



Area
Agency on
Aging (IIIIC)
Branch-St. Joseph

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GENERAL INSTRUCTIONS

FISCAL YEAR 2021-2022

TABLE OF CONTENTS

General Instructions (FY2022)

REQUEST FOR PROPOSALS (RFP) AND CONTRACT AWARD PROCEDURES..... 1

- I. APPLICATION INFORMATION 1
- II. CONTRACTING AUTHORITY 4
- III. SELECTION PROCESS 5
- IV. ACCOUNTING REQUIREMENTS 5
- V. ELIGIBLE COSTS 5
- VI. INELIGIBLE COSTS 5
- VII. INDIRECT RATES 5

REPORTING SYSTEMS 6

- I. UNIT COST REIMBURSEMENT 6
- II. MONTHLY & QUARTERLY REPORTS 6
- III. REPORTING MATCH 7
- IV. PAYMENT SCHEDULES 7

CONTRACT ASSESSMENTS 7

- I. CONTRACT ASSESSMENT PROCEDURES 7
- II. CONTRACT REASSESSMENT PROCEDURES 8
- III. UNANNOUNCED SITE ASSESSMENT 8

REPROGRAMMING 8

- I. REPROGRAMMING PROCEDURES 8
- II. IMPLEMENTATION 9
- III. REALLOCATION 10

CONTRACT AMENDMENTS 10

- I. CONTRACT AMENDMENT PROCEDURES 10

PROBATION, SUSPENSION, AND TERMINATION PROCEDURE 11

- I. PROBATION 11
- II. SUSPENSION 11
- III. TERMINATION 12

EQUIPMENT GUIDELINES FOR SUBCONTRACTORS 12

- I. PURCHASE 13
- II. INVENTORY 13
- III. EQUIPMENT APPLICATION AS MATCH 13
- IV. GUIDELINES FOR REPLACEMENT 13
- V. TRANSFER 13
- VI. EQUIPMENT USE 13
- VII. DISPOSITION 14

APPENDICES

Branch-St. Joseph Area Agency on Aging (IIIC) Appeal Procedure

State of Michigan Bureau of Aging, Community Living, and Supports/Commission on Services to the Aging Appeal Policy (including the Statement of Appeal form and Appeal Hearing Proceedings Procedure)

MDHHS – Bureau of Aging, Community Living, and Supports “Approved Evidence-Based Programs for Title III-D Funds”

REQUEST FOR PROPOSALS (RFP) AND CONTRACT AWARD PROCEDURES

The RFP process will be announced by official notice published in area newspapers and available for download on our agency's website (www.bhsj.org/aaa). Potential Bidders will be emailed an announcement and timeline, including how to request/download the RFP documents. The announcement is followed in approximately two weeks by the Pre-Proposal Bidder's Conference. Information is available at the Conference as well as on request from the AAA office. For multi-year contracts, the Pre-Proposal Bidder's Conference is mandatory.

- I. **APPLICATION INFORMATION** - The application must be completed by organizations proposing to enter into contract for the delivery of Region IIIC Area Agency on Aging (AAA) services utilizing Title III of the Older Americans Act and/or state funding. Applicant agencies must set forth a detailed plan for the proposed project including a description and budget accurately reflecting service delivery activities and the amount of monies needed per monthly service. The fiscal year begins October 1 and ends September 30. If an agency is awarded funds, the application becomes a binding component of the contract.
 - A. **Application Structure** - The application is structured in the following four parts. Parts I, II, and III are to be submitted to AAA: Part I. the Project Information which calls for all programmatic information regarding the applicant agency; Part II, the Application Assurances, includes signed agreements, statutory assurances, etc., which governs program operation; and, Part III. the Budget, provides for a complete budget with yearly and monthly expense projections. The Appendix includes AAA Appeals Procedure.
 - B. **Eligible Applicants for Funding** - Public, private, non-profit, or profit making service organizations and political subdivisions of the State of Michigan serving Branch and St. Joseph counties are eligible applicants. Subcontracting with profit-making organizations requires prior approval from the Michigan Bureau of Aging, Community Living, and Supports (ACLS) in Lansing.
 - C. **Eligible services through the Competitive Bidding Process** - The types of services to be purchased through the competitive bidding process are announced in the official RFP. Minimum service standards are established for each type of service. **Compliance with the standards is mandatory** for the subcontractor providing a particular service. Minimum standards are received with the Application Package and are also available at the Pre-Proposal Bidder's Conference.
 - D. **Population to be Served** - All persons age 60 years or over (or otherwise noted) who are residents of Region IIIC are eligible for Title III and state

funded services regardless of race, color, religion, sex, national origin, sexual orientation, or income. Elderly recipients include those residents or occupants of facilities, either permanent, temporary, or transitional, located within the geographic area of Branch and St. Joseph counties.

- E. Target Population** - Aging service delivery preference must be given to elder persons with the greatest social and economic need, with substantial emphasis given to low income and minority individuals. "Substantial emphasis" is regarded as an effort to serve a greater percentage of older persons with economic and/or social needs than their relative percentage to the total elderly population with the geographic service area.

For targeting, reporting, and referral purposes, use the following definitions:

The Older Americans Act (OAA) states that *"preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals."*

Greatest social need is defined as *"the need caused by non-economic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently."*

Economic Need, according to the Older Americans Act as Amended, Section 102, Part 29 reads as follows:

The term "greatest economic need" means the need resulting from an income level at or below the poverty line.

