

CHAPTER 5
DEPARTMENT FISCAL POLICY

[Prior to 5/20/87, see Aging, Commission on the [20], rule 4.9 and Ch 9]

[Prior to 1/27/10, see Elder Affairs Department[321] Ch 5]

17—5.1(231) Definitions. Words and phrases as used in this chapter shall be as defined in 17 IAC 1 unless the context of the rule indicates otherwise. The following definitions also apply to this chapter:

“*Costs of administration*” means all direct and indirect costs incurred by the grantee in managing a grant, including all audit and policy board expenses incurred in the support of an AAA director.

“*Fund balance policy*” or “*FBP*” means the instructions established in Iowa aging program instructions (IAPI) issued by the department on aging covering the calculation of reallocations in specific allocations.

“*Local match*” means the equivalent cash value of third-party in-kind contributions and cash resources, or both, made available by local sources (e.g., local public funds, other local cash, and program income) representing that portion of the costs of a grant-supported project or program not borne by the department.

“*NSIP*” means the Nutrition Services Incentive Program established under the OAA.

“*Poverty*” means those persons whose income is below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS) in accordance with Subsection 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). The annual DHHS poverty guidelines provide dollar thresholds representing poverty levels for households of various sizes.

“*Program income*” or “*project income*” or “*contributions*” means grant-related income or gross income earned by a grantee or its subcontractors from activities, part or all of the cost of which is borne as a direct cost by a grant, or income counted as a direct cost toward meeting a cost-sharing or matching requirement of a grant; such as fees or participant contributions for services performed during the grant or subgrant period, proceeds from the sale of tangible property, usage or rental fees, and patent or copyright royalties.

“*Third-party in-kind contributions*” means property or services which benefit a grant-supported project or program and which are contributed by nonfederal third parties without a charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.

“*Title*,” followed by a Roman numeral, with or without an alphabetic reference (e.g., Title III or Title III-C), means requirements or funding covered by the OAA.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.2(231) Grants to area agencies on aging.

5.2(1) General. The department shall make annual allotments to each AAA to support a portion of the costs of administration and services under the multiyear area plan.

5.2(2) Types of OAA allotments. Each AAA receives designated and distinct allotments for:

- a. Supportive services – Title III-B;
- b. Congregate nutrition services – Title III-C(1);
- c. Home-delivered nutrition services – Title III-C(2);
- d. Preventative health services – Title III-D;
- e. National Family Caregiver Support program – Title III-E;
- f. Other federal and state appropriations received by the department.

5.2(3) Transfers between supportive and nutrition services funds are allowable under the OAA and are specifically addressed in area plan instructions, the reporting manual or IAPI.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.3(231) Limitations on use. Except as provided in this rule, the AAA shall use each allotment for its designated purpose.

5.3(1) Funding as stated on notices of grant awards and NSIP funding released by the department shall be available for use by each AAA for the fiscal year July 1 through June 30 annually.

5.3(2) A maximum of 10 percent of the Title III funds received from the department, as shown in the annual allotment tables, may be used for administration, unless otherwise specified in IAPI.

5.3(3) AAA shall expend no less than the designated amounts, as given in 17 IAC 6, of their Title III-B allotment, less administration costs, for services in the priority service categories of:

- a. Access;
- b. In-home services; and
- c. Legal assistance.

5.3(4) Any unexpended Title III funds which were allotted by the department for administration as shown in the department's annual allotment tables may, in the subsequent fiscal year, be used only for program service expenditures.

5.3(5) Program income, as forecast to be received for the fiscal year identified in the area plan shall be at least 85 percent of the program income earned in the most recently completed fiscal year.

5.3(6) State funds shall not be carried over unless specifically authorized by state law.

5.3(7) OAA funds may be carried over upon department approval of an AAA written application.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.4(231) Expenditures in rural areas. The department shall allot to rural areas at least 105 percent of the amounts the areas spent under Title III of the Act during the fiscal year 1978.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.5(231) Funding formulas.

5.5(1) OAA federal funds—Title III.

a. Administration allotments to area agencies. The department shall award administration funds available to AAA in each fiscal year from funding under the OAA.

b. Each AAA shall receive the greater of one-fourth of 1 percent of the funds available for allotment, or \$24,000, to be used for administration or for services.

c. Each AAA shall receive the greater of four-hundredths of 1 percent or \$4,000 for each county in the AAA's planning and service area to be used for administration or services.

d. If the sum of the amounts generated under paragraphs "b" and "c" for all AAA exceeds 10 percent of the amount available to the department for AAA allotment, the department shall reduce the amount allotted under paragraph "c" by an amount sufficient to result in the sum for all AAA generated by paragraphs "a" and "b" being equal to or less than 10 percent of the amount available to the department.

