



# NEW MEXICO POLICIES & PROCEDURES

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THE DOCUMENT CONTAINED HEREIN IS SUBJECT TO CHANGE.

VERSION: 8.2025

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## NEW MEXICO STATE PLAN ASSURANCES AND REQUIRED ACTIVITIES

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### State Plan Assurances and Required Activities

#### Older Americans Act, As Amended in 2020

*The State Agency on Aging is committed to performing all listed assurances and activities as stipulated in the Older Americans Act, as amended in 2020.*

#### **Sec. 305, ORGANIZATION**

- (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—. . .
- (2) The State agency shall—
- (A) except as provided in subsection (b)(5), designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;
  - (B) provide assurances, satisfactory to the Assistant Secretary, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan; . . .
  - (E) provide assurance that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and include proposed methods of carrying out the preference in the State plan;
  - (F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(16); and
  - (G)(i) set specific objectives, in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals and older individuals residing in rural areas;
  - (ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals;
  - (iii) provide a description of the efforts described in clause (ii) that will be undertaken by the State agency; .
- (c) An area agency on aging designated under subsection (a) shall be—...
- (5) in the case of a State specified in subsection (b)(5), the State agency; and shall provide assurance, determined adequate by the State agency, that the area agency on aging will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general-purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.
- (d) The publication for review and comment required by paragraph (2)(C) of subsection (a) shall include—
- (1) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,
  - (2) a numerical statement of the actual funding formula to be used,
  - (3) a listing of the population, economic, and social data to be used for each planning and service area in the State, and
  - (4) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

*Note: STATES MUST ENSURE THAT THE FOLLOWING ASSURANCES (SECTION 306) WILL BE MET BY ITS DESIGNATED AREA AGENCIES ON AGENCIES, OR BY THE STATE IN THE CASE OF SINGLE PLANNING AND SERVICE AREA STATES.*

### **Sec. 306, AREA PLANS**

(a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

(1) provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where appropriate, for the establishment, maintenance, modernization, or construction of multipurpose senior centers (including a plan to use the skills and services of older individuals in paid and unpaid work, including multigenerational and older individual to older individual work), within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, the number of older individuals who have greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such area, the number of older individuals at risk for institutional placement residing in such area, and the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in the community), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

(2) provide assurances that an adequate proportion, as required under section 307(a)(2), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, health services (including mental and behavioral health services), outreach, information and assistance (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible) and case management services);

(B) in-home services, including supportive services for families of older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(C) legal assistance; and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(C)) as such focal point; and

(B) specify, in grants, contracts, and agreements implementing the plan, the identity of each focal point so designated;

(4)(A)(i)(I) provide assurances that the area agency on aging will—

(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

(bb) include specific objectives for providing services to low-income minority older individuals, older

- individuals with limited English proficiency, and older individuals residing in rural areas; and
- (II) include proposed methods to achieve the objectives described in items (aa) and (bb) of sub-clause (I);
- (ii) provide assurances that the area agency on aging will include in each agreement made with a provider of any service under this title, a requirement that such provider will—
  - (I) specify how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in the area served by the provider;
  - (II) to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in accordance with their need for such services; and
  - (III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas within the planning and service area; and
- (iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared —
  - (I) identify the number of low-income minority older individuals in the planning and service area;
  - (II) describe the methods used to satisfy the service needs of such minority older individuals; and
  - (III) provide information on the extent to which the area agency on aging met the objectives described in clause (i).
- (B) provide assurances that the area agency on aging will use outreach efforts that will—
  - (i) identify individuals eligible for assistance under this Act, with special emphasis
    - (I) older individuals residing in rural areas;
    - (II) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
    - (III) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
    - (IV) older individuals with severe disabilities;
    - (V) older individuals with limited English proficiency;
    - (VI) older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
    - (VII) older individuals at risk for institutional placement, specifically including survivors of the Holocaust; and
  - (ii) inform the older individuals referred to in sub-clauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and
- (C) contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals and older individuals residing in rural areas.
- (5) provide assurances that the area agency on aging will coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities, and individuals at risk for institutional placement, with agencies that develop or provide services for individuals with disabilities;
- (6) provide that the area agency on aging will—
  - (A) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;
  - (B) serve as the advocate and focal point for older individuals within the community by (in cooperation with agencies, organizations, and individuals participating in activities under the plan) monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect older individuals;
  - (C)(i) where possible, enter into arrangements with organizations providing day care services for children,

assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families;

(ii) if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that—

(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

(II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and that meet the requirements under section 676B of the Community Services Block Grant Act; and

(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;

(D) establish an advisory council consisting of older individuals (including minority individuals and older individuals residing in rural areas) who are participants or who are eligible to participate in programs assisted under this Act, family caregivers of such individuals, representatives of older individuals, service providers, representatives of the business community, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

(E) establish effective and efficient procedures for coordination of—

(i) entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and

(ii) entities conducting other Federal programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b), within the area;

(F) in coordination with the State agency and with the State agency responsible for mental and behavioral health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental and behavioral health services (including mental health screenings) provided with funds expended by the area agency on aging with mental and behavioral health services provided by community health centers and by other public agencies and nonprofit private organizations;

(G) if there is a significant population of older individuals who are Indians in the planning and service area of the area agency on aging, the area agency on aging shall conduct outreach activities to identify such individuals in such area and shall inform such individuals of the availability of assistance under this Act;

(H) in coordination with the State agency and with the State agency responsible for elder abuse prevention services, increase public awareness of elder abuse, neglect, and exploitation, and remove barriers to education, prevention, investigation, and treatment of elder abuse, neglect, and exploitation, as appropriate; and

(I) to the extent feasible, coordinate with the State agency to disseminate information about the State assistive technology entity and access to assistive technology options for serving older individuals;

(7) provide that the area agency on aging shall, consistent with this section, facilitate the areawide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term

care;

(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

(i) respond to the needs and preferences of older individuals and family caregivers;

(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

(i) the need to plan in advance for long-term care; and

(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;

(8) provide that case management services provided under this title through the area agency on aging will—

(A) not duplicate case management services provided through other Federal and State programs;

(B) be coordinated with services described in subparagraph (A); and

(C) be provided by a public agency or a nonprofit private agency that—

(i) gives each older individual seeking services under this title a list of agencies that provide similar services within the jurisdiction of the area agency on aging;

(ii) gives each individual described in clause (i) a statement specifying that the individual has a right to make an independent choice of service providers and documents receipt by such individual of such statement;

(iii) has case managers acting as agents for the individuals receiving the services and not as promoters for the agency providing such services; or

(iv) is located in a rural area and obtains a waiver of the requirements described in clauses (i) through (iii);

(9)(A) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(9), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2019 in carrying out such a program under this title;

(B) funds made available to the area agency on aging pursuant to section 712 shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in section 712;

(10) provide a grievance procedure for older individuals who are dissatisfied with or denied services under this title;

(11) provide information and assurances concerning services to older individuals who are Native Americans (referred to in this paragraph as "older Native Americans"), including—

(A) information concerning whether there is a significant population of older Native Americans in the planning and service area and if so, an assurance that the area agency on aging will pursue activities, including outreach, to increase access of those older Native Americans to programs and benefits provided under this title;

(B) an assurance that the area agency on aging will, to the maximum extent practicable, coordinate the services the agency provides under this title with services provided under title VI; and

(C) an assurance that the area agency on aging will make services under the area plan available, to the same extent as such services are available to older individuals within the planning and service area, to older Native Americans;

(12) provide that the area agency on aging will establish procedures for coordination of services with entities

conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b) within the planning and service area.