Part 41 of the section reads as follows:

The term "poverty line" means the official poverty line as defined by the Office of Management and Budget.

The ACLS requires that AAA subcontractors *"specify how [they] intend to satisfy the service need of low-income minority individuals in the area served by the provider; and attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider."*

Additionally, the Act requires that providers *"assure the use of outreach efforts that will identify individuals eligible for assistance"*

under this Act, with special emphasis on rural elderly, older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals), and older individuals with severe disabilities, and inform such individuals of the availability of such assistance."

The AAA requires that providers provide detail about how they intend to fulfill these requirements. This effort is called "targeting."

Subcontractors will consider:

- * Poverty guidelines
- * Census data in the proposed service area

Providers of aging services may not use a means test. Although, methods such as location of services and specialization in the types of services most needed by these groups, may be used to meet the requirement. It is the responsibility of the subcontractor to ensure that special cultural and ethnic needs of the client population will be addressed and that the provision of services will be consistent with the lifestyle of the elders to be served.

The poverty status of families and individuals is based solely on money income before taxes and does not include the value of non-cash benefits such as food stamps, Medicaid, and subsidized housing.

The poverty status of older people is determined by comparing the sum of their incomes and the incomes of other related family members residing in the same household to the appropriate poverty line. Older family members whose personal incomes would be below the poverty line if considered by themselves may not be so classified when total family income is taken into account. Current Federal Poverty Guidelines are found in the Application Information packet available from the AAA:

1. **Minority** - For planning and reporting purposes, clients who are members of the following racial/ethnic categories are to be considered as belonging to a minority group: American Indian/Alaskan Native, Asian/Pacific Islander, African American, Hispanic, and Other.
The "Other" category consists of persons whose response to the race item on the census could not be categorized into a specific race, e.g. "Mixed," "American," or "Hispanic." Most persons in the "Other" category are white Hispanics.
2. **Low Income/Minority** - Persons aged 60 and over meeting the poverty definitions listed above, and who are African American, Hispanic, American Indian/Alaskan Native, and Asian/Pacific

Islander are considered to be low income/minority individuals.

3. **Frail/Disabled Elderly** - Consider a client disabled if he/she would need assistance to use public transportation. Persons aged 60 and over having a physical or mental disability, including Alzheimer's disease or a neurological or organic brain disorder, restricting their ability to perform individually or live independently, are considered to be frail/disabled.
4. **Medically Under-Served Areas** - Title III-D (Preventative Health) of the Older Americans Act provides funding for disease prevention and health promotion services (DP/HP). The Act calls for services to be targeted to areas of the state that are medically under served (MUA) and in which there are a large number of older individuals who have the greatest economic need for such services. ACLS's position regarding the use of III-D funds in areas other than those identified as a medically under served does not exclude services from being provided to other localities, as long as services are provided in identifiable priority areas when feasible.

The term "medically under served" is a federal designation based on four factors: the percentage of population under 100% poverty, the percentage of population 65 and over, the number of FTE medical providers (MD and DO's in the specialty areas of general practice, family practice, obstetrics and gynecology, and internal medicine) per thousand, and the infant mortality rate.

The AAA requires that proposers provide detail in their application for DP/HP services regarding how they intend to fulfill these requirements. Furthermore, proposers must comply with Section 361 of the Older Americans Act (OAA) of 1965, as amended, which stipulates use of Title III-D funding ONLY for evidence-based programming/interventions. ACLS has published (attached) "Approved Evidence-Based Programs for Title III-D Funds" which outlines the programs that are the only programs fundable by the AAA.

- II. **CONTRACTING AUTHORITY** - In order to implement services under a three-year plan, the AAA requires complete application packages from proposers of service at the beginning of the three-year planning cycle with FY 2023 marking the first year. At any time during the contract or the RFP process, the AAA may, at its discretion, require proposers or subcontractors to submit additional materials or information requested. Annual submission of the Contract Rider and approval of the information may include, but is not

limited to:

- A. **Changes** - Summary of anticipated program changes;
- B. **Detail** - Program plan;
- C. **Additional** - Any additional information not requested in the original proposal or contract, or information the AAA requests;
- D. **Bids and Subcontracts** - Must be submitted to the AAA for review and comment prior to implementation;
- E. **Budget** - Budget information.

III. **SELECTION PROCESS**

Please refer to the Application Instructions for this component.

IV. **ACCOUNTING REQUIREMENTS**

- A. **Financial Audit** - Service funds and match must be accounted for separately in the subcontractor's accounting system. All agencies receiving funds from the AAA are required to complete and submit an annual financial audit.
 - B. **Single Audit** - Programs receiving \$50,000 or more in total federal funds are required to conduct and provide a single audit in accordance with the Office of Management and Budget Circular A-133 "Audits of Institutions of Higher Education and Other Non-Profit Institutions" or OMB Circular A-128 "Audits of State and Local Governments," as appropriate. A portion of this expense is allowed to be budgeted toward and funding by the AAA grant award.
- V. **ELIGIBLE COSTS** - The following indicates general items for which AAA funds may be spent: Personnel (including fringe benefits); Travel (staff and volunteers); Communications (including telephone and postage); Supplies; Rent; Utilities; Conferences and training (staff and volunteers). Items that **may** also be covered include: Equipment; Fees; Insurance; and Training.
- VI. **INELIGIBLE COSTS** - Ineligible costs generally include: Bad debts; Capital expenditures; Construction; Entertainment; Interest; Severance pay; Penalties; and Other financial costs deemed ineligible by the AAA in accordance with state and federal guidelines.
- VII. **INDIRECT RATES** - Indirect costs are general operating expenses which are necessary for providing the proposed service but are not readily assignable to any one cost objective such as postage, telephone, and supply costs. The AAA will only approve budgets using an indirect rate which establish how the costs are pro-rated against the general operating expenses of the agency. Subcontractors submitting budgets with indirect costs (i.e., salaries, communications, supplies) must submit an explanation of cost allocations before

the budget can be approved. Once the approved subcontracting budget amounts are established, subcontractors using indirect rates are required to submit a detailed cost allocation plan.

