TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:105-10-12; 105-10-64; 105-10-102; 105-10-108; 105-10-110.1; and 105-10-121.

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

OAC 340:105-10-12 is amended to delete the Adult Day Services Association of Oklahoma as a member as the organization no longer exists and to add past work considerations in the nomination of Area Agency on Aging Council members.

OAC 340:105-10-64 is amended to change the authority of the statute from 102(31) to 102(33) to reflect the amended numbering system of the Older Americans Act.

OAC 340:105-10-102 is amended to add the OKDHS administrative cross-reference of 340:2-5-44 regarding appeal procedures.

OAC 340:105-10-108 and OAC 340:105-10-110.1 are amended to increase audit amounts from $25,000 to $50,000 to comply with OKDHS contract language and the Office of Inspector General audit guidelines.

OAC 340:105-10-121 is amended to clarify language from OMB Federal Circulars A-87 and 133 regarding "fair and equitable" to include that salary and fringe for employees must be consistently applied to both Federal and non-Federal activities.
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 an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS 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, OKDHS 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, OKDHS: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 405-521-4326.

<table>
<thead>
<tr>
<th>REMOVE</th>
<th>INSERT</th>
</tr>
</thead>
<tbody>
<tr>
<td>340:105-10-12</td>
<td>340:105-10-12, pages 1-3, revised 6-1-11</td>
</tr>
<tr>
<td>340:105-10-64</td>
<td>340:105-10-64, 1 page only, revised 6-1-11</td>
</tr>
<tr>
<td>340:105-10-102</td>
<td>340:105-10-102, pages 1-2, revised 6-1-11</td>
</tr>
<tr>
<td>340:105-10-110.1</td>
<td>340:105-10-110.1, 1 page only, revised 6-1-11</td>
</tr>
<tr>
<td>340:105-10-121</td>
<td>340:105-10-121, 1 page only, revised 6-1-11</td>
</tr>
</tbody>
</table>
340:105-10-12. State Council on Aging

Revised 6-1-11

(a) **Policy.** The State of Oklahoma has a State Council on Aging meeting the requirements for the Older Americans Act (OAA), and the Aging Services Division (ASD) need for statewide representation from older Oklahomans and service providers.

(b) **Authority.** The authority for this Section is Section 305 of the OAA of 1965, as amended and the Oklahoma State Council on Aging Bylaws.

(c) **Procedures.** The State Council on Aging is composed of 30 members, at least 18 of whom are 60 years of age or older, residents of the state, and have demonstrated an interest in, knowledge of, and exhibited achievements with respect to the concerns of older persons.

(1) Members of the State Council on Aging include:

(A) one member appointed by the Governor;

(B) one member appointed by the President Pro Tempore of the State Senate;

(C) one member appointed by the Speaker of the House of Representatives; and

(D) 27 members appointed by the Oklahoma Department of Human Services (OKDHS) Director and include:

   (i) five members who are 60 years of age or older and are participating consumers or volunteers working regularly in aging programs chosen from Area Agency on Aging (AAA) advisory council nominees. Each AAA advisory council submits one nominee for consideration from their respective planning and service areas. The consumer or volunteer nominee members chosen include residents of rural counties and represent citizens from varied economic levels whose duration and frequency of work, past and present, is considered.

   (ii) one nominee member is submitted by entities (I) through (XIII):

   (I) Oklahoma Association of Area Agencies on Aging;

   (II) Oklahoma State Department of Health;
(III) Oklahoma State Department of Mental Health, gerontological representative;

(IV) Oklahoma Senior Corps Directors Association;

(V) Oklahoma State Nutrition Directors Association;

(VI) Urban League, alternating by term between Oklahoma City and Tulsa chapters;

(VII) Oklahoma Indian Council on Aging;

(VIII) Oklahoma AARP;

(IX) Oklahoma Federation of Chapters of the National Association of Retired Federal Employees;

(X) Oklahoma Alliance on Aging;

(XI) Oklahoma Retired Educators Association;

(XII) Silver Haired Legislature Alumni; and

(XIII) Oklahoma Health Care Authority; and

(iii) nine at-large members nominated and appointed by the OKDHS Director to ensure ethnic, geographical, and demographical balance.

(2) Duties of the State Council on Aging include:

(A) communicating the needs, conditions, and concerns of older Oklahomans with entities including the:

(i) Oklahoma Commission for Human Services;

(ii) OKDHS Director and the ASD director;

(iii) State of Oklahoma Governor’s Office;

(iv) Oklahoma State Legislature;

(v) United States Oklahoma Congressional Delegates;
(vi) state agencies;

(vii) federal agencies; and

(viii) general public;

(B) reviewing and commenting on all policies, budget appropriations, planning regulations, and legislation that benefit or adversely impact older Oklahomans, and advocating for their concerns and issues while maintaining high visibility and a strong voice;

(C) monitoring and evaluating the provision of services to older Oklahomans;

(D) conducting public forums and seeking input on the needs, conditions, programs, or issues involving older Oklahomans; and

(E) advising the ASD director on all matters pertaining to:

(i) development and implementation of policies, budget appropriations, planning, regulations, and standards;

(ii) effective and efficient administration of division programs;

(iii) development of training and educational programs; and

(iv) administration of ASD functions.
340:105-10-64. Legal services

Revised 6-1-11

(a) Policy. Legal services include the provision of legal advice, counseling, and representation by attorneys, or by paralegals or interns supervised by an attorney. All legal service providers must comply with standards outlined in this Section and OAC 340:105-10-51, 340:105-10-65, and 340:105-10-66.