(13) provide assurances that the area agency on aging will—

(A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;

(B) disclose to the Assistant Secretary and the State agency—

(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

(ii) the nature of such contract or such relationship;

(C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this title by such agency has not resulted and will not result from such contract or such relationship;

(D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and

(E) on the request of the Assistant Secretary or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

(14) provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;

(15) provide assurances that funds received under this title will be used—

(A) to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and

(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212;

(16) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care;

(17) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery;

(18) provide assurances that the area agency on aging will collect data to determine—

(A) the services that are needed by older individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019; and

(B) the effectiveness of the programs, policies, and services provided by such area agency on aging in assisting such individuals; and

(19) provide assurances that the area agency on aging will use outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on those individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019.

(b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

(2) Such assessment may include—

(A) the projected change in the number of older individuals in the planning and service area;

(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service

area is expected to affect the need for supportive services.

(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

- (A) health and human services;
- (B) land use;
- (C) housing;
- (D) transportation;
- (E) public safety;
- (F) workforce and economic development;
- (G) recreation;
- (H) education;
- (I) civic engagement;
- (J) emergency preparedness;
- (K) protection from elder abuse, neglect, and exploitation;
- (L) assistive technology devices and services; and
- (M) any other service as determined by such agency.

(c) Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

(d)(1) Subject to regulations prescribed by the Assistant Secretary, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

(e) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

(f)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.

(2) (A) The head of a State agency shall not make a final determination withholding funds under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

(B) At a minimum, such procedures shall include procedures for—

- (i) providing notice of an action to withhold funds;
- (ii) providing documentation of the need for such action; and
- (iii) at the request of the area agency on aging, conducting a public hearing concerning the action.

(3) (A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

(B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.

(g) Nothing in this Act shall restrict an area agency on aging from providing services not provided or authorized by this Act, including through—

- (1) contracts with health care payers;
- (2) consumer private pay programs; or
- (3) other arrangements with entities or individuals that increase the availability of home and community-based services and supports.

### **Sec. 307, STATE PLANS**

(a) Except as provided in the succeeding sentence and section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Assistant Secretary a State plan for a two, three, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Assistant Secretary may by regulation prescribe. If the Assistant Secretary determines, in the discretion of the Assistant Secretary, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Assistant Secretary a State plan for a 1-year period that meets such criteria, for subsequent years until the Assistant Secretary determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:

- (1) The plan shall—
  - (A) require each area agency on aging designated under section 305(a)(2)(A) to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306; and
  - (B) be based on such area plans.
- (2) The plan shall provide that the State agency will—
  - (A) evaluate, using uniform procedures described in section 202(a)(26), the need for supportive services (including legal assistance pursuant to 307(a)(11), information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;
  - (B) develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need; and
  - (C) specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B that will be expended (in the absence of a waiver under section 306(c) or 316) by such area agency on aging to provide each of the categories of services specified in section 306(a)(2).
- (3) The plan shall—
  - (A) include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305(d) (concerning intrastate distribution of funds); and
  - (B) with respect to services for older individuals residing in rural areas—
    - (i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000...
    - (ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and
    - (iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.
- (4) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this title and title VII, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas).
- (5) The plan shall provide that the State agency will—
  - (A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area

- agency on aging submitting a plan under this title, to any provider of (or applicant to provide) services;
- (B) issue guidelines applicable to grievance procedures required by section 306(a)(10); and
- (C) afford an opportunity for a public hearing, upon request, by any area agency on aging, by any provider of (or applicant to provide) services, or by any recipient of services under this title regarding any waiver request, including those under section 316.
- (6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Assistant Secretary may require, and comply with such requirements as the Assistant Secretary may impose to insure the correctness of such reports.
- (7) (A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.
- (B) The plan shall provide assurances that—
- (i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;
  - (ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and
  - (iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.
- (8) (A) The plan shall provide that no supportive services, nutrition services, or in-home services will be directly provided by the State agency or an area agency on aging in the State, unless, in the judgment of the State agency—
- (i) provision of such services by the State agency or the area agency on aging is necessary to assure an adequate supply of such services;
  - (ii) such services are directly related to such State agency's or area agency on aging's administrative functions; or
  - (iii) such services can be provided more economically, and with comparable quality, by such State agency or area agency on aging.
- (B) Regarding case management services, if the State agency or area agency on aging is already providing case management services (as of the date of submission of the plan) under a State program, the plan may specify that such agency is allowed to continue to provide case management services.
- (C) The plan may specify that an area agency on aging is allowed to directly provide information and assistance services and outreach.
- (9) The plan shall provide assurances that—
- (A) the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2019, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2019; and
- (B) funds made available to the State agency pursuant to section 712 shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in section 712.
- (10) The plan shall provide assurances that the special needs of older individuals residing in rural areas will be taken into consideration and shall describe how those needs have been met and describe how funds have been allocated to meet those needs.
- (11) The plan shall provide that with respect to legal assistance —
- (A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing

- membership of local governing boards) as determined appropriate by the Assistant Secretary; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;
- (B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Assistant Secretary, that any grantee selected is the entity best able to provide the particular services.
- (C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals;
- (D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and
- (E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.
- (12) The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals —
- (A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—
- (i) public education to identify and prevent abuse of older individuals;
  - (ii) receipt of reports of abuse of older individuals;
  - (iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and
  - (iv) referral of complaints to law enforcement or public protective service agencies where appropriate;
- (B) the State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households; and
- (C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.
- (13) The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.
- (14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—
- (A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and
- (B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.
- (15) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on

aging for each such planning and service area—

(A) to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.

(16) The plan shall provide assurances that the State agency will require outreach efforts that will—

(A) identify individuals eligible for assistance under this Act, with special emphasis on—

(i) older individuals residing in rural areas;

(ii) older individuals with greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);

(iii) older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);

(iv) older individuals with severe disabilities;

(v) older individuals with limited English-speaking ability; and

(vi) older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.

(17) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.

(18) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(7), for older individuals who—

(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

(B) are patients in hospitals and are at risk of prolonged institutionalization; or

(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

(19) The plan shall include the assurances and description required by section 705(a).

(20) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.

(21) The plan shall—

(A) provide an assurance that the State agency will coordinate programs under this title and programs under title VI, if applicable; and

(B) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this title, if applicable, and specify the ways in which the State agency intends to implement the activities.

(22) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(8).

(23) The plan shall provide assurances that demonstrable efforts will be made—

(A) to coordinate services provided under this Act with other State services that benefit older individuals; and

(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

(24) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.

(25) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.

(26) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

(27) (A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

(B) Such assessment may include—

(i) the projected change in the number of older individuals in the State;

(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

(28) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.

(29) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

(30) The plan shall contain an assurance that the State shall prepare and submit to the Assistant Secretary annual reports that describe—

(A) data collected to determine the services that are needed by older individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019;

(B) data collected to determine the effectiveness of the programs, policies, and services provided by area agencies on aging in assisting such individuals; and

(C) outreach efforts and other activities carried out to satisfy the assurances described in paragraphs (18) and (19) of section 306(a).