5.5(2) Intrastate service funding. Funds remaining after the application of 5.5(1), paragraphs "b" and "c," shall be allocated to each AAA proportionate to the AAA's weighted population to the total weighted population of the state. The weighted population shall be the sum of the number of persons residing in the planning and service area with the following characteristics multiplied by the applicable weights:

<u>Factor</u>	<u>Weight</u>
Persons aged 60 and older	1
Minority persons aged 60 and older	1
Persons aged 60 and older at or below the poverty level of income	2

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.6(231) State appropriations and case management allotments.

5.6(1) Elderly services. All state elderly services funds appropriated to the department, excluding those otherwise specifically identified in the appropriation, shall be allocated to AAA on the basis of persons aged 60 and older and minority persons aged 60 and older and double-weighted for persons aged 60 and older at or below the poverty level of income in the AAA planning and service area. Elderly services funds set aside for the case management program for the frail elderly shall be allocated on the

basis of a \$45,000 block grant per AAA with the balance of funds allocated on the AAA's proportion of persons aged 60 and older.

5.6(2) Senior living program. The department shall allocate funds received from the senior living trust established in Iowa Code section 249H.4 to each AAA by utilizing, at a minimum, a formula that:

a. Shall triple-weight all of the following:

- (1) Individuals aged 75 and older.
- (2) Individuals aged 60 and older who are members of a racial minority.
- (3) Individuals aged 60 and older who reside in rural areas.
- (4) Individuals aged 60 and older who have incomes at or below the official poverty guideline as defined each year by the federal Office of Management and Budget and adjusted by the Secretary of the U.S. Department of Health and Human Services.

b. Shall single-weight for individuals aged 60 and older.

The department shall use the best available population data based on United States census reports to calculate allotments under this subrule.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.7(231) Program allotment calculations.

5.7(1) Title III. The department shall calculate all allotments to AAA based on the result obtained in rule 17—5.6(231).

5.7(2) NSIP. AAA will receive a portion of the NSIP allotment to the state based on the proportion of an area's eligible meals related to the total of NSIP-eligible meals for all AAA.

5.7(3) Other. The department shall allocate other available funding as defined in each respective program.

5.7(4) Population data. Where applicable, the department shall use population data based on the United States Census to calculate AAA allotments under this chapter. The data shall then be used to calculate allotments for the next fiscal year starting after the data are available.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.8(231) Funding estimates. It is the intent of the department to provide AAA with timely access to all allotments, whether actual or estimated, consistent with an orderly process of area plan revision and amendment. To implement the intent, the following procedures shall be followed:

5.8(1) On or before July 1 of each year, the department shall issue the planning estimate revision reflecting any federal or state awards received by that date and used to estimate any changes to the fiscal year funding allotments beginning on July 1 of that year.

5.8(2) On December 1 of each year, the department shall issue the annual planning estimate which shall reflect the most current federal awards received by that date for use in estimating projected funding allotments to AAA for the next two fiscal years.

5.8(3) On December 1 of each year, the department shall issue revised allotments for the current fiscal year which announce the projected funding available to each AAA.

5.8(4) Funds for which an AAA fails to apply will be allocated to a project consistent with the goals and objectives of the department.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.9(231) Matching funds.

5.9(1) Financial participation.

a. State plan administration. The department shall use its federal allotment for state plan administration to pay not more than 75 percent of the costs of administering the state plan.

b. Area plan administration. An AAA may use its federal allotment to pay not more than 75 percent of the cost of administering an area plan.

c. Area plan services. An AAA may use its federal allotments for supportive, nutrition, and frail elderly services and its state elderly services allotment to pay not more than 85 percent of the costs of these activities.

5.9(2) OAA nonfederal match requirements. The nonfederal match may be either by allowable costs or the value of nonfederal, third-party in-kind contributions.

5.9(3) The 15 percent elderly services match requirement may be met by allowable costs or the value of third-party in-kind contributions from local sources.

5.9(4) Source of nonfederal share.

a. Cash and in-kind match. At least 25 percent of the required minimum nonfederal share of area plan administration and services in each fiscal year shall be in the form of allowable costs of the state or local public agencies, or in the form of in-kind contributions from local public agencies.

b. State match. One-third of the nonfederal share required for federally funded services shall be in the form of state-appropriated funds.

