
POLICY TRANSMITTAL NO. 04-11	DATE: APRIL 22, 2004
AGING SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:105-10, Table of Contents; 105-10-41; 105-10-51; 105-10-72; 105-10-75; 105-10-79; 105-10-86; 105-10-89; 105-10-90.1; 105-10-101; 105-10-102; 105-10-104; 105-10-117 through 105-10-119; 105-10-121; and 105-10-122.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

The revisions to Subchapter 10 of Chapter 105 provide clearer oversight and guidance to Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD) staff and contract providers; update authority references; and incorporate the Nutrition Services Incentive Program (NSIP) of the Older Americans Act (OAA).

340:105-10-41 is amended to clarify direct service waivers.

340:105-10-51 is amended to correct authority citations.

340:105-10-72 is amended to clarify the minimum hours a registered dietitian provides consultation at nutrition sites.

340:105-10-75 is amended to clarify special diets.

340:105-10-79 is amended to include the NSIP.

340:105-10-86 is amended to clarify the change of status of a meal site.

340:105-10-89 is amended to clarify appropriate disease prevention and health promotion services.

340:105-10-90.1 is amended to clarify the National Family Caregiver Support Program grants.

340:105-10-101 is amended to clarify the request for proposal procedures.

340:105-10-102 is amended to clarify the appeal procedures for Title III service providers.

340:105-10-104 is amended to include the NSIP and clarify unexpended grant funds.

340:105-10-117 is amended to include appropriate employment procedures.

340:105-10-118 is amended to clarify personnel recruitment procedures.

340:105-10-119 is amended to clarify personnel selection procedures.

340:105-10-121 is amended to clarify hiring current employees to a different position.

340:105-10-122 is amended to clarify compensatory time procedures.

Original signed on 3-02-04

Roy Keen, Director
Aging Services Division

Marilynn Knott, Administrator
Office of Planning, Policy & Research

WF # 03-35 (DT)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

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**SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE
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340:105-10-41. Direct services waivers

(a) **Policy.** No Title III services are directly provided by the Area Agency on Aging (AAA), unless, in the judgment of the State Agency, provision of such services is:

- (1) necessary to ensure an adequate supply of such services;
- (2) related to the administrative functions of the AAA; or
- (3) more economical and of comparable quality to the competing grantees. ■ 1

(b) **Authority.** The authority for this Section is Section 307(a)(8) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The State Agency determines that one or more of the criteria listed in (a) of this Section are met for an AAA to provide direct services when the requirement:

- (1) necessary to ensure an adequate supply of services is considered met. The AAA can document that it has not received any proposals to deliver a service in all or a portion of the planning and service area, after the AAA has twice carried out the request for proposals (RFP) process in accordance with OAC 340:105-10-101;
- (2) services related to AAA administrative functions is considered met. Services consist of advocacy, assessment and screening, follow-up and evaluation, information and assistance, and placement; or ■ 2
- (3) more economical and of comparable quality is considered met. The AAA service grant application substantiates that, according to AAA standard RFP evaluation criteria, it proposes to provide a priority service that is more cost effective and of a quality comparable to the competing grantees. The cost is calculated on a per unit of service basis. ■ 3

(d) **Cross references.** See OAC 340:105-10-40 and 340:105-10-101.

INSTRUCTIONS TO STAFF

- 1. The Area Agency on Aging (AAA) is required to document justification of one or more of the provisions for providing a direct service temporarily.**
- 2. The State Plan on Aging indicates all AAAs are allowed to directly provide information and assistance (I&A) services. The State Plan on Aging names the AAAs allowed to directly provide case management services.**

3. Request for proposals (RFP).

(1) The AAA submits to the State Agency a completed RFP according to current specifications to illustrate temporary service delivery. Prior to submitting a completed RFP, the AAA is required to:

(A) reprogram the funds and issue a new RFP for a different service; or

(B) revise the initial specifications for the same service and reissue a new RFP; and

(C) initiate community development activities to create a potential provider of the service as specified in the RFP.

(2) The AAA provides the State Agency monthly documentation until the AAA sub-grantee begins to provide the specified service.

340:105-10-51. General Title III service standards

(a) **Policy.** Parts B, C, D, and E of Title III provide funding for a variety of services to meet the needs of older persons. All such services meet service specific standards as well as the general standards in (1) through (19) of this subsection.

(1) Project sponsors who are the recipients of grant awards may be public, private for-profit, or non-profit agencies or organizations, institutions, political subdivisions of the state, or Indian tribal organizations which demonstrate to the Area Agency on Aging (AAA) a capacity for the effective delivery of nutrition, supportive services, or both, throughout the project service area. Project sponsors serve all eligible persons in the project service area and do not limit participation to their own membership or residents, such as church memberships or residents of a day care program.

(2) Project services are provided to persons 60 years of age and older unless otherwise allowed for in the eligibility requirements of a specific service.

(3) Project services are located in communities with the greatest occurrence of older persons in greatest economic and social need with particular attention to low income minority persons and older persons residing in rural areas. The project documents in its written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority persons and older persons residing in rural areas in accordance with their need for services;

(B) specific objectives which outline how the project satisfies the service needs of low income minority persons and older persons residing in rural areas served by the project. These objectives reflect the Area Plan objectives for targeting these persons;

(C) information on the extent to which the project met its objectives for serving low income minority persons and older persons residing in rural areas during the previous fiscal year, if previously funded; and

(D) other targeting activities required for specific funded services, as appropriate, such as targeting activities for outreach services.

(4) Projects provide participants with the opportunity to contribute to the cost of services, with the restrictions in (A) through (G) of this paragraph.

(A) Contributions are voluntary and no otherwise eligible person is denied service because he or she chooses not to or cannot contribute to the cost of services.

(B) Participants are advised of the opportunity to contribute to the cost of programs through:

(i) individual consultation when they enter the program, which includes a written suggested contribution schedule;

(ii) written brochures about the program and written schedules of activities of the program; and

(iii) signs posted at the project site.

(C) The participant's privacy regarding contributions is protected at all times.

(D) The project advisory council develops a suggested contribution schedule for funded services taking into consideration the income ranges of older persons in the community and the project's other means of income. Means testing is not used to determine suggested contributions.

(E) Congregate and home delivered meals participants are allowed to use United States Department of Agriculture food benefits to contribute toward the cost of their meals.

(F) The project utilizes appropriate procedures to safeguard and account for all contributions.

(G) The project uses participant contributions to expand funded services.