### **Sec. 308, PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS**

(b)(3)(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

## **Sec. 705, ADDITIONAL STATE PLAN REQUIREMENTS**

(a) **ELIGIBILITY.**—In order to be eligible to receive an allotment under this subtitle, a State shall include in the state plan submitted under section 307—

- (1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;
- (2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;
- (3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;
- (4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out each of the vulnerable elder rights protection activities described in the chapter;
- (5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5).
- (6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—

(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

- (i) public education to identify and prevent elder abuse;
- (ii) receipt of reports of elder abuse;
- (iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and
- (iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

- (i) if all parties to such complaint consent in writing to the release of such information;
- (ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system;
- or
- (iii) upon court order...

This serves as a guide for any new State Plan on Aging (State Plan) taking effect on or after October 1, 2025. This guidance is consistent with the Older Americans Act (OAA) as amended in 2020 and **reflects changes to the OAA program regulations (effective date – March 15, 2024) at 45 C.F.R. section 1321 et seq.**

## STATE PLAN ASSURANCES AND REQUIRED ACTIVITIES

*This language is unrevised boiler plate language from the Older Americans Act required by the Administration for Community Living and taken directly from this link:*

[AoA Form Grants State Plan Guidance 508 final.pdf](#) (See page 8 in the link.)

Older Americans Act, As Amended in 2020, with **changes to the OAA program regulations (effective date – March 15, 2024) at 45 C.F.R. section 1321 et seq.**

### Sec. 305, ORGANIZATION

(a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—. . .

(2) The State agency shall—

- A. except as provided in subsection (b)(5), designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;
- B. provide assurances, satisfactory to the Assistant Secretary, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan; . . .
- E. provide assurance that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and include proposed methods of carrying out the preference in the State plan;
- F. provide assurances that the State agency will require use of outreach efforts described in section 307(a)(16); and

(G)(i) set specific objectives, in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals and older individuals residing in rural areas;

- ii. provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals;
- iii. provide a description of the efforts described in clause (ii) that will be undertaken by the State agency; . . .

(c) An area agency on aging designated under subsection (a) shall be—...

(5) in the case of a State specified in subsection (b)(5), the State agency;

and shall provide assurance, determined adequate by the State agency, that the area agency on aging will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

(d) The publication for review and comment required by paragraph (2)(C) of subsection

(a) shall include—

- 1. a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,

2. a numerical statement of the actual funding formula to be used,
3. a listing of the population, economic, and social data to be used for each planning and service area in the State, and
4. a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

*Note: States must ensure that the following assurances (Section 306) will be met by its designated area agencies on agencies, or by the State in the case of single planning and service area states.*

#### Sec. 306, AREA PLANS

- a. Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—
  1. provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where appropriate, for the establishment, maintenance, modernization, or construction of multipurpose senior centers (including a plan to use the skills and services of older individuals in paid and unpaid work, including multigenerational and older individual to older individual work), within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, the number of older individuals who have

greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such area, the number of older individuals at risk for institutional placement residing in such area, and the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in the community), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

2. provide assurances that an adequate proportion, as required under section 307(a)(2), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—
  - A. services associated with access to services (transportation, health services (including mental and behavioral health services), outreach, information and assistance (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible) and case management services);
  - B. in-home services, including supportive services for families of older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and
  - C. legal assistance;

and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(C)) as such focal point; and

(B) specify, in grants, contracts, and agreements implementing the plan, the identity of each focal point so designated;

(4)(A)(i) (I) provide assurances that the area agency on aging will—

(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

(bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

(II) include proposed methods to achieve the objectives described in items (aa) and (bb) of sub-clause (I);

- ii. provide assurances that the area agency on aging will include in each agreement made with a provider of any service under this title, a requirement that such provider will—
  - I. specify how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in the area served by the provider;
  - II. to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in accordance with their need for such services; and
- III. meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas within the planning and service area; and
- iii. with respect to the fiscal year preceding the fiscal year for which such plan is prepared —
  - I. identify the number of low-income minority older individuals in the planning and service area;
  - II. describe the methods used to satisfy the service needs of such minority older individuals; and
- III. provide information on the extent to which the area agency on aging met the objectives described in clause (i).
  - B. provide assurances that the area agency on aging will use outreach efforts that will—
    - i. identify individuals eligible for assistance under this Act, with special emphasis on—
      - I. older individuals residing in rural areas;
      - II. older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
    - III. older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
    - IV. older individuals with severe disabilities;
    - V. older individuals with limited English proficiency;
    - VI. older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
- VII. older individuals at risk for institutional placement, specifically including survivors of the Holocaust; and
- ii. inform the older individuals referred to in sub-clauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and
- C. contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals and older individuals residing in rural areas.
- 2. provide assurances that the area agency on aging will coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities, and individuals at risk for institutional placement, with agencies that develop or provide services for individuals with disabilities;
- 3. provide that the area agency on aging will—
  - A. take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;
  - B. serve as the advocate and focal point for older individuals within the community by (in cooperation with agencies, organizations, and individuals participating in activities under the plan) monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect older individuals;

(C)(i) where possible, enter into arrangements with organizations providing day care services for children, assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older

individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families;

- ii. if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that—

(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

(II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs;

and that meet the requirements under section 676B of the Community Services Block Grant Act; and

- iii. make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;
- D. establish an advisory council consisting of older individuals (including minority individuals and older individuals residing in rural areas) who are participants or who are eligible to participate in programs assisted under this Act, family caregivers of such individuals, representatives of older individuals, service providers, representatives of the business community, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;
- E. establish effective and efficient procedures for coordination of—
  - i. entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and
  - ii. entities conducting other Federal programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b), within the area;
- F. in coordination with the State agency and with the State agency responsible for mental and behavioral health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental and behavioral health services (including mental health screenings) provided with funds expended by the area agency on aging with mental and behavioral health services provided by community health centers and by other public agencies and nonprofit private organizations;
- G. if there is a significant population of older individuals who are Indians in the planning and service area of the area agency on aging, the area agency on aging shall conduct outreach activities to identify such individuals in such area and shall inform such individuals of the availability of assistance under this Act;
- H. in coordination with the State agency and with the State agency responsible for elder abuse prevention services, increase public awareness of elder abuse, neglect, and exploitation, and remove barriers to education, prevention, investigation, and treatment of elder abuse, neglect, and exploitation, as appropriate; and
- I. to the extent feasible, coordinate with the State agency to disseminate information about the State assistive technology entity and access to assistive technology options for serving older individuals;
- 4. provide that the area agency on aging shall, consistent with this section, facilitate the areawide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—
  - A. collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;
  - B. conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—
    - i. respond to the needs and preferences of older individuals and family caregivers;

