



**JEB BUSH**  
GOVERNOR

**TERRY F. WHITE**  
SECRETARY

## MEMORANDUM

**TO:** AAA Executive Directors **NOTICE #:** 061104-2-I-PE

**FROM:** Terry White  
Secretary

**DATE:** June 11, 2004

**SUBJECT:** Notice of Instruction: Training and Direct Service Waiver Process for FFY 2005 Area Plan

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The purpose of this Notice of Instruction is to advise the Area Agencies on Aging of the area plan training scheduled for July. The area plan program module training will be held on Thursday, July 15, 2004, from 9 a.m. to 4 p.m. in conference room #225F at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida. The area plan contract module training will take place during the fiscal officers' training scheduled for Tampa the following week. Additional agenda information will be forthcoming.

In addition, this Notice of Instruction provides directions on the process for complying with Section 307(a)(8), Older Americans Act as amended in 2000, which prohibits supportive services, nutrition services or in-homes services from being provided directly unless approved by the Department of Elder Affairs. To request approval for a waiver of this provision, an Area Agency on Aging must document efforts to determine if the service(s) should be provided directly and present justification that direct service provision meets the criteria outlined in the Older Americans Act.

Since FFY 2005 begins a three-year planning cycle, Area Agencies on Aging must substantiate their need to provide services directly by completing the Direct Service Waiver request process again this year. To accommodate the Department's approval schedule, the waiver request form, which is attached, must be submitted by **Monday, August 16, 2004**, for each service to be provided directly. Department staff will review the waiver requests, and once negotiations are completed, the approved waiver(s) will be included as a section in the FFY 2005 Area Plan submitted in mid-November.

The Department will be looking for documentation that the AAA is the most legitimate source for providing the proposed service(s). Therefore appropriate justification for the necessity of providing the service directly will be required for approval. To substantiate the need for direct service provision, the Area Agency on Aging should conduct one or more of the following activities:

**4040 ESPLANADE WAY**  
**TALLAHASSEE**  
**FLORIDA, 32399-7000**

phone 850.414.2000  
fax 850.414.2004  
TDD 850.414.2001

<http://elderaffairs.state.fl.us>

1. A cost analysis or needs assessment. If this method is used, it must have been conducted within the past 12 months, include data specific to the direct services being proposed, and the results must properly document the need to provide direct services.
2. A Request for Information (RFI) or Invitation to Bid (ITB). If a provider for the proposed direct service has been solicited through a RFI or ITB, the bid instrument must have been issued in the past 12 months and designed to allow for competitive responses.
3. A determination that the service is part of the Area Agency's administrative activity. If this method is used, the rationale and authority for this decision must be provided. It is expected that this justification will apply to information and referral, outreach, and intake and assessment only.

Once it has been decided that services should be provided directly, the Area Agency must hold a public hearing where participants are informed of the services the AAA is proposing to provide directly and are offered the opportunity to comment on the AAA's intention to provide these services directly. To adequately document the public hearing, the following information must be submitted on the Direct Service Waiver Request form (attached):

1. Identification of when and where the public hearing was held,
2. Information on the sources used to advertise the public hearing,
3. A list of participants, and
4. A summary of the public comments specific to the services proposed for direct service provision.

Further, it should be clearly documented that participants were made aware of the AAA's intention to directly provide the service(s).

After approval by the Department of Elder Affairs, the direct service waiver(s) must be included in the area plan submission for each planning and service area. The approval(s) will cover the three-year period of the plan unless the AAA goes out to bid for OAA services during that period; at which time, the AAA will be required to include the services it directly provides in the bid document. This requirement will be included in the monitoring instrument and verified during monitoring visits.

Please contact the Operations and Management Consultant Manager for your area if you have any questions. As always, thank you for your assistance.

TW/sls

Attachment

cc: Contract Management  
Wellness, Advocacy and Caregiver Initiatives

PSA: \_\_\_\_\_

Date: \_\_\_\_\_

## P.IV. DIRECT SERVICE WAIVER REQUEST FORM

(Please complete one form for each service)

OAA Title: ☐ III-B ☐ III-C1 ☐ III-C2 ☐ III-D ☐ III-E

Service: \_\_\_\_\_

Section 307(a)(8) of the Older Americans Act provides that services will not be provided directly by the State Agency or an area agency on aging unless, in the judgment of the State agency, it is necessary due to one or more of the three provisions listed below.

- I. Please select the basis for which the waiver is requested (more than one may be selected).
  - ☐ (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.*
- II. Provide a detailed justification for the waiver request. The justification should include such factors as a cost analysis or needs assessment, the area agency's efforts to secure services through a Request for Information (RFI) or Invitation to Bid (ITB); or if the service is considered part of the administrative activity, describe the rationale for considering it part of the administrative activity and the authority for that rationale.
- III. Provide documentation of the public hearing held to gather public input on the proposal to directly provide service(s). This documentation should include Identification of when and where the public hearing was held, information on the sources used to advertise the public hearing, a list of participants, and a summary of the public comments specific to the services proposed for direct service provision.