(5) Projects conform to the Title III fiscal accounting and program reporting systems as implemented by the State Agency and AAA. All records are managed according to the guidelines in (A) through (D) of this paragraph.

(A) Older Americans Act (OAA) grantees maintain adequate and separate accounting and fiscal records, and account for all funds provided by any source to pay the cost of the OAA funded project. Grantees permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the United States Department of Health and Human Services, the Oklahoma Department of Human Services (OKDHS), the State Auditor and Inspector and other appropriate state entities. Authorized personnel are given open and complete access to the grantees' accounting records and

practices, and to any other items of the service provider that are pertinent to the performance or payment of the grant in order to audit, examine, and make excerpts of records.

(B) All financial and program records, supporting documents, statistical records, and other records pertaining to the Title III services are retained by the grantee for at least three years. In the case of litigation, claim negotiation, audit, or other pending action before the end of the three year period, the records are retained until such action is completed, and until all issues arising from it have been resolved, or until the end of the regular three year period, whichever is later.

(C) Permanent records are maintained at the project office.

(D) The project is responsible for providing the appropriate security, confidentiality, and accommodations for the proper maintenance and organization of program records and reports.

(6) Where feasible and appropriate, projects make arrangements for the availability of services to older persons in weather related emergencies.

(7) Projects assist participants in taking advantage of benefits or services under other programs.

(8) Project staff report to the appropriate officials any situation that places the participant, his or her household, or both, in imminent danger.

(9) Projects coordinate Title III services with other appropriate services in the community, including Title VI Native American nutrition programs. Appropriate coordination efforts include:

(A) joint planning;

(B) information sharing; and

(C) negotiation of written agreements.

(10) Projects establish and maintain an advisory council to advise the projects on all matters relating to the delivery of project services, per OAC 340:105-10-52.

(11) Projects ensure that appropriate intake information is gathered on each participant. ■ 1

(12) Projects have procedures, approved by the AAA, to ensure that strict confidentiality is maintained regarding all participant information. Projects ensure that identifying participant information is disclosed only when staff have obtained the informed consent of the participant or his or her legal representative. Exceptions to the rules in this paragraph include court orders, reporting possible neglect, abuse, or both, and monitoring of project records by federal, state, and AAA officials.

(13) Project staff post grievance procedures in a public area of the project facility and comply with AAA grievance procedures for Title III participants.

(14) Projects comply with the Americans with Disabilities Act, Section 504 of The Rehabilitation Act of 1973, and Title VI of The Civil Rights Act of 1964. A public notice of civil rights compliance is posted in a public area in all project facilities and offices.

(15) Projects comply with the Oklahoma Open Meetings Act when conducting public meetings. Public meetings are held in handicap accessible facilities with provisions for interpreters, as needed.

(16) Project staff conduct ongoing public information activities to ensure that the general public is aware of each project and the services it provides. All materials produced by or for the project include a:

(A) policy statement that the project does not discriminate in admissions, access, treatment, or employment in its programs or activities on the basis of race, creed, color, sex, age, ancestry, national origin, religion, or disability; and

(B) notation that a portion of the project costs are met by state and federal OAA funds from the AAA and OKDHS.

(17) Project staff provide or arrange for orientation and ongoing training for all staff engaged in the implementation of the project. Training is designed to enhance staff performance as related to specific job responsibilities of each staff member. Projects authorize staff time to attend AAA and State Agency sponsored training as funds permit. Minimum orientation or training topics include:

(A) the OAA, as amended, and related regulations;

(B) the OKDHS Policies and Procedures Manual for Title III of the OAA, as amended;

(C) the AAA Title III policy and procedures manual;

(D) all program and fiscal reports, as appropriate;

(E) assessment procedures;

(F) the aging network; and

(G) specific job duties.

(18) Project staff participate in regularly scheduled assessments and evaluations by the AAA.

(A) The AAA schedules assessments at least 30 days in advance at a time mutually convenient for the AAA and the project.

(B) The AAA informs the project director of the areas to be covered during the assessment.

(C) The project director makes arrangements for site visits as requested by the AAA.

(19) The project allows unscheduled or unannounced visits by the AAA for the purposes of:

(A) investigating alleged problems;

(B) monitoring corrective action; or

(C) evaluating the normal daily activity of the project.

(b) **Authority.** The authority for this Section is Parts 1321.11, 1321.51, 1321.63(b), 1321.65, and 1321.67 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA is required to:

(1) incorporate the standards into its policies and procedures manual;

(2) provide training to Title III project directors and other appropriate staff on the standards;

(3) monitor the compliance of Title III projects with the standards; and

(4) provide ongoing technical assistance to Title III projects regarding the standards.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-50.1, and 340:105-10-52.

INSTRUCTIONS TO STAFF

1. The procedures for project staff to implement the policy for gathering appropriate intake information for each participant are listed in (1) through (8) of this Instruction.

(1) For participants receiving Title III personal care, homemaker, chore, home delivered meals, adult day health or adult day care, or case management services, information is gathered on Form AG-2-A, Older Americans Act Assessment, Parts I and II, and includes at a minimum:

- (A) identifying information;
- (B) household composition;
- (C) ability to perform activities of daily living;
- (D) ability to perform instrumental activities of daily living;
- (E) support system;
- (F) signature of participant or his or her legal representative;
- (G) explanation of donation system;
- (H) release of information authorization; and
- (I) status related to poverty level.

(2) For participants receiving Title III congregate meals, nutrition counseling, assisted transportation, outreach, or information and assistance, information is gathered on Form AG-2-A, Older Americans Act Assessment, Part I, and includes at a minimum:

- (A) identifying information;
- (B) household composition;

- (C) signature of participant or his or her legal representative;**
 - (D) explanation of donation system;**
 - (E) release of information authorization; and**
 - (F) status related to poverty level.**
- (3) For each participant receiving home delivered meals, congregate meals, case management, or nutrition counseling, project staff ensure that Form AG-2-A, Part I, Determine Your Nutritional Risk Checklist, assessment of nutritional status, is completed.**
- (4) For participants receiving Title III National Family Caregiver Support Program Services, information is gathered on an approved intake form and includes at a minimum:**
- (A) the family caregiver's identifying information;**
 - (B) the caregiver's relationship to the care receiver;**
 - (C) the care receiver's identifying information; and**
 - (D) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific activities of daily living or need for supervision due to Alzheimer's Disease or other neurological and organic brain dysfunction.**
- (5) Project staff obtain from participants of other Title III services not given in (1) through (4) of this paragraph, or their informants, only that information necessary to provide the appropriate Title III service(s) and to ensure the safety and well-being of participants.**
- (6) Project staff ensure that assessment procedures are conducted in a confidential manner, with only the intake person, the participant, and other persons approved by the participant in attendance. Intake information is kept in a confidential and secured location within the project. If a copy of the intake information is kept at project staff's home for emergency related situations, the intake information is kept in a confidential and secured**

location.