5.9(5) Match deficiency. If a match deficiency is identified regarding the nonfederal share, provisions will be made to rectify the deficiency in the following fiscal year or reduce the amount of funding to a level commensurate with the nonfederal share.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.10(231) Allowable use of federal and state funds for multiyear area plan administration.

5.10(1) *Federal funds.* The AAA shall not use more than the amount received under subrule 5.5(1) and at least the amount of local match prescribed in subrule 5.9(3) for costs of administration.

5.10(2) *State funds.* Sums appropriated each fiscal year for AAA administration shall be distributed in equal amounts for each planning and service area to be used as a match for federal administrative funds distributed under rule 17—5.5(231).

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.11(231) Reallotment.

5.11(1) *Federal funds.* The amount of federal Title III funds which are not expended or obligated for goods and services or both to be provided by the last day of the previous federal budget year shall be available to the department for reallotment.

5.11(2) *Unused state funds.* If the department determines prior to the end of the fiscal year that an AAA will have unused state funds, the department may reallocate the unused funds to one or more AAA in accordance with demonstrated utilization or by a reallocation method specified in IAPI. The area agencies receiving these reallotted funds shall obligate them by the end of the fiscal year in which they are reallotted.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.12(231) Restriction on delegation of authority to other agencies. The department and area agencies on aging may not delegate to another agency the authority to award or administer funds pursuant to this chapter, except as provided in 17 IAC 4.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.13(231) Records and reports.

5.13(1) The grantee is required to submit all performance and fiscal reports published in the department's service and fiscal reporting manual or as provided in an IAPI. Reports not received by the established due date shall be considered delinquent.

5.13(2) Recipients of funds from the department shall retain fiscal and programmatic records for not less than three years after the fiscal year in which the expenditure occurred.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.14(231) State reviews and audits.

5.14(1) The audit costs shall be negotiated and paid for by the grantee from the applicable grants.

5.14(2) The department shall provide the grantee with guidelines to be followed by the auditor.

5.14(3) Each AAA shall submit copies of the audit report as directed in the guidelines issued by the department.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.15(231) Acquisition of goods and services.

5.15(1) Authority. The department and the AAA may acquire goods and services as necessary to carry out their responsibilities under the OAA, regulations, state laws or rules by the following methods:

- a. Purchase.
- b. Lease or rental.
- c. Donation.

5.15(2) Suppliers of goods and services may be:

- a. Federal, state and local governmental agencies.
- b. Public or private nonprofit organizations.
- c. Persons as defined in Iowa Code section 4.1(20).

5.15(3) Standards. All acquisitions of goods and services shall be in compliance with federal regulations, 45 CFR §74, August 25, 1994, Administration of Grants, federal law or Iowa law. Where all other factors are equal, preference will be given to Iowa contractors in compliance with state law.

5.15(4) Utilization of small businesses and minority contractors. Positive efforts shall be made to utilize small business and minority-owned business sources for supplies and services.

a. Records shall be maintained for a period of not less than three years following the fiscal year for which the contract was in effect showing names and identification numbers of small business or minority contractors contacted in regard to each contract.

b. This subrule shall not be construed to require the award of contracts that favor small business or minority contractors when this would result in higher cost to the department or the AAA.

5.15(5) Free competition. All acquisition transactions, whether negotiated or advertised, shall be conducted in a manner to provide maximum open and free competition. Special attention shall be given to preventing organizational conflicts of interest or other noncompetitive practices which may restrict or eliminate competition.

5.15(6) Description of goods or service. Purchase, lease or rental invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical or operational requirements for the requested material, product, or service.

a. The description shall not contain features which unduly restrict competition.

b. "Brand name or equal" descriptions may be used to define the required performance or other unique requirements of a proposed acquisition. When so used, the specific quality, operational or performance features of the name brand which must be met by bidders shall be clearly specified.

c. The invitations for bids shall clearly set forth all requirements that the bidder shall fulfill in order for the bid to be evaluated and accepted.

5.15(7) Appropriate acquisition documents and prohibited costing method. The type of method used (i.e., fixed-price contract, cost reimbursement contract, purchase order, incentive contract, negotiation) shall be appropriate for the particular acquisition and for promoting the best interest of the program involved. The "cost plus a percentage of cost" method of contracting is prohibited.