REPORTING SYSTEMS

The primary reporting mechanisms required of all subcontractors includes a one-page monthly financial report and various programmatic reports.

Send all FINANCIAL reports to:
Theresa Fisher, Administrative Services Director

Send all PROGRAMMATIC reports to:
Jessica Cuellar, Program Specialist

To the following address:
Branch-St. Joseph Area Agency on Aging (IIIC)
570 N. Marshall Road
Coldwater, MI 49036
Fax: (517) 278-2494
cuellarj@bhsj.org and aaa3c@bhsj.org

For specifics of reports and reporting requirements please refer to the Application Information packet.

- I. **UNIT COST REIMBURSEMENT** - The one-page monthly unit cost report summarizes the number of units provided during the month multiplied by the established unit cost rate of reimbursement from the AAA. It includes grant funding sources and total units provided as well as providing the percentage of the total projected budget expended that month. For **Purchase of Service (Expense Reimbursement)** contracts, reimbursement is directly correlated to the actual cost of providing the proposed service/event and reported as such on a monthly basis.

II. MONTHLY & QUARTERLY REPORTING REQUIREMENTS

- A. **NAPIS (National Aging Programs Information System)** - For all Federal Title III funded services, detailed programmatic reporting is required. Clients served and units are to be submitted in electronic format monthly as outlined in the FY 2019 Programmatic Reporting Requirements manual.
- B. **Waiting List** - This information is reported as a supplement to NAPIS reporting monthly and is outlined in the FY 2022 Programmatic Reporting Requirements manual.
- C. **Nutrition Program Supplemental Forms** - This information is reported as a supplement to NAPIS reporting monthly and is

outlined in the FY 2022 Programmatic Reporting Requirements manual.

D. Quarterly Fiscal Reports

- III. REPORTING MATCH** - Local cash and in-kind match resources will be reported on the quarterly financial report.
- IV. PAYMENT SCHEDULES** - Reports must be received at the AAA office within ten calendar days following the last day of each month for reimbursement on the third Friday of the month. Reimbursements for a particular month is contingent on the basis that the reports received are accurate and complete. Faxed copies of reports are accepted for reimbursement, but must be followed by signed originals within seven calendar days.

CONTRACT ASSESSMENTS

- I. CONTRACT ASSESSMENT PROCEDURES** - According to the state and federal guidelines, the AAA must conduct two formal assessments of each contract yearly - a program, and a fiscal assessment. Additional assessments may be required depending upon the significance of the recommendations from the program and fiscal assessment (see Reassessment Procedure). The function of the program assessment is to assure that the subcontractor is in compliance with ACLS and AAA minimum-operating standards for programs and services. The purpose of the fiscal assessment is to verify that accurate methods of accounting are being used in filling out the monthly reimbursement request and in the handling of all financial aspects of the grant. The assessment procedure involves several steps:
 - A. Scheduling** - An assessment date will be scheduled with the subcontractor at least 14 calendar days in advance.
 - B. Assessment Questionnaire** - The subcontractor will receive a copy of the assessment questionnaire at least 14 calendar days before the date of the assessment.
 - C. Assessment Date** - On the assessment date, AAA staff will review the programmatic questionnaire with relevant staff of the subcontractor agency. The conclusion of the session will consist of an exit interview, where the tentative results and recommendations can be reviewed with the subcontractor. The AAA Director of Finance/IT may make separate arrangements to review fiscal records with the subcontractor.
 - D. Written Summary** - AAA will present a written summary of the assessment to the AAA Advisory Committee and AAA Board of Directors (BHSJ Board of Health) for approval. This will include all the information

required to meet ACLS minimum standards. The summary will indicate whether a third assessment or reassessment is required.

- E. **AAA Board Approval** - AAA will send the Board-Approved written summary of the assessment to the subcontractor.
- F. **Response** - The subcontractor will respond in writing within 30 days in order to acknowledge the intent to resolve compliance items. Depending on the significance of the findings, the subcontractor will either be reassessed or required to submit a notification of compliance with the recommendations.

II. **CONTRACT REASSESSMENT PROCEDURE** - A third assessment (reassessment) of the subcontractor may be required if the compliance problems are significant. The purpose of the reassessment is to monitor the progress on any significant problems that were apparent during the assessments. Decisions to conduct a reassessment will be made on a case-by-case basis. The reassessment involves two steps:

- A. **Appointment** - AAA staff will make an appointment and visit the subcontractor agency to review progress on recommendations with relevant staff.
- B. **Written Summary** - AAA staff will provide a written summary of the reassessment to the subcontractor agency, AAA Advisory Committee, and AAA Board of Directors (BHSJ Board of Health).

III. UNANNOUNCED SITE ASSESSMENT

Sections I and II notwithstanding, the Agency retains the right to hold unannounced site visits with providers and review procedures, files, and other relevant material at any time.