- ii. facilitate the provision, by service providers, of long-term care in home and community-based settings; and
    - iii. target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;
  - C. implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and
  - D. providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—
    - i. the need to plan in advance for long-term care; and
    - ii. the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;
  - 5. provide that case management services provided under this title through the area agency on aging will—
    - A. not duplicate case management services provided through other Federal and State programs;
    - B. be coordinated with services described in subparagraph (A); and
    - C. be provided by a public agency or a nonprofit private agency that—
      - i. gives each older individual seeking services under this title a list of agencies that provide similar services within the jurisdiction of the area agency on aging;
      - ii. gives each individual described in clause (i) a statement specifying that the individual has a right to make an independent choice of service providers and documents receipt by such individual of such statement;
      - iii. has case managers acting as agents for the individuals receiving the services and not as promoters for the agency providing such services; or
      - iv. is located in a rural area and obtains a waiver of the requirements described in clauses (i) through (iii);
- (9)(A) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(9), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2019 in carrying out such a program under this title;
- (B) funds made available to the area agency on aging pursuant to section 712 shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in section 712;
- 10. provide a grievance procedure for older individuals who are dissatisfied with or denied services under this title;
  - 11. provide information and assurances concerning services to older individuals who are Native Americans (referred to in this paragraph as "older Native Americans"), including—
    - A. information concerning whether there is a significant population of older Native Americans in the planning and service area and if so, an assurance that the area agency on aging will pursue activities, including outreach, to increase access of those older Native Americans to programs and benefits provided under this title;
    - B. an assurance that the area agency on aging will, to the maximum extent practicable, coordinate the services the agency provides under this title with services provided under title VI; and
    - C. an assurance that the area agency on aging will make services under the area plan available, to the same extent as such services are available to older individuals within the planning and service area, to older Native Americans;
  - 12. provide that the area agency on aging will establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b) within the planning and service area.
  - 13. provide assurances that the area agency on aging will—
    - A. maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;
    - B. disclose to the Assistant Secretary and the State agency—
      - i. the identity of each nongovernmental entity with which such agency has a contract or commercial

- relationship relating to providing any service to older individuals; and
- ii. the nature of such contract or such relationship;
- C. demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this title by such agency has not resulted and will not result from such contract or such relationship;
- D. demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and
- E. on the request of the Assistant Secretary or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;
- 14. provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;
- 15. provide assurances that funds received under this title will be used—
  - A. to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and
  - B. in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212;
- 16. provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care;
- 17. include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery;
- 18. provide assurances that the area agency on aging will collect data to determine—
  - A. the services that are needed by older individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019; and
  - B. the effectiveness of the programs, policies, and services provided by such area agency on aging in assisting such individuals; and
- 19. provide assurances that the area agency on aging will use outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on those individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019.

(b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

- 2. Such assessment may include—
  - A. the projected change in the number of older individuals in the planning and service area;
  - B. an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;
  - C. an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and
  - D. an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.
- 3. An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—
  - A. health and human services;
  - B. land use;
  - C. housing;
  - D. transportation;

- E. public safety;
- F. workforce and economic development;
- G. recreation;
- H. education;
- I. civic engagement;
- J. emergency preparedness;
- K. protection from elder abuse, neglect, and exploitation;
- L. assistive technology devices and services; and
- M. any other service as determined by such agency.

(c) Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

(d)(1) Subject to regulations prescribed by the Assistant Secretary, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

(e) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

(f)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.

(2)(A) The head of a State agency shall not make a final determination withholding funds under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

B. At a minimum, such procedures shall include procedures for—

- i. providing notice of an action to withhold funds;
- ii. providing documentation of the need for such action; and
- iii. at the request of the area agency on aging, conducting a public hearing concerning the action.

(3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

(B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.

g. Nothing in this Act shall restrict an area agency on aging from providing services not provided or authorized by this Act, including through—

- 1. contracts with health care payers;
- 2. consumer private pay programs; or
- 3. other arrangements with entities or individuals that increase the availability of home and community-based services and supports.

## Sec. 307, STATE PLANS

- a. Except as provided in the succeeding sentence and section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Assistant Secretary a State plan for a two, three, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Assistant Secretary may by regulation prescribe. If the Assistant Secretary determines, in the discretion of the Assistant Secretary, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Assistant Secretary a State plan for a 1-year period that meets such criteria, for subsequent years until the Assistant Secretary determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:
  1. The plan shall—
    - A. require each area agency on aging designated under section 305(a)(2)(A) to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306; and
    - B. be based on such area plans.
  2. The plan shall provide that the State agency will—
    - A. evaluate, using uniform procedures described in section 202(a)(26), the need for supportive services (including legal assistance pursuant to 307(a)(11), information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;
    - B. develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need; and
    - C. specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B that will be expended (in the absence of a waiver under section 306(c) or 316) by such area agency on aging to provide each of the categories of services specified in section 306(a)(2).
  3. The plan shall—
    - A. include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305(d) (concerning intrastate distribution of funds); and
    - B. with respect to services for older individuals residing in rural areas—
      - i. provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000...
      - ii. identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and
      - iii. describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.
  4. The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this title and title VII, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas).
  5. The plan shall provide that the State agency will—
    - A. afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agency on aging submitting a plan under this title, to any provider of (or applicant to provide) services;
    - B. issue guidelines applicable to grievance procedures required by section 306(a)(10); and
    - C. afford an opportunity for a public hearing, upon request, by any area agency on aging, by any provider of (or applicant to provide) services, or by any recipient of services under this title regarding any waiver request, including those under section 316.
  6. The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Assistant Secretary may require, and comply with such requirements as the Assistant

Secretary may impose to insure the correctness of such reports.

(7)(A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.

B. The plan shall provide assurances that—

- i. no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;
- ii. no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and
- iii. mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.

(8)(A) The plan shall provide that no supportive services, nutrition services, or in-home services will be directly provided by the State agency or an area agency on aging in the State, unless, in the judgment of the State agency—

- i. provision of such services by the State agency or the area agency on aging is necessary to assure an adequate supply of such services;
- ii. such services are directly related to such State agency's or area agency on aging's administrative functions; or
- iii. such services can be provided more economically, and with comparable quality, by such State agency or area agency on aging.

B. Regarding case management services, if the State agency or area agency on aging is already providing case management services (as of the date of submission of the plan) under a State program, the plan may specify that such agency is allowed to continue to provide case management services.

C. The plan may specify that an area agency on aging is allowed to directly provide information and assistance services and outreach.

6. The plan shall provide assurances that—

A. the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2019, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2019; and

B. funds made available to the State agency pursuant to section 712 shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in section 712.

7. The plan shall provide assurances that the special needs of older individuals residing in rural areas will be taken into consideration and shall describe how those needs have been met and describe how funds have been allocated to meet those needs.

8. The plan shall provide that with respect to legal assistance —

A. the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

B. the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on

- aging makes a finding, after assessment, pursuant to standards for service promulgated by the Assistant Secretary, that any grantee selected is the entity best able to provide the particular services.
- C. the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals;
  - D. the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and
  - E. the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.
9. The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals —
- A. the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—
    - i. public education to identify and prevent abuse of older individuals;
    - ii. receipt of reports of abuse of older individuals;
    - iii. active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and
    - iv. referral of complaints to law enforcement or public protective service agencies where appropriate;
  - B. the State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households; and
  - C. all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.
10. The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.
11. The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—
- A. identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and
  - B. describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.
12. The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—
- A. to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and
  - B. to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—
    - i. taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

- ii. providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.
  - iii. The plan shall provide assurances that the State agency will require outreach efforts that will— identify individuals eligible for assistance under this Act, with special emphasis on -
  - iv. older individuals residing in rural areas;
  - v. older individuals with greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);
  - vi. older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);
  - vii. older individuals with severe disabilities;
  - viii. older individuals with limited English-speaking ability; and
  - ix. older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
- C. inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.
13. The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.
14. The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(7), for older individuals who—
- A. reside at home and are at risk of institutionalization because of limitations on their ability to function independently;
  - B. are patients in hospitals and are at risk of prolonged institutionalization; or
  - C. are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.
15. The plan shall include the assurances and description required by section 705(a).
16. The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.
17. The plan shall—
- A. provide an assurance that the State agency will coordinate programs under this title and programs under title VI, if applicable; and
  - B. provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this title, if applicable, and specify the ways in which the State agency intends to implement the activities.
18. If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(8).
19. The plan shall provide assurances that demonstrable efforts will be made—
- A. to coordinate services provided under this Act with other State services that benefit older individuals; and
  - B. to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.
20. The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to

services under title VI, to comprehensive counseling services, and to legal assistance.