(7) Project staff conduct an assessment for each participant upon his or her entry into a Title III service and conduct, at a minimum, annual reassessments. Project staff, at a minimum, conduct a reassessment of in-home service participants every six months.

(8) Income source information is not required to receive Title III services and may only be used to assist the client in determining eligibility for programs with income guidelines.

340:105-10-72. Congregate meals project staffing requirements

(a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The congregate meals project is required to:

(1) employ a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;

(2) obtain the services of a licensed registered dietitian (RD) to provide nutrition consultation. The RD is an employee or independent consultant hired by the project or the Area Agency on Aging (AAA). A paid caterer is not acceptable in this position. Where feasible, the RD coordinates with a nutrition consultant, such as a dietetic student, person with a Bachelor's of Science degree in nutrition, or certified dietary manager. The RD signs off on all nutrition education, in-service training, and Form SUOA-S-74, Dietary Consultant's Report. If the RD coordinates with a nutrition consultant, the RD visits every site a minimum every other month. The consultation includes:

(A) spending a minimum of five hours on-site per month per kitchen. Drive time does not count in the five hour total. A minimum of three hours on-site per month per satellite site. Drive time does not count in the three hour total. Site visits are limited to one site visit per day per RD or nutrition consultant;

(B) monitoring food service to include measurement of food temperatures and portion sizes, and assessment of food quality and adherence to contract specifications;

(C) training staff and volunteers in areas of food service management, nutrition, and sanitation;

(D) assessing participant satisfaction and preferences;

(E) reviewing menu and commodity utilization;

(F) coordinating nutrition education programs;

(G) providing educational handouts to homebound meal participants; and

(H) providing participants whose nutritional score is six or more on Form AG-2-A, Part I, Older Americans Act Assessment, page 3, Determine Your Nutritional Health, with individual consultation for:

(i) congregate meal participants, upon participant's approval; and

(ii) homebound meal participants, where feasible and upon participant's approval. ■ 1

(3) determine appropriate staffing patterns for each meal site in the project service area. The guidelines include: ■ 2

(A) determining the maximum staff hours per site by adding all hours for all positions in a given site;

(B) determining the maximum salary cost per site by multiplying the hours in each position by the corresponding allowable salary on the Aging Services Division (ASD) Nutrition Salary Schedule. The maximum allowable salary as specified on the ASD Nutrition Salary Schedule may not be exceeded using Title III funds;

(C) adding the corresponding allowable salaries to arrive at the total allowable project labor cost; and

(D) adding the maximum staff hours for each site to determine total allowable project staff hours. The maximum hours in a site may exceed allowables on ASD Staffing Guidelines For Nutrition Sites but any deviations and the resulting cost increases may not cause total project labor costs to exceed total allowable project labor costs.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

INSTRUCTIONS TO STAFF

1. The nutrition project provides the registered dietitian (RD), at a minimum, a quarterly report of participants whose nutritional score is six or more. The RD documents individual consultation, mailing of educational materials, or denial of consultation on Form SUOA-S-74, Dietary Consultant's Report, or as an attachment to Form SUOA-S-74.

- 2. To determine appropriate staffing patterns for each meal site in the project service area, refer to the current Staffing Guidelines and Instructions for Nutrition Sites plus the Nutrition Salary Schedule in the most recent Aging Services Division Request for Proposals Application Guide.**

340:105-10-75. Congregate meals planning

(a) Policy. The congregate meals project conducts appropriate meal planning for the congregate meals service with the consultation of persons competent in the field of nutrition, food service, and the needs of older persons.

(b) Authority. The authority for this Section is Section 339 of the Older Americans Act of 1965, as amended and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) Procedures. The requirements for implementing this Section are outlined in this subsection.

(1) Menus are prepared or approved by a registered dietitian who considers the special needs of older persons and ensures that each meal served contains at least one-third of the current daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences. Each meal contains at least 600 calories. The recommended level is from 750 to 850 calories. ■ 1

(2) Menus are planned on a quarterly basis with a six week cycle repeated once each quarter. Nutritional adequacy is documented with computer analysis by the project dietitian. Maintenance of optimal nutritional status through menu planning is reflected in menus moderate in fat, salt, and simple sugars and high in fiber. The project dietitian posts signed menus at nutrition sites. Form SUOA-S-34, Project Menu Plan – Nutrition Program for the Elderly, is submitted quarterly to the State Agency dietitian for random review.

(3) Where feasible, special diets are provided to meet the medical needs of eligible participants. ■ 2

(4) Religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of participants at a congregate meal site are reflected in the menus.

(5) All menus are served as planned unless the dietitian reviews and approves an appropriate substitution. A complete menu move from one day to another does not constitute a substitution. When substitutions are made, the project maintains and submits to the State Agency at the end of each month the:

(A) date of substitution;

(B) original menu item(s); and

(C) substituted menu item(s).

(6) Accurate production forecasting is conducted and does not include a margin for oversized portions or second servings. Leftover foods are not taken from the kitchen by staff, participants, or volunteers.

(7) Where feasible, provisions are made for the celebration of special occasions for participants, for example, birthdays and holidays.

(8) Food items within the meat, vegetable and fruit, and dessert groups vary for the same days of the week, from week to week, in order to provide a variety of foods and nutrients.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-74, 340:105-10-76 through 340:105-10-80, and 340:105-10-86.