REPROGRAMMING

I. **REPROGRAMMING PROCEDURES** - Reprogramming is a means of utilizing, within a fiscal year, all available federal and state monies for services. It provides for the expenditure and monitoring of funds and services provided within the two-county area, thus reducing and/or eliminating unnecessary waste or loss of service dollars to the region.

- A. **Expending Funds** - All regular and reprogrammed funds are to be expended by the end of the fiscal year in which they are rewarded.
- B. **Unspent Funds** - Funds not spent as a result of contract termination or amendment will automatically be reprogrammed.
- C. **Quarterly Review** - All contracts entered into by the AAA will be

subject to the quarterly reprogramming review.
During the fourth quarter, review will take place monthly.

- D. **Changes** - Changes in the subcontractor/AAA relationship as a result of reprogramming procedures will be implemented through the standard contract amendment procedures.
- E. **Match** - Subcontractors will be reimbursed only to the level for which appropriate match has been secured.

II. IMPLEMENTATION - All service funds shall be obligated by the governing board of the AAA and contracts signed by ninety days after the beginning of the fiscal year. Subcontractors will be monitored by standard monthly and quarterly financial reports submitted to the AAA.

Reports are due at the AAA office ten calendar days following the end of the month in which the report relates. Late reports will cause administrative delay in the reimbursement process. AAA staff will conduct a minimum of two on-site assessments of each subcontractor during the fiscal year. Other visits may be made if the subcontractor requests technical assistance concerning service or other fiscal problems or if submitted reports indicate a problem as identified by the Area Agency.

Full implementation of reprogramming reviews may not be necessary for all subcontractors but will be discretionary on the part of the AAA as determined by previous communication with the subcontractor; the severity of the programmatic or budgetary variance; and the correlation with the assessment and reassessment process. The following reprogramming reviews will be in effect:

- A. **First Quarter** - A subcontractor demonstrating a variance level 20% in budget, match, units, program income, other resources, or client counts will be required to provide a written explanation for the variance and a plan for bringing performance into line with contractual levels within a specified time frame. The plan is due to the Area Agency in writing not more than 10 calendar days from notification of variance.
- B. **Second Quarter** - A subcontractor demonstrating a variance level of 10% will be required to provide an explanation for the variance, and a plan for bringing performance into line with contractual levels within a specified time frame. AAA staff will review the explanation and plan, and a meeting will be immediately called with the subcontractor if the explanation and plan are unsatisfactory. If satisfactory, no contact will be made with the subcontractor. After meeting with the subcontractor, a decision will be made to either alter the proposed plan of correction, or amend the contract. The subcontractor will be notified of this decision within ten calendar days after said meeting has taken place.

- C. **Third Quarter** - A subcontractor demonstrating a variance level of 10% in budget, match, units, program income, other resources, or client counts will be required to provide an explanation for the variance, and a plan for bringing performance into line with contractual levels within a specified time frame, and to determine if reallocation of funds are necessary. All contract amendments are to be final by the end of the 10th month of the fiscal year.

The Quarterly Report is a summary of contract performance based on the plan submitted during the application/negotiation process. Subcontractors are to respond to requests for explanations of any variance levels in writing no more than ten (10) calendar days after the request is received.

- D. Fourth quarter monitoring will occur monthly.

- III. **REALLOCATION** - Funds available as a result of reprogramming reviews will be reallocated to existing or new service areas as included in the Area Implementation Plan. Those agencies that have demonstrated a need for additional funds to increase present services and have performed well within their budget guidelines will be given preference. No additional funds will be awarded to a subcontractor indicating a carryover balance. In no event is a subcontract to extend beyond the end of the fiscal year.

CONTRACT AMENDMENTS

- I. **CONTRACT AMENDMENT PROCEDURES** - The AAA Board of Directors must approve all contract amendments, which either increase the federal or state dollar award to the contract, or reduce the federal or state dollar award by 20% or more. The subcontractor may appeal a decision to amend and/or terminate a contract by submitting its objection in writing to the AAA office (see Appeals Procedure).
 - A. **Implementation** - Approximately one month must be allowed to complete the Contract Amendment process. All amendments must be completed by the end of the tenth month of the fiscal year. Contract amendments may be implemented by the AAA according to the following provisions set forth in the contract document:
 1. **Subpart 3** - Probation, Suspension, or Termination;
 2. **Subpart 4** - Unavailability of funds;
 3. **Subpart 6** - Substantive changes in program or budget
 4. **Subpart 9** - Program Income, when sufficient to warrant substantive change.
 - B. **Procedure** - Necessary steps to secure amendments are as follows:
 1. **Discuss Changes** - AAA and subcontractor discuss necessary changes;

2. **Information Submitted** - Service budget information, and/or necessary Project Information revisions are submitted to the AAA showing planned amendments;
3. **Substantive Amendments** - Substantive amendments to the contract shall be reviewed by the governing board. Any increases or decreases made to an agency shall be subject to approval by the full governing board;
4. **Amendment Form** - Contract Amendment document is sent to the subcontractor for signatures.

PROBATION, SUSPENSION, AND TERMINATION PROCEDURE

- I. **PROBATION** - If a subcontractor fails to comply with the terms of the contract, the AAA may place operations on probation in whole or part. Probation will commence upon the AAA giving the subcontractor written notice of probation. The notice of probation shall contain the reasons for the probation, any corrective action required of the subcontractor, and the effective date.

During the probationary period, the subcontractor will receive reimbursement for allowable expenses incurred as part of the contract. If, during the probationary period, the subcontractor does not comply with the corrective actions, the AAA may suspend or terminate the contract.