21. The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.

22. The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

(27)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

B. Such assessment may include—

- i. the projected change in the number of older individuals in the State;
- ii. an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;
- iii. an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and
- iv. an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

28. The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.

29. The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

30. The plan shall contain an assurance that the State shall prepare and submit to the Assistant Secretary annual reports that describe—

- A. data collected to determine the services that are needed by older individuals whose needs were the focus of all centers funded under title IV in fiscal year 2019;
- B. data collected to determine the effectiveness of the programs, policies, and services provided by area agencies on aging in assisting such individuals; and
- C. outreach efforts and other activities carried out to satisfy the assurances described in paragraphs (18) and (19) of section 306(a).

#### Sec. 308, PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

(b)(3)(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

#### Sec. 705, ADDITIONAL STATE PLAN REQUIREMENTS

a. ELIGIBILITY.—In order to be eligible to receive an allotment under this subtitle, a State shall include in the state plan submitted under section 307—

1. an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;
2. an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;
3. an assurance that the State, in consultation with area agencies on aging, will identify and prioritize

- statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;
4. an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out each of the vulnerable elder rights protection activities described in the chapter;
  5. an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5).
  6. an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—
- A. in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—
    - i. public education to identify and prevent elder abuse;
    - ii. receipt of reports of elder abuse;
    - iii. active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and
    - iv. referral of complaints to law enforcement or public protective service agencies if appropriate;
  - B. the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and
  - C. all information gathered in the course of receiving reports and making referrals shall remain confidential except—
    - i. if all parties to such complaint consent in writing to the release of such information;
    - ii. if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or
    - iii. upon court order...

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## ***New Mexico Area Agencies on Aging (AAA) Assurances and Required Activities***

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### **Listing of Area Plan Assurances and Required Activities Older Americans Act, As Amended**

#### **GENERAL ASSURANCES**

The area agency on aging, and its contractors, will comply with the Older Americans Act of 1965, as amended, and its implementing regulations. The area agency on aging, and its contractors, will comply with the US Department of Health and Human Services Grants Administration Regulations.

The area agency on aging, and its contractors, in accordance with Title VI of the Civil Rights Act of 1965, will not discriminate against individuals because of age, race, color, creed, ethnic origin, gender or sexual preference in administering programs or providing services.

The area agency on aging, and its contractors will, in compliance with Section 504 of the rehabilitation Act of 1973, as amended, ensure that facilities and services are made accessible to individuals with disabilities.

The area agency on aging, and its contractors, will comply with all applicable state and local laws, rules and regulations. The area agency on aging, and its contractors, will comply with all policies and guidelines issued by the NM Aging & Long-Term Services Department and the Governor of New Mexico.

The area agency on aging will assure that the personal information of individuals served will be maintained in a confidential manner, its access restricted to authorized individuals only. The area agency may not require any provider of legal assistance to reveal information that is protected by attorney-client privilege. The area agency on aging, and its contractors, will maintain current affirmative action plans. In implementing personnel hiring procedures, older individuals will be given preference and elders will be actively recruited for all available positions.

The area agency on aging will assure that voluntary contributions from individuals served will be accepted and that procedures for documenting and safeguarding the collection and handling of such contributions have been established and are maintained. Contributions are not a requirement for participation in programs or receipt of services.

The area agency on aging will assure that amounts received under each part of the Older Americans Act will be expended in accordance with such part. The area agency on aging will assure that funds received under Title-III will be used only to pay costs incurred by the area agency to implement Title-III.

The area agency on aging will assure that it will list its telephone number in each telephone directory that is published by the provider of local telephone service for residents in any geographic area that lies in whole or in part in the planning and service area(s) administered by the area agency.

The area agency on aging will assure that its nutrition contractors offer meals, on the same basis as meals provided to elders, to individuals providing volunteer services during meal hours and to individuals with disabilities who reside with and accompany older individuals who are eligible for meals.

The area agency on aging will assure that its nutrition services contractors will reasonably accommodate special dietary needs, where feasible and appropriate, including those arising from health requirements, religious requirements, or ethnic backgrounds of eligible individuals.

The area agency on aging will assure that contractors providing services will promote the following rights of each older individual who receives such services:

- the right to be fully informed about each service provided and about any change in service that may affect his/her well-being;

- the right to participate in planning or providing input regarding services provided;
- the right to voice a grievance with respect to any service that is, or fails to be, provided, without discrimination or reprisal as a result of voicing such grievance;
- the right to confidentiality of records relating to services provided.

## ORGANIZATION

The area agency will, through a comprehensive and coordinated system, provide for supportive services, nutrition services and the establishment, construction and maintenance of senior centers within the planning & service area(s) administered by the area agency. The area agency will determine the extent of need for supportive services, nutrition services and senior centers within the planning & service area(s).

The area agency will assure that planning efforts and service delivery will address the needs of older individuals with greatest economic need and with greatest social need, with particular attention to low income minority individuals, individuals with limited English proficiency, older individuals residing in rural areas, Native American Indian elders and individuals at risk of institutional placement and adults with disabilities.

The area agency will evaluate the effectiveness of the use of resources in meeting needs, including the efforts of voluntary organizations in the community, and will enter into agreements with providers of supportive services, nutrition services, and senior center services to meet identified needs.

The area agency will serve as an advocate and focal point for older individuals within the planning and service area(s), in cooperation with other agencies, organizations and individuals, by monitoring, evaluating and commenting upon policies, programs and actions which affect older individuals.

The area agency will facilitate area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, consistent with self-directed care, by:

- Collaborating, coordinating and consulting with local public and private agencies and organizations responsible for administering programs, benefits and services related to providing long-term care.
- Conducting analyses and making recommendations regarding strategies for modifying the local system(s) of care to be responsive to local needs and preferences, facilitating service provision and targeting services to older individuals at risk of institutional placement to enable them to remain in their own homes and communities.
- Implementing, through the area agency or its contract providers, evidence-based programs to assist older individuals and family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease and/or disability.
- Providing for the availability and distribution of information about the need to plan for long-term care, resources available (both public and private), and options for long-term care.
- The area agency will make use of trained volunteers in providing direct services to older individuals and individuals with disabilities and will work in coordination with organizations that have experience in providing training, placement and stipends for volunteers/participants (such as organizations sanctioned by the Corporation for National and Community Service).

The area agency will establish effective and efficient procedures for coordination with other Older Americans Act-funded entities conducting programs within the planning and service area(s) administered by the area agency, with entities conducting other federal programs for older individuals and with the state-designated mental health authority.

The area agency will work in coordination with the NM Behavioral Health Collaborative to increase awareness of mental health disorders, remove barriers to mental health diagnosis and treatment and coordinate mental health services provided in the community.

The area agency will coordinate activities and develop long-range emergency preparedness plans in collaboration with local and state governments and other entities that have responsibility for disaster relief service delivery.

The area agency will establish an advisory body consisting of older individuals (including minority individuals and individuals residing in rural areas) who are participants, or eligible to participate in, area agency or contract provider programs; family caregivers of such

individuals; service providers; members of the business community; local elected officials; providers of veterans' health care (if applicable); and the general public. The advisory body will provide advice to the area agency on all matters related to the development of the area plan, administration of the plan and programs and operations conducted.