INSTRUCTIONS TO STAFF

1. Menus are developed according to the meal pattern, which includes:

(1) meat or meat alternate group which is three ounces cooked edible portion of meat, fish, fowl, luncheon meats, eggs, or cheese. Meat alternates may be used occasionally and may include cooked dried beans or peas;

(2) vegetable and fruit group which is two, one-half cup servings of any vegetable or fruit. Fruit used as a dessert is not counted toward the two servings. Full strength fruit or vegetable juices may be counted toward the required servings. Cooked dry beans and peas may be used as vegetables or meat alternates but cannot be counted as both;

(3) bread or bread alternate group which is one serving of enriched or whole grain breads, biscuits, muffins, rolls, sandwich buns, cornbread, or other hot breads. Bread alternates may include enriched or whole grain cereals or cereal products such as spaghetti, macaroni, dumplings, pancakes, and waffles;

(4) fat exchange group which is one teaspoon of butter or margarine;

- (5) dessert group which is one, one-half cup or equivalent serving of desserts, such as puddings, gelatin desserts, ice cream, ice milk, sherbet, cake, pie, cookies, and fruit juices. Fresh or unsweetened fruit is offered, where feasible, to those participants who wish to limit calories;
- (6) milk group which is one-half pint of fortified whole, skim, or low fat milk or buttermilk. A variety of milks are provided where feasible;
- (7) optional beverages. Appropriate servings of coffee, tea, or decaffeinated beverages may be provided. Optional beverages are not provided with project funds; and
- (8) other foods. Appropriate servings of other foods may be added to the meal to provide personal satisfaction and additional nutrition. Vitamins and mineral supplements are not provided with project funds.
2. The guidelines in this Instruction are followed when special diets are provided to meet the medical needs of eligible participants.
- (1) A valid written physician's order is on file for each participant receiving a special diet. The physician's order indicates the participant is restricted to the special diet and the duration of the special diet. If the participant is consuming a liquid supplement in addition to a meal, the supplement is not reimbursed through the Nutrition Services Incentive Program as a separate meal.
- (2) All special diets are planned and prepared under the supervision of a registered dietitian.

340:105-10-79. Nutrition Services Incentive Program (NSIP)

(a) **Policy.** NSIP rewards, through cash or commodities, the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older persons. Title III-C nutrition projects maintain certification of eligible participants for NSIP.

(b) **Authority.** The authority for this Section is Section 311 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Projects and their respective vendors apply to the appropriate state distributing agency for certification as eligible participants in NSIP.

(2) Projects and vendors accept, store, and use donated food commodities as supplied to them. Donated commodities and cash in lieu of commodities may only be used in the preparation of meals funded through Title III-C.

(3) Projects develop management procedures pertaining to handling food commodities.

(4) Projects document NSIP foods utilized in each day's menu.

(5) Vendors allow credit for the amount of commodities used during each billing period. The amount of credit per pound is determined by Aging Services Division (ASD) and Commodity Distribution Unit (CDU) of the Oklahoma Department of Human Services (OKDHS).

(6) Projects maintain documentation of participant eligibility on required State Agency forms in order to obtain NSIP support for eligible meals. Eligible meals are those meals served to eligible participants in accordance with OAC 340:105-10-69(a)(1) and 340:105-10-83(a). ■ 1

(7) Projects maintain documentation regarding the number of meals served at nutrition sites. ■ 2

(8) Projects do not require documentation of age eligibility, other than the participant's signature on Form AG-2-A, Older Americans Act Assessment, Part I, except where the project management has reasonable cause to question the accuracy of age provided by the participant or the participant's representative on Form AG-2-A.

(9) Projects receive NSIP cash or cash and commodity allocations of food commodities from ASD based on the number of eligible meals actually served in the previous year in relationship to the total number of meals actually served by all Title III-C projects. Commodities are distributed to the projects by OKDHS CDU.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-78, and 340:105-10-80.

INSTRUCTIONS TO STAFF

1. The participant's eligibility and meal reimbursement documentation is recorded on:

(1) Form AG-2-A, Older Americans Act Assessment, Part I;

(2) Form SUOA-S-32, Nutrition Project Attendance Form, or a comparable form; and

(3) Form SUOA-S-33, Individual Attendance Record, or comparable record.

2. The number of meals served is reported on Form SUOA-S-38, Number of Meals Served. Form SUOA-S-38, and all required documentation, is submitted to Aging Services Division no later than the tenth day of the month following the report month. The documentation, on a monthly basis includes, at a minimum:

(1) nutrition project name;

(2) Area Agency on Aging name;

(3) site and county location;

(4) month and year;

(5) number of eligible meals budgeted for the month;

(6) number of eligible meals served during the month;

(7) number of eligible meals budgeted to date;

(8) number of eligible meals served to date;

- (9) average number of meals budgeted per day;**
- (10) average number of days served per month;**
- (11) total number of meals prepared each day, and a monthly total;**
- (12) number of congregate meals served each day to eligible participants 60 years of age or older, and a monthly total;**
- (13) number of congregate meals served each day to eligible participants under 60 years of age, such as spouses and adult disabled children, and a monthly total;**
- (14) total number of congregate meals served each day to eligible participants, (12) and (13) of this Instruction, and a monthly total;**
- (15) number of home delivered meals served each day to eligible participants 60 years of age or older, and a monthly total;**
- (16) number of home delivered meals served each day to eligible participants under 60 years of age, such as spouses and adult disabled children, and a monthly total;**
- (17) total number of home delivered meals served each day to eligible participants, (15) and (16) of this Instruction, and a monthly total;**
- (18) number of congregate meals served each day to guests under 60 years of age, and a monthly total;**
- (19) number of congregate meals served each day to volunteers under 60 years of age, and a monthly total;**
- (20) number of congregate meals served each day to staff under 60 years of age, and a monthly total;**
- (21) total number of meals served each day, (14), (17), (18), (19), and (20) of this Instruction, and a monthly total; and**
- (22) number of other meals served each day, and a monthly total.**

340:105-10-86. Congregate and home delivered meals site change of status

(a) **Policy.** Any site change of status in the congregate and home delivered meals programs is based upon objective, quantifiable, sociodemographic, and needs assessment data.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Thirty days prior to the change of status of a nutrition site, the Area Agency on Aging submits to Aging Services Division (ASD) an analysis of data considered by the project in recommending each proposed change. ■ 1 This analysis includes an evaluation of sociodemographic data, when a new site is opened, for the entire planning and service area (PSA). The analysis includes:

(A) reason(s) for each proposed change;

(B) existing meal services for older persons in the PSA, for each change;

(C) all potentially eligible areas within the PSA with no current services, for opening or relocation;

(D) a list and ranking of all unserved areas in the order of their priority for future funding, for opening or relocation;

(E) the number and proportion of minority, low income, and older persons in greatest economic or social need for each currently served and currently unserved area, for each change;

(F) the total number of persons age 60 years or older in the total PSA, and in each current and prospective service area, for each change;

(G) a revised grant to include the budget justification for each change; ■ 2

(H) the proposed date of each change;

(I) current health department and fire inspection reports, for opening or relocation;

(J) transportation services available for older persons affected by each change;
(K) nutrition project advisory council and governing board recommendations for each change; and

(L) any other information ASD deems necessary to evaluate the proposed expansion.