- II. **SUSPENSION** - If the subcontractor fails to comply with the terms of a contract, the AAA may suspend support for the subcontractor operations in whole or in part. Support for any part shall automatically be terminated when it has been suspended for more than ninety days. The AAA shall notify the subcontractor in writing of the suspension and shall note the right of the subcontractor to appeal such decision according to the procedure in the AAA Appeals Procedures. Under extreme conditions (including, but not limited to, danger to older persons or improper use of funds), immediate notice of suspension may be given.

New obligations incurred by the subcontractor during the suspension period will not be allowed unless prior written authorization is granted by the AAA. After suspending contract operations, the AAA shall determine the amount of unearned funds the subcontractor has on hand, anticipated length of suspension, the extent of operations suspended, and the amount of the fund balance on hand to determine whether the AAA should require the balance to be returned.

The subcontractor shall cooperate with the AAA and assist in making these determinations. Suspended contract operations may be reinstated when conditions warrant such action. Reinstatement shall be made in writing if it results in an actual increase or decrease of total funds awarded.

The AAA financial participation in reinstated contract operations may resume immediately upon reinstatement, but will not be for any costs incurred for those contract operations while suspended. The obligational authority unearned at the time of suspension may again become available for earning at the previously established matching ratio, unless the AAA reduces the amount of the contract.

III. TERMINATION

- A. Notice** - The AAA shall have the right at any time after the effective date of this contract to terminate this agreement for cause by giving the subcontractor thirty days written notice and shall note the reason(s) for such termination. If notice is so given, this agreement shall terminate upon the expiration of thirty days and the liability of the parties hereunder for the further performance of the terms of this agreement shall cease, but they shall not be relieved of the duty to perform their obligations up to the date of termination.
- B. Cause of Termination** - Under extreme conditions, the AAA may terminate the contract immediately (i.e., gross negligence, misappropriation of funds, non-compliance with contract boilerplate). Termination by the AAA may include the following:
1. **Use of Funds** - Ineffective or improper use of funds;
 2. **Compliance** - Noncompliance with provisions, covenants, or obligations of the contract;
 3. **Reports** - Continued submission of incorrect or incomplete reports or failure to submit timely reports as required under this contract;
 4. **Improbable Ability to Fulfill Contract** - If for any reasons the carrying out of this contract is rendered improbable or non-feasible as determined by the AAA or the Office of Services to the Aging;
 5. **Inadequate Evaluation** - Evaluation findings are inadequate for two semi-annual evaluations;
 6. **Suspension** - Suspension for more than three consecutive months;
 7. **Local Requirements** - Failure to meet the local requirements;
 8. **Breach of Assurance** - Breach of any assurance given under in the contract boilerplate.

EQUIPMENT GUIDELINES FOR SUBCONTRACTORS

All equipment purchased with federal or state funds through contract with the AAA must have been previously approved in the budget detail section of an approved contract. **Equipment** is defined as an article of tangible personal property that has a useful life of more than two years and an acquisition cost of \$5,000.00 or more. **Supplies** are defined as all tangible property other than equipment.

I. PURCHASE

- A. **Three Bids** - Three bids should be on file at the subcontractor's office for all equipment purchased.
- B. **Title** - Title to equipment and supplies acquired under subcontract shall vest, upon acquisition, in the subcontractor with further obligation to the AAA.

II. INVENTORY

- A. **Marking Equipment** - All equipment must be marked to show that it was purchased with federal or state contract funds.
- B. **Inventory** - An inventory list, including purchase date, source of funding, purchase price, manufacturers model/ serial number, etc. must be filled out by the subcontractor and sent to the AAA as soon as the equipment purchases are complete. Inventories are to be kept up to date, as appropriate.

III. EQUIPMENT APPLICATION AS MATCH

- A. **Value** - Equipment and supplies directly related to the operation of a contracted service, but not purchased with contract or other federal funds may be used as a source of in-kind match for the project with AAA approval. The value on the item to be used should reflect the current retail value, or purchase price of the item which ever is lesser. Documentation of this value should be on file at the subcontractor's office.
- B. **Match Resources** - No equipment or supplies originally purchased with federal dollars or currently supported with federal dollars may be used as match.

IV. **GUIDELINES FOR REPLACEMENT** - Equipment purchased through federal or state funds contract may be replaced if needed. The replacement may take place either through trade-in or through the sale and application of the proceeds to the acquisition cost of the replacement equipment. The replacement equipment is subject to the same guidelines as the original equipment.

V. **TRANSFER** - For equipment valued at \$5,000.00 or more the AAA may require transfer of the equipment (including title) to another agency. This right will be exercised if the project or program for which the equipment was purchased has transferred to another subcontractor.

VI. **EQUIPMENT USE** - The subcontractor shall use equipment that has not been transferred in the program for which it was acquired as long as needed.

- A. **Priorities for Usage** - Equipment will be used, if needed, in other programs according to the following priorities:

1. **AAA Subcontractors** - Programs currently or previously AAA sponsored;
 2. **Federal Programs** - Programs currently or previously sponsored by federal agencies;
 3. **Non-Use** - If the equipment is being used less than full time in the original program, the subcontractor may make it available for use in other projects sponsored by the federal government (with preferences to AAA subcontractors) if other use will not interfere with the work on the original program.
- B. Availability to Other Programs** - If the equipment can no longer be used by the subcontractor, it may voluntarily make it available for use in other programs currently or previously sponsored by the government which the subcontractor is supporting through sub-grant.