The area agency will make recommendations to government officials in the planning and service area(s) administered, and collaborate with such officials to build capacity in order to meet the following needs of older individuals, including, but not limited to:

- health & human services;
- transportation;
- housing;
- land use;
- workforce & economic development;
- civic engagement;
- education;
- recreation;
- public safety;
- emergency preparedness.

The area agency will demonstrate the ability to develop an area plan and to administer, directly or through contractual or other arrangements, programs and services within the planning and service area(s) in accordance with the plan.

The area agency will assure that no officer, employee, or other representative of the area agency is subject to a conflict of interest prohibited under the Older Americans Act; and that mechanisms are in place to identify and remove conflicts of interest should they so occur.

## **AREA PLANS**

The area agency on aging will assure that it will *develop and submit to the Aging & Long-Term Services Department for approval, in accordance with a uniform format developed by the Department, an area plan meeting the requirements of the Older Americans Act.*

The area agency on aging agency will assure that an adequate proportion of the amount allotted under Title-III B to the planning and service area(s), as required under the Older Americans Act, will be expended for the delivery of services in each of the following categories:

- services associated with access to services (transportation, health & mental health services, outreach, information and assistance, benefits counseling and case management);
- In-home services, including supportive services for families of older individuals with Alzheimer's disease, related disorders, and/or neurological/organic brain dysfunction; and
- legal assistance.

The area agency on aging agency will assure that it will report annually to the Aging & Long-Term Services Department the amount of funds expended for each such category during the fiscal year most recently concluded.

The area agency on aging agency will assure that it will set specific objectives for providing services to older individuals with greatest economic need and older individuals with greatest social need, including specific objectives for providing services to low-income minority individuals, individuals with limited English proficiency, older individuals residing in rural areas, and individuals at risk of institutional placement; and will include proposed methods of achieving these objectives in the area plan.

The area agency on aging agency will assure that it will coordinate planning, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities and individuals at risk of institutional placement, with organizations that develop or provide services for individuals with disabilities.

The area agency on aging agency will assure that it will maintain the integrity and public purpose of services provided and service

providers, in all contractual and commercial relationships.

The area agency on aging agency will assure that it will include in each agreement made with a provider of any service under this title, a requirement that such provider will:

- specify how the provider intends to satisfy the service needs of low income minority individuals, individuals with limited English proficiency and older individuals residing in rural areas, in the area served by the provider;
- to the maximum extent feasible, provide services to low income minority individuals, individuals with limited English proficiency and older individuals residing in rural areas in accordance with their need for such services; and
- meet specific objectives established by the area agency on aging, for providing services to low income minority individuals, individuals with limited English proficiency and older individuals residing in rural areas within the planning and service area(s).

The area agency on aging will:

- identify the number of low income minority older individuals and older individuals residing in rural areas in the planning and service area(s);
- describe the methods used to satisfy the service needs of such older individuals; and
- provide information on the extent to which the area agency on aging met the objectives it established for providing services to low income minority individuals and older individuals residing in rural areas within the planning and service area(s).

The area agency on aging agency will assure that it will use outreach efforts to identify individuals eligible for assistance under this Act, with special emphasis on:

- older individuals residing in rural areas;
- older individuals with greatest economic need (with particular attention to low income minority individuals and older individuals residing in rural areas);
- older individuals with greatest social need (with particular attention to low income minority individuals and older individuals residing in rural areas);
- older individuals with severe disabilities;
- older individuals with limited English proficiency;
- older individuals with Alzheimer's disease, related disorders, and/or neurological/organic brain dysfunction (and the caregivers of such individuals); and
- older individuals at risk for institutional placement;
- arrangements with childcare providers, respite providers, etc. 3026(6)(C)(i) and (ii))
- using trained volunteers to provide direct services (3026(6)(C)(iii))
- Increasing awareness of elder abuse prevention services (3026(6)(H))
- disseminate info about state assistive tech entity (3026(6)(I))
- funds to supplement and not supplant other federal, state, local funds (3026(19)(B))

and inform the older individuals referred to in the preceding bullets, and the caregivers of such individuals, of the availability of such assistance.

The area agency on aging will assure that it will provide information concerning services to Native American Indian elders, including:

- Where there is a significant population of Native American Indian elders in the planning and service area, assure that the area agency on aging will pursue activities, including outreach, to increase access for those Native American Indian elders to programs and benefits provided under Title-III.
- Assure that the area agency on aging will, to the maximum extent practicable, coordinate the services the agency provides under Title-III with services provided under Title-VI.
- Assure that the area agency on aging will make services available to Native American Indian elders to the same extent as such services are available to other older individuals within the planning and service area(s).

The area agency on aging agency will assure that it will disclose to the Assistant Secretary of the federal Administration for Community Living and to the NM Aging & Long-Term Services Department:

- the identity of each non-governmental entity with which such area agency has a contract or commercial relationship relating to providing any service to older individuals; and
- the nature of such contract or such relationship.

The area agency on aging will assure that a loss or diminution in the quantity or quality of services provided, or to be provided, has not resulted, and will not result, from such non-governmental contract(s) or such commercial relationship(s). The area agency on aging will assure that the quantity or quality of services to be provided will be enhanced as a result of such non-governmental contracts or commercial relationships. *The area agency will assure that it will conduct periodic evaluations of contract providers, including evaluations of the effectiveness of services provided to individuals.*

The area agency on aging will assure that it will, at the request of the Assistant Secretary of the federal Administration for Community Living or the NM Aging & Long-Term Services Department, for the purpose of monitoring compliance (including conducting an audit), disclose all sources and expenditures of funds such area agency receives or expends to provide services to older individuals.

The area agency on aging will assure that if case management services are offered, the area agency will comply with all requirements specified in the Older Americans Act.

The area agency will assure that, if a substantial number of the older individuals residing in its planning and service area(s) are of limited English proficiency, then the area agency will:

- Utilize in the delivery of outreach services, workers who are fluent in the language(s) spoken by the individuals who are of limited English proficiency.
- Designate an individual employed by the area agency, or available to the area agency, whose responsibilities include:
  - taking such action as may be appropriate to assure that counseling assistance is made available to older individuals with limited English proficiency in order to assist them in participating in programs and receiving assistance; and
  - providing guidance to individuals engaged in the delivery of supportive services to enable such individuals to be aware of and sensitive to linguistic and cultural diversity.

## ADDITIONAL REQUIREMENTS

The area agency on aging will assure that it will hold public hearings, and use other means, to obtain the views of service recipients and other older individuals, service providers, caregivers, and other interested persons and entities in regard to policy development and the delivery of services and programs.