(2) Upon review of the analysis, ASD may disapprove or conditionally approve the request for site change. When a site is conditionally approved, the new site must pass an Americans with Disabilities Act (ADA) inspection, conducted by ASD, to complete the approval process.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51 through 340:105-10-52, 340:105-10-68, 340:105-10-71, 340:105-10-74 through 340:105-10-79, and 340:105-10-82 through 340:105-10-85.

INSTRUCTIONS TO STAFF

- 1. When immediate action is required under unusual circumstances, the Area Agency on Aging contacts Aging Services Division (ASD) as soon as a plan of action is in place to negotiate deadlines for proposed changes.**
- 2. The budget justification includes, at a minimum, the number of meals funded and served, a thorough explanation regarding substantial over or under serving of meals, and a meal cost evaluation.**

340:105-10-89. Disease prevention and health promotion services

(a) **Policy.** The Area Agency on Aging (AAA) makes grants to local entities to provide disease prevention and health promotion services and information at multipurpose senior centers, congregate meal sites, through home delivered meals programs, or other appropriate sites. Disease prevention and health promotion services include:

(1) health risk assessments;

(2) routine health screening, such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;

(3) nutritional counseling and educational services for older persons and their primary caregivers;

(4) health promotion programs, including programs relating to prevention and reduction of the effects of chronic disabling conditions, such as osteoporosis and cardiovascular disease; dental care; alcohol and substance abuse reduction; smoking cessation; weight loss and control; and stress management;

(5) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation that are provided by:

(A) an institution of higher education;

(B) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or

(C) a community-based organization;

(6) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention, such as fall and fracture prevention;

(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;

(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(10) information concerning diagnosis, prevention, treatment, and rehabilitation of age related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(11) gerontological counseling; and

(12) counseling regarding social services and follow-up health services based on any of the services described in (1) through (11) of this subsection.

(b) **Authority.** The authority for this Section is Sections 102(12), 361, and 362 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. The AAA:

(1) receives input from other entities in the planning and service area that are involved with disease prevention and health promotion regarding targeting of funds;

(2) considers use of funds to expand successful disease prevention and health promotion activities currently funded by Title III-B or other sources in the community, such as annual health fairs or periodic health screenings at nutrition sites;

(3) seeks technical assistance, as appropriate, from the State Agency staff; and

(4) submits a plan to the State Agency OKDHS. ■ 1

(d) **Cross references.** See OAC 340:105-10-50.1(a)(15)(C) and 340:105-10-51.

INSTRUCTIONS TO STAFF

1. The plan submitted by the area agency on agency (AAA) to the State Agency includes:

(1) **services funded.** **Services funded do not include those for which payment may be made under Titles XVIII and XIX of the Social Security Act;**

(2) **projected expenditures for each service; and**

(3) specific objectives to target services to the medically underserved older persons in the planning and service area (PSA). The definition of medically underserved used to allocate the funding is stated in the plan and chosen from:

(A) the definition outlined by the Public Health Service Bureau of Health Care Delivery, Department of Health and Human Services;

**(B) a definition developed by the Oklahoma State Department of Health;
or**

(C) any other definition in keeping with the intent of assisting medically underserved older persons.

340:105-10-90.1. National Family Caregiver Support Program

(a) **Policy.** The Area Agency on Aging (AAA) awards grants to entities to provide support services, including information and assistance, counseling, support groups, respite, and other home- and community-based services to families caring for their frail older members. The National Family Caregiver Support Program also recognizes the needs of grandparents who are caregivers of grandchildren and other older persons who are relative caregivers of children who are age 18 and younger. National Family Caregiver Support Program services include:

- (1) information about services;
- (2) assistance with access to services;
- (3) individual counseling, support groups, and caregiver training;
- (4) respite care; and
- (5) supplemental services, on a limited basis.

(b) **Authority.** The authority for this Section is Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as amended [P.L. 106-501], Grants for State and Community Programs on Aging.

(c) **Procedures.** ■ 1 The requirements for implementing this Section are outlined in this subsection. The AAA:

- (1) incorporates the provisions of this Section into the Title III, Older Americans Act, policies and procedures manual;
- (2) provides technical assistance to prospective and funded Title III projects regarding this policy;
- (3) monitors Title III project compliance according to OAC 340:105-10-43;
- (4) targets services to older persons in greatest social and economic need and older persons who care for a child with mental retardation or developmental disabilities;
- (5) grantees may provide support services to families caring for their frail older members who are 60 years of age or older who are unable to perform at least two activities of daily living (ADLs) which include dressing, bathing, eating, transferring,

toileting, or walking, without substantial human assistance, or who require substantial supervision due to a cognitive or other mental impairment;

(6) grantees, on a limited basis, may provide support services to grandparents and older persons who are relative caregivers.

(A) The term child means a person who is not older than 18 years of age.

(B) The term grandparent or older person who is a relative caregiver means a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:

(i) lives with the child;

(ii) 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

(iii) has a legal relationship to the child, as such legal custody or guardianship, or is raising the child informally;

(7) ensures that the cost of carrying out the program meets the requirement of a minimum non-federal share of 25 percent. The non-federal share is provided from state and local sources;

(8) grantees may not use funds to supplant, replace, or in substitution for, any funds that are or would otherwise be expended under any federal, state, or local law for the same purposes; and

(9) considers awarding funds to expand successful caregiver activities currently in communities, such as respite providers, support groups, outreach, information and assistance, adult day services, counseling, and case management.

(d) **Cross references.** See OAC 340:105-10-37, 340:105-10-38, 340:105-10-40, 340:105-10-41, 340:105-10-43, 340:105-10-44, and 340:105-10-50.1.