VII. DISPOSITION

- A. Disposition Procedures** - If original or replacement equipment is no longer needed in programs currently or previously sponsored by the government, disposition will be made as follows:
1. **Value** - Equipment with an acquisition cost of less than \$5,000.00 and equipment of no further use value may be retained, sold, or disposed of with no further obligation to the AAA.
 2. **Proceeds** - All other equipment may be retained or sold and the government will have the right to an amount calculated by multiplying the current market value or the proceeds from the sale by the government share of the equipment. This share is the same percentage as the AAA cost share of the original subcontract excluding in-kind contributions. If a portion of the acquisition cost was used as match, the government's share of the original subcontract is determined as explained above and multiplied by the percentage of the equipment cost which was borne as direct cost under the subcontract.
 3. **Funds Retained** – Any funds received in the disposition of equipment, shall be recorded as program income and placed back into use for program expenses and/or provision of service.
- B. Supplies No Longer Needed** - Supplies exceeding \$1,000.00 in total aggregate fair market value that were not used for the program for which they were acquired, or not needed for any program currently or previously sponsored by the government, may be retained or sold. For retained supplies, the government is credited by multiplying the government share by the current market value. This credit may be reduced by 10% of the proceeds for selling and handling expenses. Subcontractors must inform the AAA of efforts with equipment or supplies disposition and post contract uses.

BRANCH-ST. JOSEPH AREA AGENCY ON AGING (IIIC) APPEAL PROCEDURE

Applicant and Subcontractor Procedure to the Area Agency on Aging

Any agency whose application or proposal to provide services has been denied by the AAA Governing Board of Directors, or whose contract has been placed on probation, suspended, terminated (except termination for just cause); shall be notified in writing within ten calendar days of such action. Notification shall include a statement of the availability for review of the criteria used in rendering the decision as well as their right to appeal either in person or by a designated representative.

APPEAL PROCESS

- I. Preliminary Informal Inquiry** - An agency denied funding or an agency whose contract has been placed on probation, suspended, terminated, or not renewed, may contact the AAA to request an informal inquiry at which time AAA staff shall meet with the applicant or contractor to discuss the reasons for the decision. Information and/or criteria on which AAA action was based will be made available at this time for review by the affected parties.

- II. Appeal to the AAA Board of Directors**
 - A. Within five calendar days of the receipt of formal notification of AAA action, the applicant or subcontractor shall notify the AAA in writing of its desire to pursue an appeal to the Board of Directors. If a Board appeal is pursued, the specific reasons for the appeal request must be submitted in writing to the AAA, Attention: Board Chairperson.

 - B. Within five calendar days of the receipt of the written request from the applicant, the AAA shall designate a time and place for a hearing. The hearing, which may be postponed only for good cause, will take place within 21 calendar days from AAA receipt of the letter and the appellant will be so informed. A copy of the request to appeal will be submitted by the AAA to the Director of ACLS within seven calendar days of receipt.

 - C. The Governing Board of Directors of the Region III-C Area Agency on Aging, shall decide the procedure for conducting the hearing, including, but not limited to:
 1. Choice of presiding officer;
 2. Participants and attendants;
 3. Kinds of testimony acceptable;
 4. Permission of recording devices; and,
 5. Designation of Hearings Panel (Executive Committee, full Board, or Chairperson, etc.)A record of the hearing, including relevant facts, shall be maintained.

- D. The Governing Board of Directors' appointed hearings panel shall reach final determination by majority vote, and shall render the determination based solely on evidence presented at the hearing in writing to the appellant verbally at the point of the decision. Written documentation of the decision will be sent by certified mail within five calendar days of the meeting. Such notice shall inform the appellant that unresolved issues appeal to the Office of Services to the Aging.
- E. When the AAA's decision being appealed results in a change in providers, the appeal proceedings shall be completed no later than 30 calendar days before the beginning of the fiscal year. If not, the contract of the existing provider shall be extended until the appeal process through the state level is complete or 105 days whichever is less.
- F. Within five calendar days of receipt of the hearing panel's verbal determination, appellant shall notify the AAA in writing of its desire to accept the decision or to appeal to ACLS.

III. Appeal to the Bureau of Aging, Community Living, and Supports or to Request Binding Arbitration

Within five calendar days of the receipt of the hearing panel's decision the appellant may submit a request to the Director of the Michigan Bureau of Aging, Community Living, and Supports for the Commission on Services to the Aging to hear the appeal, or the appellant may request binding arbitration. Arbitration may only be where the dispute centers on the relative merits of the application.

- A. ACLS Appeal - ACLS shall review and act on the request in accordance with its established procedures for receiving and processing appeal requests (see ACLS Bureau Appeal Procedure).
- B. Binding Arbitration - A request for binding arbitration shall be conducted in accordance with the provisions of the American Arbitration Association or a similar recognized professional arbitration organization. The decision of the arbiter is binding and is not appealable to ACLS. The arbiter shall determine the distribution of costs between parties (see ACLS Bureau Appeal Procedure).
The arbitration process must be completed within 90 days of filing of the request. If the process takes longer than 90 days the AAA may operate under the new contract award until the decision is rendered

ADMINISTRATIVE COMPLAINTS

Within seven calendar days of the receipt of notification of AAA action, subcontractors may request an appeal to the Board of Directors regarding administrative actions which require a subcontractor to perform, produce, or take action in addition to, or beyond the provisions of the executed contract, applicable statewide operating standards, the Rules for State and Local Programs on Aging, the Older

Michiganians Act, or the Older Americans Act. A copy of the request shall be submitted by the AAA to the Director of ACLS within seven calendar days of receipt. The Board will provide a written determination within thirty (30) calendar days of the filing of the appeal and will give notice that the decision may be appealed to ACLS within ten calendar days of the determination.