*The area agency will assure that it will:*

- *afford an opportunity for a public hearing upon request, in accordance with published procedures, to any provider of, or applicant to provide, services;*
- *establish grievance procedures required by the Older Americans Act for individuals who are dissatisfied with or denied services; and,*
- *afford an opportunity for a hearing, upon request, by a provider of (or applicant to provide) services, or by any recipient of services regarding any waiver request.*

*The area agency will assure that it will prepare and submit reports, in such form, and containing such information, as the Aging & Long-Term Services Department may require, and comply with such requirements as the Department may impose to insure the correctness of such reports.*

*The area agency will assure that no supportive services, nutrition services, or in-home services are directly provided by the area agency, unless, in the judgment of the Aging & Long-Term Services Department:*

- *provision of such services by the area agency is necessary to assure an adequate supply of such services;*
- *such services are directly related to the area agency's administrative functions; or*
- *such services can be provided more economically, and with comparable quality, by such area agency on aging.*

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## *New Mexico Volunteer Programs*

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### **Assurances and Required Activities**

#### **Volunteer Program Assurances, Terms, and Conditions**

By signing the FY26 contract you are accepting funds under this award from the State of New Mexico Aging and Long-Term Services Department (ALTSD). The Contractor agrees to comply with all awards, these General Terms and Conditions, the program-specific terms and conditions, regulations and guidelines, and any amendments thereto. The recipient agrees to operate the funded program in accordance with the approved budget and supporting documents provided in support of the executed FY26 contract. The Contractor agrees to utilize all forms, templates, and documentation provided by the ALTSD and shall not modify, alter, or substitute any forms or templates without prior written approval.

1. **General.** The recipient must maintain separate financial management records for contracted state allocations and must be capable of distinguishing expenditures attributable to this award from expenditures not attributable to this award. The systems must be able to identify costs by program year and by budget category, and to differentiate between direct and indirect costs.
2. **Fiscal Requirements.** The amount payable under this Contract shall be made on a fixed rate for the provision of the identified services.
  - a. Contractor is allocated State funds using state funding formula \$9,000 per VSY with mandatory \$4,176 being budgeted in stipends per VSY.
  - b. All budget changes and the fully executed contract must be submitted to the assigned NM ALTSD Senior Services Bureau (SSB) Program Coordinator for prior approval using the budget adjustment request (BAR) form accompanied by a letter of justification. Approval is at the discretion of the assigned NM ALTSD SBB Program Coordinator.
  - c. Purchases for a single item more than \$500.00 not included as part of the original contract budget must be pre-approved and necessary to continued operations. Approval requests for these types of purchases must be requested through submission of a letter of justification to the assigned NM ALTSD SSB Program for review.
3. **Allowable Costs for Reimbursement.** To be allowable under this contract allocation, costs must be submitted through a budget form and approved by the NM ALTSD Program Coordinator and are limited allowable expenditures pursuant to NMAC 9.2.14, NMAC 9.2.15, NMAC 9.2.16, Department policies and procedures, AmeriCorps Seniors regulations, and guidelines applicable to each of the services. Expenditures must be consistent with policies and procedures that apply to Federal & State activities of the Contractor.
4. **Separation of funding, and deliverables based on funding source(s).**  
Programs must separately track state funded VSYs, hours served, volunteers, etc. to comply with state contract deliverables.
5. **CP Volunteer costs reimbursements detailed Stipend** AmeriCorps Seniors volunteers serve from 5 to 40 hours a week. The stipend is a payment to AmeriCorps Seniors volunteers to enable them to serve without cost to themselves. [45 CFR section 2551.12]. The stipend is paid for hourly service that Senior volunteers spend with assigned clients, for

6. earned leave if applicable, and for attendance at official project events, e.g., orientation, in-service training, Advisory Council meetings (as members or official observers), recognition events, and travel time between individual assignments. Travel time between the volunteer's home and place of assignment may not be considered as part of the service schedule and will not be stipend. However, travel time between assignments is a part of the service schedule. Mealtime may be part of the service schedule and is stipend.

Services performed other than those identified above will not be eligible for stipend and will not meet the VSY or hours of service requirements per this contract.

7. **Meal reimbursement.** Meal reimbursement for Volunteer staff must be for actual meal expenses incurred by the Volunteer while volunteering.  
The amount of reimbursement to volunteers for meals is based on actual expenses, consistent with the costing procedures developed by the sponsor rather than a flat daily rate. However, reimbursement of "brown-bag" lunches prepared by AmeriCorps Seniors volunteers may be based on a flat rate established by the sponsor in written policy. The basis for the rate should be included in the sponsors' written policy. AmeriCorps Seniors volunteers are required to sign a statement certifying that meals to be reimbursed to the volunteer were taken in conjunction with volunteer service and provide details of the reimbursement and supporting documentation such as receipts when applicable.

If the Contractor establishes a flat rate reimbursement, the amount reimbursed at the flat rate must not exceed the actual expense to the Volunteer.

Volunteers eligible for Title III OAA meal services (60+) may not be reimbursed for congregate meals or home delivered meals received while volunteering. Volunteers not eligible (below 60) for free congregate or home delivered meal per Title III OAA services may be reimbursed at actual expense or flat rate not to exceed the actual cost per program policies and procedures. Meal reimbursement rates are subject to NM ALTSD SSB approval.

8. **Mileage reimbursement.** Mileage reimbursement rates for Grantee staff travel and Volunteer staff travel must be equal to or less than the standard Federal mileage rate. The Federal rate is subject to change based on an annual study <https://www.irs.gov/tax-professionals/standard-mileage-rates>
9. **Reimbursement for Volunteers' transportation Volunteer drivers.**
  - i. Reimbursement of FGP volunteers who drive their own cars is based on a cost-per-mile rate set by the sponsor via written policy. Volunteers are reimbursed for actual mileage within the limits of available funds and local project reimbursement policy. Volunteers cannot be reimbursed in excess of actual costs, or on a per capita basis, for transporting other volunteers.
  - ii. Mileage reimbursement directly to a volunteer from a volunteer station for transportation from the volunteer's home to the place of assignment and return home is acceptable as local support of the project. Project files should include verification of this contribution for review for compliance monitoring and AmeriCorps Seniors audit purposes.
  - iii. Mileage reimbursement to volunteers from volunteer stations for providing transportation while on volunteer assignments cannot be used as local support for the project. The costs of community service provided by volunteer stations cannot be credited for the value of those costs to be used as local budget support.
  - iv. Drivers of carpools receive reimbursement for actual mileage based on a cost-per-mile rate. Passengers do not receive reimbursement.

- v. Providers should establish procedures, such as a voucher system, for public transportation expenses, including subways, buses, and other public conveyances. Reimbursements must be based on documentation by the volunteer of actual costs incurred for project-related transportation expenses.

## 9. Recognition Gifts

- i. Recognition gift purchases cannot exceed \$80.00 per volunteer per fiscal year including food costs for catered and non-catered events. Requests for recognition gifts in excess of \$80.00 per volunteer including food costs for catered and non-catered events must be requested through submission of a letter of justification to the assigned NM ALTSD SSB Program Coordinator. All requests are subject to NM ALTSD SSB approval.