INSTRUCTIONS TO STAFF

1. **The procedures for implementing the National Family Caregiver Support Program (NFCSP) service standards are listed in (1) through (4) of this Instruction.**

- (1) For participants receiving NFCSP services, information is gathered on an approved intake form and includes at a minimum:**
 - (A) the family caregiver's identifying information;**
 - (B) the caregiver's relationship to the care receiver;**
 - (C) the care receiver's identifying information; and**
 - (D) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific activities of daily living or need for supervision due to Alzheimer's Disease or other neurological and organic brain dysfunction.**
- (2) The provider conducts, at a minimum, annual visits to participants to assess the satisfaction and quality of services.**
- (3) The provider ensures the safety and protection of the participants at all times.**
- (4) Provider staff receive in-service training each fiscal year that is specifically designed to increase their knowledge and understanding of the programs and participants they serve.**

340:105-10-101. Request for proposal procedures

(a) **Policy.** All Older Americans Act pass through funds are awarded in an open, competitive, and fair manner via the request for proposals (RFP) process. Awards are made to applicants whose proposals include all components of the service(s) outlined in the RFP and who best meet the specifications of the RFP. The Area Agency on Aging (AAA) board of directors is directly responsible for reviewing proposals and awarding funds. This responsibility may not be delegated. The board of directors may not award funds to the AAA or to another subdivision of the sponsoring agency under the auspices of the same board of directors. The board of directors may not award funds to board members or the agencies or organizations they represent. Awarding funds through the RFP process during the plan year is required when:

- (1) funds are allocated to the AAA at the beginning of the fiscal year;
- (2) there is significant expansion of a service(s) already funded;
- (3) funding a new service(s); or
- (4) funding of an existing service is transferred from a defunct or terminated grantee.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) To initiate RFP, the AAA:

(A) develops specifications for each service to be procured which clearly define the service and how units of service are measured. Such specifications include and make reference to general and service specific standards outlined in paragraph (7) of this subsection. The specifications also include the minimum units of services to be provided, the minimum unduplicated number to be served, and geographic service areas as appropriate;

(B) develops an RFP guide, grant application package, based on the State Agency standard format;

(C) submits a proposal guide to the State Agency for approval at least 30 days prior to the announcement of availability of funds as outlined in (1)(D) of this subsection;

(D) announces the availability of funds in the legal journal section of newspapers in the planning and service area (PSA); ■ 1

(E) makes proposal guides available for pick up at the AAA office;

(F) mails copies of the proposal guide upon request;

(G) conducts a conference for proposers prior to the deadline for submitting applications and requires applicants to attend the conference in order to be considered for funding; ■ 2

(H) provides other reasonable technical assistance to applicants who request assistance, in writing, no later than seven calendar days prior to the closing of the application period; and

(I) at the close of the application period, evaluates and rates all proposals according to standard criteria based on requirements of the proposal guide. The AAA disqualifies incomplete proposals from evaluation and funding.

(2) The AAA advisory council reviews the proposals and makes recommendations on funding to the AAA board of directors. All decisions related to funding recommendations are conducted in accordance with applicable state and federal conflict of interest laws. The advisory council review is conducted during a scheduled meeting with a quorum present.

(3) The AAA board of directors:

(A) or a subcommittee of the board, reviews all proposals and the recommendations of the AAA staff and advisory council;

(B) approves funding of proposals that best meet or exceed the service specifications and the requirements of the proposal guide. All decisions related to granting awards are made in accordance with applicable state and federal conflict of interest laws, and documented through signed resolutions and minutes of meetings. All decisions are acted on as a board with at least a quorum present at a meeting. The AAA board of directors may not delegate its responsibilities related to granting awards;

(C) issues notification of grant awards (NGAs) to applicants who are approved for funding.

- (i) The AAA submits to the State Agency for approval all proposed funding awards to for-profit, full service providers at least 21 days prior to the scheduled issue of NGAs.
 - (ii) This rule does not apply to public or not-for-profit providers who subgrant or contract with a for-profit entity for a component(s) of the full Title III service, such as a for-profit food service; and
 - (D) provides an opportunity for appeal to applicants whose proposals for funding are denied, per OAC 340:105-10-102.
- (4) If no complete proposals are submitted for a service(s) or if the AAA board of directors determines that no proposals for a service(s) meet the specifications of the RFP, the AAA, with State Agency approval, has the option of:
- (i) reprogramming the funds and issuing a new RFP for a different service(s); or
 - (ii) revising the initial specifications for the same service(s) and reissuing a new RFP; and
 - (iii) initiating community development activities to create a potential provider of the service(s) as specified in the RFP. ■ 3

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-102, and 340:105-10-104(c)(7).

INSTRUCTIONS TO STAFF

1. (a) **The announcement runs at least two times in daily papers or two weeks in weekly papers prior to the closing of the application period and in a sufficient number of papers to ensure complete coverage within the planning and service area (PSA).**
- (b) **The announcement begins at least 21 calendar days prior to the closing of the application period and is repeated at least once no less than five calendar days prior to the date of the proposers' conference.**
- (c) **All announcements include:**
 - (1) **a listing of services for which funding is available and the geographic areas that must be covered for each service;**

- (2) the address at which service specifications and proposal guide may be obtained;
 - (3) the closing date and time for application submittal;
 - (4) the name and telephone number of a person to contact for additional information; and
 - (5) the date, time, and location of the proposers' conference, and notification that attendance at the conference is required in order to be considered for funding.
2. At a minimum, the information discussed during the conference includes:
 - (1) the RFP guide and all requirements pertaining to submitting an application; and
 - (2) all responsibilities associated with the acceptance of Title III funds, including applicable statute, policy, certifications, and assurances.
3. The AAA submits the monthly documentation to State Agency until an AAA sub-grantee begins to provide the specified service.

340:105-10-102. Appeal procedures for Title III service providers

(a) **Policy.** The Area Agency on Aging (AAA) grants an opportunity for appeal to any existing or potential grantee or contractor when an application for Older Americans Act funds is denied or when a grant or contract is suspended or terminated prior to the end of an approved budget year.

(b) **Authority.** The authority for this Section is Part 1321.11 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) The complainant submits a written request for hearing to AAA and its board of directors within 30 days of the complainant's receipt of notice of the adverse action. The written request includes a detailed explanation of the complainant's grievance.

(2) The AAA:

(A) schedules the hearing and notifies the complainant of the date, time, and location of the hearing within 20 days of the AAA receipt of the request for hearing; and

(B) prepares written testimony for the hearing outlining the action being appealed and the data on which the action was based. A copy of this written testimony is provided to the complainant eight calendar days prior to the hearing and submitted as evidence during the hearing.