ADHERENCE TO SEQUENCE OF STEPS IN APPEALS PROCESS

In order to receive full rights and consideration under the Appeals Procedures, appellants are required to follow the full progression of appeal steps outlined herein. Noncompliance with any particular step shall result in loss of standing in subsequent steps.

STATE OF MICHIGAN
BUREAU OF AGING, COMMUNITY LIVING, AND SUPPORTS/COMMISSION ON
SERVICES TO THE AGING APPEAL POLICY

- I. INTRODUCTION** - The following appeal procedure has been developed adopted by the Michigan Commission on Services to the Aging (hereinafter referred to as the Commission) pursuant to R400.20309(1)(a)(b) of the Administrative Rules of the Bureau of Aging, Community Living, and Supports (ACLS). It is intended to serve as a procedural guide to an agency or organization that has exhausted the appeals procedures of ACLS grantees as provided for in R400.20107(1)(a) and (b).

The Appeals Policy recognizes three types of appeal:

1. Questions regarding the appropriateness, consistency, and fairness of the award process utilized by an ACLS grantee.
2. Issues with regard to the merits of one application over another.
3. An administrative action by a grantee of ACLS that imposes or limits requirements on the contractor or service provider. The definition of administrative action includes, but is not limited to, any action which requires an agency to perform, produce, or take an action in addition to, or beyond, the provisions of the executed contract, applicable statewide operating standard, the Rules for State and Local Program on Aging, the Older Michigianians Act, or the Older Americans Act.

II. METHODS OF APPEALS

- A. An agency whose 1) application or proposal to provide services has been denied by a grantee of the ACLS, or 2) contract has been placed probation, suspended, or terminated (except for just cause) may appeal the decision, provided that all remedies under the grantees appeal procedures have been exhausted, if there is a question regarding the appropriateness, consistency, and fairness of the process utilized by the ACLS grantee. The appeal may be either to binding arbitration or to the Commission.
- B. Issues with regard to the merits of one application over another may only be appealed to arbitration.
- C. An administration action by a grantee of ACLS that imposes or limits requirements on the contractor or service provider may be appealed only to the Commission, provided that all remedies under the grantees appeal procedure have been exhausted.

II. APPEAL PROCEDURE

A. Appeals to Arbitration

1. The ACLS requested and received an opinion from the Department of the Attorney General (February 10, 1988) which clarifies the requirements of the Rules for State and Local Programs on Aging (R400.20107) pertaining to arbitration of certain disputes between grantee and contractors or potential contractors.

A local appellant may select binding arbitration instead of pursuing an appeal to the ACLS or the Commission in response to those appealable actions of a grantee as defined within the Rules. If arbitration is chosen by the appellant, they will relinquish any future right to appeal the same matter to ACLS or the commission.

2. An agency having the right and desire to seek arbitration shall submit written notice to the Chairperson of the respective ACLS grantee indicating the intent to select arbitration to settle the dispute within ten calendar days of receiving the written notice of an appeal before that grantee. A copy of this notice must be sent by the ACLS grantee to the Director of ACLS within seven calendar days of receipt.
3. The appellant shall identify and contact an arbitration organization (such as the American Arbitration Association or a similarly recognized professional arbitration organization) in order to initiate the arbitration process. The arbitration process shall be governed by the arbiter and/or the arbitration organization. The arbiter shall determine the distribution of costs between parties involved in the appeal.
4. The parties involved shall be conclusively bound by the arbitration decision. Under Michigan law, an arbiter's factual or legal conclusions will not be distributed by the courts absent a showing of fraud or lack of good faith on the part of the arbiter.

B. Appeals to the Commission on Services to the Aging

NOTE: The act of requesting an appeal does not prevent the grantee from implementing the decision being appealed, except in the case where a grantee's decision results in a change in service providers. (See ACLS Transmittal Letter #165, July 1, 1988.)

1. Any agency having the right to appeal shall submit a written request to appeal to the Director, ACLS, within ten calendar days of receiving the written notice of adverse action by an ACLS grantee. All appeal applications must certify that the appealing body has endorsement of the governing body of the officially recognized entity. The request must include a state-

ment of the basis of the appeal in sufficient detail to permit analysis by ACLS (an optional format is attached for reference). Failure to submit sufficient and relevant information or data should result in a decision to deny the request for appeal. The Director of ACLS, after a review of the appeal application, may recommend to the Commission that the request be denied under any of the following circumstances:

- a. The request was not submitted within the time allowed;
- b. The request is withdrawn by the appellant through written notice;
- c. The ACLS has determined that it lacks jurisdiction over the issue;
- d. The appellant does not have the right to appeal; or,
- e. The failure of the appellant to submit sufficient and relevant information on the basis of the appeal.

Written notice shall be given to the appellant, the Director of ACLS, stating the reasons for denial of the request within fourteen calendar days of the Commission action.

2. Upon receiving and accepting the recommendation of the ACLS Director to grant an appeal hearing, the chairperson of the Commission shall appoint a panel to hear the appeal. Panel members shall be selected from one or a combination of the following categories:
 - a. Commission members who are disinterested parties, and/or;
 - b. State Advisory Council members who are disinterested parties as defined in the Older Americans Act, P.A. 180, Section 4(2).