## 10. Prohibited Program Activities and Reimbursable. The Contractor must comply with, and require that all Volunteers comply with, prohibitions outlined in state rules and regulations, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, NM ALTSD assurances, program internal policies and procedures, and generally accepted accounting principles (GAAP) [FASB Home](#)

- a. State general funds will not be used for the purchase of gift cards, staff or volunteer monetary bonuses, or cash gifts.
- b. State general funds will not be used for the purchase of alcohol.
- c. All meal receipts submitted should be itemized and include date and time of purchase.
- d. All travel reimbursements should follow programs internal policies and procedures and be approved by program Board of Directors and/ or Advisory Council.
- e. Contractor will submit reimbursements for actual operating expenses. The invoice dollar amounts submitted for reimbursement will not be rounded up or down to the next whole number nor will they be estimates.
- f. Reimbursement request must be for the corresponding month the expense occurred. Expenses occurring outside the month being invoiced are considered "adjustments" and must be identified as such on the invoice. An explanation for any "adjustment" must be provided on the invoice page submitted by the contractor. Expenses occurring outside of the current state fiscal year must not be submitted for reimbursement within the current state fiscal year. These expenses are considered "prior year" and not reimbursable under this contract.
- g. State fund contract allocations will not serve as financial gain to any Contractor.
- h. Operating costs tied to volunteer activities NOT identified as allowable per federal and state rules and regulations, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, and NM ALTSD assurances are not reimbursable expenses and may not be submitted as such.
- i. Administrative costs not pre-approved pre-contract execution or post contract execution NOT identified as allowable per state rules and regulations, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, and NM ALTSD assurances are not reimbursable expenses and may not be submitted as such.
- j. Volunteers are eligible to receive a stipend for allowable activities only as allowable per State rules and regulations, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, and NM ALTSD assurances. Hours of service performed that do not meet the requirements for allowable activities will not be considered eligible for meeting contractual requirements, stipend, mileage reimbursement, nor meal reimbursement.
- k. Operating and Volunteer costs tied to telework activates not identified as allowable per State rules and regulations, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, and NM ALTSD assurances are not reimbursable expenses and may not be submitted as such. Teleworking Volunteers are eligible to receive a stipend for allowable activities only as identified within the AmeriCorps Seniors FGP, and SCP handbooks and NM ALTSD assurances.
- l. Travel time between the volunteer's home and place of assignment may not be considered as part of the service schedule and will not stipend. However, travel time between assignments is a part of the service schedule. Mealtime may be part of the service schedule and is stipend. Contractor will not be reimbursed State

funds for Volunteer meals received through Title III of OAA Local nutrition programs. Volunteers over 60 are eligible for meals at congregate meal sites and home-delivered meals funded under this program.

- m. Contractor will not be reimbursed State funds for Grantee staff mileage in the form of fuel purchase reimbursement. Mileage reimbursement is restricted to actual miles driven based on a cost-per-mile rate set by the sponsor via written policy equal to or less than the standard Federal mileage rate <https://www.irs.gov/tax-professionals/standard-mileage-rates>
  - n. Grantee staff are reimbursed for actual mileage within the limits of available funds. Grantee staff cannot be reimbursed in excess of actual costs, or on a per capita basis, for transporting other Grantee staff.
  - o. Contractor will not be reimbursed State funds for the purchase of raw or cooked food, edible products, flatware, crockery, decorations, etc. unless related to annual Volunteer recognition event.
11. **Award monitoring.** Contractor must comply with State rules and regulations, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, and NM ALTSD assurances.
- a. **Site visits.** NM ALTSD may make site visits to verify (but not limited to) contract compliance, evaluate recipient records, accomplishments, organizational procedures, financial control systems, conduct interviews, and provide technical assistance as necessary.
  - b. **Desk reviews.** NM ALTSD may conduct desk reviews to verify (but not limited to) contract compliance, evaluate recipient records, accomplishments, organizational procedures, financial control systems, conduct interviews, examine program handbooks, and provide technical assistance as necessary.
  - c. **Responding to information requests.** NM ALTSD SSB may request documentation (related to Federal, State, and local funds) from the Contractor to monitor for compliance and accuracy. NM ALTSD SSB may also submit questions to the Contractor regarding features of the program(s). The Contractor must cooperate with NM ALTSD for both documentation requests and questions. Failure to provide the requested documentation or answers to questions within the deadline identified by NM ALTSD SSB may result in state funds being placed on hold or other remedies as appropriate.
  - d. **Notification of Change.** Contractor will provide written notification to NM ALTSD SSB within 10 business days of changes in key personnel.
  - e. **Verification of AmeriCorps Seniors Sponsor in good standing.** The contractor will provide NM ALTSD SSB with copies of their approved Federal E-Grant application(s) and Federal budget(s) as validation of sanction in good standing with AmeriCorps Seniors. In the event an approved Federal E-Grant application and Federal budget are not available, an unapproved (system generated) Federal E-Grant application and Federal budget may temporarily be submitted until the time the approved Federal Grant and budget are available. Contractor must submit copies of the approved Federal grant and budget(s) with 10 business days of receipt to the assigned NM ALTSD SSB Program Coordinator.
  - f. **Notification of Performance Impediments** Provider shall promptly notify their designated Program Coordinator if they become aware of any circumstances that may impede their ability to meet the established performance measures outlined in this contract. Such notification shall be made in writing and include a detailed description of the issue, potential impacts, and proposed solutions, if applicable.
  - g. **Reporting fraud, waste, and abuse.** Contractor must contact their assigned Program Coordinator immediately when:

Any criminal activity or violations of law have occurred, such as:

- i. Fraud, theft, conversion, misappropriation, embezzlement, or misuse of funds or property by any person, AmeriCorps personnel, grantees, or Contractor, even if no federal funds or property was involved.
- ii. Submission of a false claim or a false statement by any person in connection with any AmeriCorps program, activity, grant or operations.
- iii. Concealment, forgery, falsification, or unauthorized destruction of government or program records.
- iv. Corruption, bribery, kickbacks, acceptance of illegal gratuities, extortion, or conflicts of interest in connection with operations, programs, activities, contracts, or grants.
- v. Other misconduct in connection with operations, programs, activities, contracts, or grants; or mismanagement, abuse of authority, or other misconduct by AmeriCorps personnel.
- vi. Fraud occurs when someone is intentionally dishonest or uses intentional misrepresentation or misleading omission to receive something of value or to deprive someone, including the government, of something of value.
- vii. Waste occurs when taxpayers do not receive reasonable value for their money in connection with a state government-funded activity due to an inappropriate act or omission by people with control over or access to state funds and resources.
- viii. Abuse is a behavior that is deficient, objectively unreasonable, or improper under the circumstances. Abuse also includes nepotism, misuse of authority or position for personal financial gain or the gain of an immediate or close family member or business associate.

12. **Administration.** The contractor must establish written policies and procedures and provide copies to volunteers and NM ALTSD SSB as requested or when revised. The Contractor must ensure policy and procedures include the requirements outlined within these assurances, as well as requirements outlined in the FGP and SCP AmeriCorps handbooks.

13. **Quarterly Reporting.** Contractor will complete all Quarterly and Bi-annual Narrative reports utilizing forms and schedule provided by ALTSD. Contractor will submit a separate report per county (service area) and provide totals from those service areas.

14. **Final Authority.** When circumstances arise that reveal conflicting guidance between Federal and State rules and regulation, AmeriCorps Seniors FGP, SCP handbooks, state contractual requirements, and NM ALTSD assurances. NM ALTSD SSB maintains final authority in regard to state-to-state funding.

## Revision History

|                       |                                          |  |  |
|-----------------------|------------------------------------------|--|--|
| <b>Document #</b>     | Assurances—SUA, AAAs, Volunteer Programs |  |  |
| <b>Effective Date</b> | Immediately upon release                 |  |  |
| <b>Revision Date</b>  |                                          |  |  |
| <b>Revision #</b>     |                                          |  |  |
| <b>Page #</b>         |                                          |  |  |
| <b>Approval</b>       | The ALTSD Leadership                     |  |  |
| <b>Approval Date</b>  | 10.1.2025                                |  |  |

| <b><i>Date</i></b> | <b><i>Revision #</i></b> | <b><i>Change</i></b> | <b><i>Reference Section</i></b> |
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