website, here](#).

Assessment Areas

1. Context/ Caregiver relationship to care recipient
2. Caregiver's perception of health and functional status of care recipient
3. Caregiver values and preferences
4. Well-being of caregiver (Including required screenings)
5. Consequences of caregiving
6. Caregiver skills/abilities/knowledge to provide care
7. Caregiver resources

Guidelines for completing Caregiver Consultation assessment

For Caregiver Consultants, these assessment areas should be used as guides when assessing caregivers and adapted to the unique context of each program and situation.

1. Background on the caregiver and the caregiving situation (context)

Areas to assess:

- Physical environment (home, facility)
- Household status (number in home, etc.)
- Financial status
- Quality of family relationships
- Duration of caregiving

- Employment status (work/home/ volunteer)

2. Caregiver's perception of health and functional status of the care recipient

Areas to assess:

- Activities of daily living (ADLs; bathing, dressing) and need for supervision
- Instrumental Activities of Daily Living (IADLs; managing finances, using the telephone)
- Psycho-social needs
- Cognitive impairment
- Behavioral problems
- Medical tests and procedures

3. Caregiver's values and preferences with respect to everyday living and care provision

Areas to assess:

- Caregiver/care recipient willingness to assume/accept care
- Perceived filial obligation to provide care
- Culturally based norms
- Preferences for scheduling and delivery of care and services

4. Health and well-being of the caregiver

Areas to assess:

- Self-rated health
- Health conditions and symptoms
- Depression or other emotional distress (e.g., anxiety)
- Life satisfaction/quality of life

5. Consequences of caregiving on the caregiver

Areas to assess:

- Perceived challenges
 - Social isolation
 - Work strain
 - Emotional and physical
 - health strain
 - Financial strain
 - Family relationship strain
 - Difficulties with formal providers

- Perceived benefits
 - Satisfaction of helping family member
 - Developing new skills and competencies
 - Improved family relationships

6. Care-provision requirements (skills, abilities, knowledge)

Areas to assess:

- Caregiving confidence and competencies
- Appropriate knowledge of medical care tasks (wound care, etc.)

7. Resources to support the caregiver

Areas to assess:

- Helping network and perceived social support
- Existing or potential strengths (e.g., what is presently going well)
- Coping strategies
- Financial resources (health care and service benefits, entitlements such as Veteran's Affairs, Medicare)
- Community resources and services (caregiver support programs, religious organizations, volunteer agencies)

3. Availability of Tualta

The Minnesota Board on Aging (MBA) in partnership with AAAs and Aging Network service providers has implemented Tualta, an online education and resource portal for caregivers. Tualta is another tool that Caregiver Consultants can utilize to further support family, friends and neighbors caregiving. Additional information including portal updates can be found on the Minnesota Tualta Staff Space: MNCaregiving.org/r/StaffSpace