(3) The AAA board of directors, or a committee appointed by the board of directors, conducts the hearing within 30 days of AAA receipt of the complainant's request for hearing. The hearing includes:

(A) an opportunity for the complainant to:

(i) review all pertinent evidence relating to the appealed action;

(ii) present written and verbal testimony;

(iii) be represented by counsel;

(iv) present witnesses and documentary evidence; and

- (v) cross-examine witnesses;
- (B) a presiding officer appointed by the board of directors who conducts the hearing and has had no part in the appealed action; and
- (C) a record of the hearing proceedings, taken by the presiding officer appointed by the board of directors, and maintained on file for public viewing.
- (4) The AAA board of directors issues a written hearing decision to the complainant within 60 days of the completion of the hearing. The decision letter includes notice of the complainant's right to appeal the decision to Agging Services Division (ASD).
- (A) The letter includes instructions to the complainant on how to initiate the appeal.
- (B) The complainant submits a written request for a hearing to ASD within 30 days after the complainant receives notice of an adverse AAA decision.
- (5) When the appeal process is not resolved prior to the start of the new project year, the AAA, through its board of directors, may enter into a temporary grant with a service provider for services affected by the appeal, to avoid cessation of services.
- (d) **Cross references.** See OAC 340:105-10-101(c)(3)(D).

340:105-10-104. Unexpended grant funds and carry-over policy

(a) **Policy.** Area Agencies on Aging (AAAs) and their grantees are allowed to carry-over unexpended grant funds from the most recently completed budget year into the current program budget under prescribed circumstances. Unexpended funds are funds that are obligated and encumbered but not yet disbursed by the AAAs or their grantees at the end of the budget year, and remain unliquidated for more than 30 days after the end of the period for which they were granted.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) The grantee agency, the Title III project or the AAA, submits for approval to the grantor agency, the AAA or the State Agency, a final financial report for the most recently completed program or Area Plan year, which includes documentation of unexpended funds.

(2) The grantee agency submits to the grantor agency, for approval, a budget amendment outlining the proposed disposition of the unexpended funds.

(3) The grantor agency issues a notification of grant award (NGA) to the grantee agency authorizing the obligation, or carry-over, of the unexpended funds into the current program or Area Plan year.

(4) Only Title III Older Americans Act (OAA) federal funds are eligible for carry-over.

(5) Grantees may not carry-over Nutrition Services Incentive Program (NSIP) cash in lieu of commodities funds. Unexpended NSIP funds revert to the NSIP.

(6) Grantees may not carry-over state funds. Unexpended state funds revert to the State of Oklahoma.

(7) Unexpended AAA Title III-B administrative and direct service funds may not be carried over as direct service funds. Such funds may be reverted to Title III-B service funds, or passed through, which may be sub-granted by the AAA via the request for proposals process, per OAC 340:105-10-101.

(8) The AAA may request a carry-over of no more than two percent of the AAA federal OAA allotments. Unexpended funds in excess of this amount result in a

reduction of the current Area Plan state funds on a one dollar for one dollar ratio. This reduction in state funds may be waived if, in the judgment of the State Agency, the excessive unexpended funds are:

(A) directly attributable to greatly increased and unforeseen project income;

(B) directly attributable to factors beyond the reasonable control of the AAA or the Title III project; or

(C) otherwise explained to the satisfaction of the State Agency in a narrative justification.

(9) In cases of repeated and unjustified unexpended Area Plan funds, the State Agency may elect to reduce the percentage of total state Title III-B funds available for use in the AAA's administration and direct service budgets.

(d) **Cross reference.** See OAC 340:105-10-101.

340:105-10-117. Employment policies and procedures

(a) **Policy.** Each Area Agency on Aging (AAA) and Title III project, or grantee, maintains a system of personnel administration approved by the grantor agency, and complies with all state and federal statutes.

(b) **Authority.** The authority for this Section is Sections 2 and 208 of the Inter-governmental Personnel Act of 1970 and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section require the grantee agency to:

(1) recruit, select, and advance employees on their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) provide equitable and adequate compensation to all employees;

(3) provide training to employees, as needed, to ensure quality performance;

(4) retain employees on the basis of the adequacy of their performance, separating employees whose inadequate performance cannot be corrected;

(5) ensure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religion, age, or disability and with proper regard for their privacy and constitutional rights as citizens. This fair treatment principle includes compliance with all federal equal employment opportunity and non-discrimination laws, such as Civil Rights Act and Americans with Disabilities Act;

(6) protect employees from coercion for partisan political purposes and prohibit employees from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office;

(7) provide reasonable grievance procedures to applicants and employees and post the procedures in a public place; and

(8) develop personnel policies. ■ 1

(d) **Cross references.** See OAC 340:105-10-118 through 340:105-10-122.

INSTRUCTIONS TO STAFF**1. The grantee agency develops personnel policies to include:**

- (1) work schedules;**
- (2) leave;**
- (3) compensation for overtime;**
- (4) employee code of conduct;**
- (5) disciplinary procedures;**
- (6) travel and reimbursement;**
- (7) benefits, such as insurance and retirement;**
- (8) training;**
- (9) political activity;**
- (10) recruitment, appointment, and advancement;**
- (11) appeal procedures;**
- (12) lobbying prohibition;**
- (13) Civil Rights Act requirements;**
- (14) Rehabilitation Act and Americans with Disabilities Act requirements;**
- (15) nepotism regarding related employees and grantor or contractors prohibitions; and**
- (16) Family and Medical Leave Act of 1993.**

340:105-10-118. Recruitment of Area Agency on Aging or Title III project personnel

(a) **Policy.** New or vacant Area Agency on Aging (AAA) or Title III project positions are filled using an open and equitable recruitment process which meets all state and federal statutes.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Requirements for implementing this Section are outlined in (1) through (6).

(1) Current employees in the AAA or Title III project make application for new or vacant positions in the same manner as outside applicants, except in the case of an upgraded position. ■ 1

(2) In the case of an upgraded position, ■ 1 the incumbent employee may fill the new position without going through the recruitment process if he or she meets the position qualifications.

(3) Positions are advertised at least one weekend. Advertisement for professional positions are placed in at least one major metropolitan newspaper for at least one weekend.

(4) Recruitment announcements include:

(A) position title;

(B) hours;

(C) education and experience requirements;

(D) salary range;

(E) Equal Opportunity Employer disclaimer; and

(F) closing date of announcement, as appropriate.

(5) Positions are advertised at least one additional weekend if the initial announcement yields fewer than five qualified applicants for the position. This requirement may be waived by the grantor agency upon receipt of a written justification from the grantee.

(6) The grantee makes demonstrable efforts to reach minority and disabled populations with position announcements, such as advertising in minority publications.

(d) **Cross references.** See OAC 340:105-10-117 and 340:105-10-119 through 340:105-10-122.

INSTRUCTIONS TO STAFF

1. Upgraded position refers to the actual position being changed to reflect a higher level of job duties, for example, a Planner I to a Planner II. If the incumbent in the position meets the qualifications for the higher position, then the incumbent may be promoted into the upgraded position.