(b) Authority. The authority for this Section is Section 102 (33) of the Older Americans Act of 1965, as amended.

(c) Procedures. This Section is implemented by the Area Agency on Aging:

   (1) incorporating this Section into its Title III policies and procedures manual;

   (2) providing technical assistance to prospective service project applicants regarding policy in services development; and

   (3) utilizing policy as an indicator in service project proposal evaluations.

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

Revised 6-1-11

(a) **Policy.** The Area Agency on Aging (AAA) grants an appeal opportunity to 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 approved budget year-end.

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

2. The AAA:

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

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

3. Board of directors, or a committee appointed by the board of directors, conducts the hearing within 30 days of the AAA receipt of the complainant's request. 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) Within 60 days of the completion of the hearing the AAA board of directors issues a written hearing decision to the complainant.

(A) The decision letter includes:

(i) a notice of the complainant's right to appeal the decision to the Aging Services Division (ASD); and

(ii) instructions on how to initiate the appeal.

(B) Within 30 days after the complainant receives notice of an adverse AAA decision the complainant submits a written request for a hearing to ASD.

(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 to avoid cessation of those services affected by the appeal.

(d) Cross references. Refer to OAC 340:105-10-101(c)(3)(D) and OAC 340:2-5-44.
340:105-10-108. Audits of government entities and nonprofits receiving less than $50,000 in federal and state funds from all sources

Revised 6-1-11

(a) **Policy.** Government entities and other nonprofits receiving less than $50,000 in federal and state funds from all sources are monitored by the Area Agency on Aging (AAA) or pass through agency.

(b) **Authority.** The authority for this Section is the Office of Management and Budget Circular A-133.

(c) **Procedures.** Procedures to implement this Section are described in this subsection.

(1) Agencies subject to this Part receive a monitoring visit from the AAA or pass through agency to include, at a minimum:

   (A) testing of a minimum of ten percent of all project expenditures for the period under review;

   (B) testing of items listed in the current fiscal assessment tool;

   (C) preparation of a report to include a narrative description of project operations;

   (D) verification of the scope and review period;

   (E) a description of the findings regarding internal controls, accounting methods, and procedures;

   (F) schedules of:

      (i) balance sheet;

      (ii) budget compared to actual revenue and costs; and

      (iii) findings, questioned costs, and recommendations; and

   (G) an account of the grantee's response to findings, questioned costs, and recommendations.

(2) Monitoring visits are conducted within 30 days after each project year.
(d) **Cross references.** Refer to OAC 340:105-10-106 through 340:105-10-107, and 340:105-10-109 through 340:105-10-113.
340:105-10-110.1. Audits of government entities and nonprofit agencies receiving between $50,000 and $500,000 in federal and state funds from all sources

Revised 6-1-11

(a) **Policy.** Government entities and nonprofit agencies receiving more than $50,000 in federal and state funds and less than $500,000 in federal funds from all sources are required to obtain annual audits on such funds unless the grantee has a constitutional or statutory requirement for less frequent audits.

(b) **Authority.** The authority for this Section is Section 212A of Title 74 of the Oklahoma Statutes and the contract between the Area Agency on Aging and the subgrantee.

(c) **Procedures.**

(1) The audit:

   (A) is a certified independent audit of the grantee's entire operations conducted in accordance with generally accepted government auditing standards;

   (B) includes financial statements prepared in accordance with generally accepted accounting principles;

   (C) includes a Supplementary Schedule of State and Federal Awards listing all state and federal revenues and expenditures by contract;

   (D) covers the period the contract was in effect;

   (E) is performed by a certified public accountant or public accountant with a valid and current permit to practice accountancy in Oklahoma; and

   (F) is not charged to federal funds or to meet match requirements.

(2) The Oklahoma Department of Human Services retains the right to examine and audit paperwork.

(d) **Cross references.** Refer to OAC 340:105-10-106 through 340:105-10-113.
340:105-10-121. Area Agency on Aging and Title III project salaries
Revised 6-1-11

(a) **Policy.** Area Agencies on Aging (AAA) and Title III projects develop staff to competently perform programmatic and financial duties based on local needs, available funding, and market value. Persons with comparable job family descriptors (JFD) are not paid more than the midpoint of the salary range of a JFD paid within the Oklahoma Department of Human Services (OKDHS) salary cap. The total administration costs charged to the Title III grant may not exceed the maximum provided in federal law.

(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) AAAs and Title III projects determine starting **salaries** for positions based on local needs, available funding, and market value, provided persons with comparable JFDs may not be paid more than the midpoint of the salary range paid by the OKDHS for the JFD most like the job in question.

(2) Salary **increases** are based on acceptable work performance. The AAA may disapprove salary increases due to uncertain funding allocations and levels. The Aging Services Division may disapprove salary advances of AAAs if it causes the AAA to exceed the federal maximum administrative cost allowed.

(3) Longevity payments may be made to all AAA and Title III employees using a longevity schedule that is:

(A) fair and equitable to all employees;

(B) **consistently applied** to both federal and non-federal activities;

(C) based on available funding;

(D) included in AAA and Title III budgets; and

(E) provided for in the AAA policies and procedures manual.

(d) **Cross references.** Refer to OAC 340:105-10-117, 340:105-10-120, and 340:105-10-122.