The panel shall consist of no less than three and no more than five members. The chairperson of the Commission, or his/her designee, shall preside at the appeal hearing. The Director of ACLS shall assign ACLS staff as necessary to support the hearing panel.

3. A hearing shall be scheduled no later than forty-five calendar days after the appeal request is received by the ACLS. A notice of hearing shall be mailed to the parties no less than fourteen calendar days before the hearing date. The notice shall include:
 - a. The date, time, and place of hearing;
 - b. A statement of the issue(s) being heard;
 - c. The request for submission of any additional relevant information to be considered prior to the hearing, statement that failure to submit sufficient and relevant information can result in an adverse decision;
 - d. The rules of conduct for the hearing; and,

- e. The rights of the parties.
4. The Commission may dismiss an appeal under any of the following circumstances:
 - a. The request is withdrawn by the appellant through written notice before a final decision is issued; or,
 - b. The appellant fails to appear or be represented at the scheduled hearing without a request for delay or postponement.Written notice shall be given by the Director to the appellant stating the reason(s) for dismissal.
 5. During the appeals process both parties shall be given an equal opportunity to present oral and written arguments on pertinent issues, to bring witnesses, to present evidence, and to question any testimony or evidence including cross-examination of witnesses. All written materials presented prior to and at the hearing will be shared with both parties. All correspondence and materials submitted will become part of the official record of the hearing.
 6. Upon completion of the hearing, the hearings panel will develop a written proposal for decision to be presented to the Commission at its next regularly scheduled meeting. The hearing panel may recommend remedial action(s) as required. A decision will be made rendered within sixty calendar days of the completion of the hearing.
 7. Written notice of the decision will be provided to all parties by the Director of ACLS within ten calendar days of the Commission action regarding the decision.
 8. Decisions made by the Commissions in accordance with this policy shall be the final agency decision.
 9. If the requested relief is not granted by action of the Commission the appellant may elect to file suit in the Circuit Court, County of Ingham.

STATEMENT OF APPEAL
TO BUREAU OF AGING, COMMUNITY LIVING, AND SUPPORTS/COMMISSION ON
SERVICES TO THE AGING

(An optional format for agencies and organizations that have exhausted the appeals
procedures of the ACLS grantee)

1. Date Statement Prepared: _____
Date Received at ACLS: _____

2. Appellant Organization:

Name: _____

Address: _____

Telephone: _____

Contact Person and Title: _____

3. Date of Endorsement by Appellant's Governing Body: _____

4. Certification of Endorsement: *I, as an authorized official, confirm that the
governing body of _____, at a duly
convened*

(Name of Appellant Organization)

*meeting, endorsed by majority vote this appeal to the Aging & Adult Services
Agency/Commission on Services to the Aging.*

(Type Name and Title)

(Signature)

(Date)

5. Name of Area Agency and Statement of Decision being appealed:

Area Agency:_____

Statement of Decision:

6. Description of why Area Agency decision is believed to be in error: (Please cite pertinent operation standards, regulations, policies, statues, etc.)

7. Statement of desired outcome:

8. Itemization of materials/documentation submitted:

a.

b.

c.

d.

e.

etc.

**STATE OF MICHIGAN BUREAU OF AGING, COMMUNITY LIVING, AND SUPPORTS
APPEAL HEARING PROCEEDINGS PROCEDURE**

(For agencies or organizations that have exhausted the appeals procedures of the
ACLS grantee)

The purpose of this procedures to provide due process in actions of appeal pursuant to the requirements and Rules for State and Local Programs on Aging and the Administrative Procedures Act of 1969.

The hearing will be called to order by the chairperson. There are no oaths as truthfulness is presumed. The proceedings will be tape recorded with support notes taken by ACLS staff assigned to the hearing. All persons representing or testifying on behalf of the appellant or defendant will be asked to state their name and affiliation and sign an attendance roster.

The procedure for conduct of hearings is as follows. Please note: The appeal panel will place greater emphasis upon written arguments contained in the statement of appeal than upon the oral arguments offered at the hearing.

1. The appellant will be allowed forty-five minutes to make a statement or presentation and call witnesses. Additional written materials may also be presented to the panel at this time, with a copy to the defendant. Cross-examination of each witness is limited to ten minutes and will take place after the appellant has concluded the presentation. Redirect, if any, is limited to five minutes.
2. The defendant will be allowed forty-five minutes to make a statement or presentation and call witnesses. Additional written materials may also be presented to the panel at this time, with a copy to the appellant. Cross-examination of each witness is limited to ten minutes and will take place after the appellant has concluded the presentation. Redirect, if any, is limited to five minutes.
3. Both parties, first the appellant and then the defendant, will be allowed a ten minute summation (rebuttal) period after all testimony and/or evidence has been presented. No new information and/or evidence may be brought forward during summation.
4. Appeal panel members may ask questions to gain clarification or understanding of testimony and/or materials submitted at any time prior to and at the hearing and testimony given at the hearing.
5. The chairperson will adjourn the hearing following the defendant's summation.
6. Written summation may also be submitted by either party within

five calendar days of the conclusion of the hearing. A copy of such material must be provided for the other party at the same time.

7. Members of the hearing panel will confer within fourteen calendar days of the adjournment of the hearing in order to prepare the proposal for decision to be presented to the full Commission. Both parties to the appeal will be provided a copy of the proposal. Both parties may submit written exceptions to the proposal for decision which will also be presented to the Commission prior to the final decision on the appeal.