340:105-10-119. Selection of Area Agency on Aging and Title III project staff

(a) **Policy.** The selection of Area Agency on Aging and Title III project employees is carried out in a fair and consistent manner.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (8).

(1) The grantee agency promptly notifies the grantor agency of all vacancies.

(2) The grantee has written screening criteria for narrowing the field of applicants to those who are qualified and who will be interviewed. The grantee maintains documentation that reflects why each applicant was eliminated from consideration.

(3) The grantee interviews at least five of the eligible applicants for each position. This requirement may be waived by the grantor agency upon receipt of written justification from the grantee.

(4) The grantee appoints a selection committee of at least three individuals. Advisory Council members and board of directors members may serve on the selection committee.

(5) Each member of the selection committee is provided with copies of the resume or applications of those applicants who are to be interviewed, for review prior to the interview process.

(6) The selection committee interviews each candidate using a standardized format, questions, and ranking system. The grantor agency has the option of approving the format, questions, and ranking system prior to the interview process.

(7) The grantee agency selects an applicant who ranks among the top three interviewed candidates.

(8) The grantee agency may not underfill a position at a lower level within the same class except when the grantee agency demonstrates:

(A) there are not enough funds to support the higher level classification; or

(B) the agency is unable to recruit a qualified candidate for the vacant position at

the higher classification level.

(d) **Cross references.** See OAC 340:105-10-117 through 340:105-10-118, and 340:105-10-120 through 340:105-10-122.

340:105-10-121. Area Agency on Aging and Title III project salary schedules

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III projects utilize salary schedules issued or approved by the State Agency.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (3) of this subsection.

(1) The State Agency issues a standard salary schedule for AAA and selected Title III project positions.

(A) The salary schedule provides a minimum and maximum salary rate.

(B) The entrance salary for any position on the schedule is at the minimum salary, step one. The AAA or Title III project may submit a written request to raise the entrance salary for a particular position when the AAA or Title III project is able to document the AAA or Title III project is unable to recruit qualified candidates, or when a prospective employee has unusually high qualifications. Such special entrance rates may not exceed the third step of the salary schedule.

(C) A current employee may be hired to a different position. When the employee accepts a position in:

(i) the same grade, the salary is the employee's current step before the transfer;

(ii) a higher grade, the salary is the closest step on the salary schedule to the employee's current step before the transfer plus one step. If the position transfer results in an increase above one step, the third step of the salary schedule may not be exceeded; or

(iii) a lower grade, the salary is the step where the employee's current salary before the transfer is not exceeded. The third step of the salary schedule may not be exceeded.

(D) Salary advancements of one step annually may be paid from grant funds on employment anniversary dates and at 12 month intervals thereafter. Salary advancements are based on acceptable work performance, as evidenced by

continued employment with the AAA or Title III project. The grantor or grantee agency may disapprove salary advancements due to funding limitations or uncertain allocation levels.

(E) Longevity payments may be made to all AAA and Title III project employees who have two or more years continuous service and work at least 86 hours per month. Longevity is paid in the month following the employee's annual employment anniversary date, in a lump sum, beginning with anniversary dates of October 1, 1988. Employees who terminate their employment before their anniversary date receive the pro rata portion of their budgeted longevity payment for the year. Payment is based upon the number of years of service according to the State Longevity Pay Schedule for Area Agencies on Aging and Projects.

(F) The grantee agency may pay AAA or Title III project staff at rates higher than the rates allowed under the State Agency issued salary schedule. Any amount paid by the grantee agency above the allowed rate is entirely at the expense of the sponsoring agency, and is not considered an allowable local match for grant funds.

(2) AAAs and Title III projects utilize State Agency issued salary schedules for preparation of budgets in grant or contract applications and for hiring additional staff during the project year.

(3) For positions not included in the State Agency issued salary schedule, the AAA or Title III project develops a proposed salary with justification and submits the proposed salary to State Agency for approval.

(d) **Cross references.** See OAC 340:105-10-117 through 340:105-10-120 and 340:105-10-122.

340:105-10-122. Fair labor practices for Area Agencies on Aging and Title III projects

(a) **Policy.** Area Agencies on Aging and Title III projects comply with fair labor practices as outlined in applicable state and federal statutes.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 and Part 553.20 of Title 29 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (9) of this subsection.

(1) Employees are compensated for hours worked at their appropriate wage unless they are exempt positions that include executive, administrative, or professional positions.

(2) Employees may not perform volunteer activities for their employer that are the same or similar to their job duties. Such activities are compensated as hours worked.

(3) Employers are responsible for assigning employee work hours and supervising employee start and end times. Employers are responsible for compensating the employee for all hours the supervisor assigns to the employee and has reasonable knowledge that the employee works.

(4) Non-exempt employees who are full-time are given at least a 30 minute uninterrupted break from compensated work time for a meal. Employees are offered a 15 minute break during compensated work time for every four hour period worked. Break time is considered compensated work time and may not be used for arriving late, leaving early, or extending the lunch period.

(5) Non-exempt employees of a public agency ■ 1 who work in excess of 40 hours within a seven day work period are compensated with one and one-half hours of compensatory time per hour of overtime or paid at a rate of one and one-half times their hourly wage for each hour of overtime.

(6) Non-exempt employees of a private agency who work in excess of 40 hours within a seven day work period are compensated with one and one-half hours of pay at a rate of one and one-half times their hourly wage for each hour of overtime. A private agency may not replace overtime in one work week with compensatory time in another week.

(7) All overtime is approved in advance by the employee's supervisor. The supervisor may adjust the employee's regular work schedule to avoid having the employee work in excess of 40 hours in a seven day work period. Employee work shifts may exceed eight hours per day.

(8) Employers of public agencies **■ 1** require employees to use compensatory time within 180 days, or pay the employee at the appropriate overtime rate.

(9) Employees who fail to adhere to their assigned working hours, do not keep accurate time sheets, or claim unauthorized overtime are subject to disciplinary action by their employer which could result in the termination of their employment.

(10) Employers who base employees out of their own homes do not give out the employee's home telephone number to the general public. Arrangements are made to have a telephone number at a convenient location for the worker to take calls. An emergency response telephone number and procedure are established to avoid having persons contacting employees during non-working hours. Employees report to their employer all contacts during non-working hours that are business related.

(d) **Cross references.** See OAC 340:105-10-117 through 340:105-10-121.

INSTRUCTIONS TO STAFF

1. A public agency is defined as a state, a political subdivision of a state, or an interstate governmental agency.