5.15(8) Bids. To procure goods or services, the department or AAA shall use the following procedures:

a. When the estimated one-year value is equal to or greater than \$5,000 but less than \$50,000 or when the estimated multiyear aggregate value, including all renewals, is \$15,000 or more, but is less than \$150,000, the department or AAA, in the department's or AAA's sole discretion, shall use either an informal or formal competitive selection process.

b. When the estimated one-year value of the contract is equal to or greater than \$50,000 or the estimated value of a multiyear contract in the aggregate, including all renewals, is equal to or greater than \$150,000, the department or AAA shall use a formal competitive selection process to procure the goods or services.

c. The requirement to use competitive selection to obtain a provider or supplier applies whether an AAA obtains those services from a public or private entity. If the successful proposal for the service or supplier is from a public entity and the contract is designated as a 28E agreement, the AAA shall not be the initiating agency for that agreement.

5.15(9) Exceptions. Acquisitions may be accomplished through noncompetitive negotiation if it is not feasible to use competitive selection. Contracts may be negotiated under the following circumstances:

- a.* The item is available only from a single source; or
- b.* A public exigency or emergency creates an urgency for the item that will not permit delays incident to competitive selection; or
- c.* The federal grantor agency authorizes noncompetitive selection; or
- d.* After solicitation of a number of sources, competition is determined inadequate.

When the client of a specific service category has freedom of choice between multiple AAA-authorized service providers, the limitations given above do not apply.

5.15(10) Selection of provider. When bids are obtained, the award shall be made to the bid that is responsive to the requirements of the solicitation and is most advantageous to the item recipient when price and other factors are considered. Any and all bids may be rejected and new bids requested if the bids received are not acceptable.

5.15(11) Methods of advertising. The invitation for bids shall be advertised by two separate publications in the official newspaper(s) designated by the county in which the goods or services are to be furnished. Additional publication in newspapers other than those above is not prohibited. The first publication shall not be less than 30 days prior to the date set for receiving bids. Additional methods of advertising may be used including contacting minority contractors as specified in subrule 5.15(4).

5.15(12) Responsible bidders. Whether obtained through formal advertising or negotiation, contracts shall be made only with responsible suppliers who possess the ability to perform successfully under the terms and conditions of the contract. Consideration shall be given to matters such as contractor integrity, record of past performance, financial and technical resources, or accessibility to other resources necessary for satisfactory completion of the contract.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.16(231) Restrictions for multipurpose agencies designated as AAA. When a multipurpose agency designated as the grantee for an AAA is the single organizational unit serving the designated planning and service area, no grant or contract is permitted between the AAA office and another division, officer or personnel of the multipurpose agency without the express approval of the department.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.17(231) Records—contract administration. The department and AAA shall maintain the following records as applicable:

5.17(1) Records for purchases of more than \$50,000 or \$150,000 aggregate shall provide at a minimum the following documentation:

- a.* Copies of publication and other advertising;
- b.* Minority contractors contacted;
- c.* Justification for the use of negotiation in lieu of advertising;
- d.* Basis for selection of supplier;
- e.* Basis for the price negotiated.

5.17(2) A system for contract monitoring shall be maintained by the department and AAA to ensure supplier compliance with terms, conditions and specifications of the contract and to ensure adequate and timely follow-up as necessary for failure to perform or for any other problem with delivery of goods or services.

5.17(3) All parties utilizing funds from the department and AAA shall maintain records and make reports as required by the terms of the contract to provide for efficient contract administration and monitoring.

5.17(4) All records and reports shall be open to public inspection unless otherwise provided by law.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.18(231) Recapture of funds for facilities.

5.18(1) *Recapture from owner.* The United States government and the state of Iowa are entitled to recapture the appropriate portion of the funds used by a facility owner for acquisition or construction of a facility used for senior programs or services. The owner shall notify the department in writing if within 10 years after acquisition or within 20 years after construction completion the following circumstances apply:

- a. The owner of the facility ceases to be a public or nonprofit agency; or
- b. The facility is no longer used for senior activities.

5.18(2) *Amount of recapture.* The amount recovered under 5.18(1) is that proportion of the current value of the facility equal to the proportion of federal or state funds contributed to the original cost. The current value of the facility is determined by written agreement between the owner of the facility and the federal or state government, or by an action in the federal or district court in the district where the facility is located.

5.18(3) *Recapture in leased facility.*

a. For a facility no longer leased for senior activities, the department shall recapture a portion of federal and state funds from the lessors of that facility within a period of time equal to one year for every \$1,000 of permanent alterations or renovations.

b. *Recapture share.* The amount recovered under paragraph 5.18(3) “a” shall be the total federal and state funds contributed to the original cost reduced by \$1,000 for each year the facility was used for senior programs or services.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

17—5.19(231) Property management.

5.19(1) *Responsibilities of grantees and suppliers.* All grantees or suppliers that use funds received from the department or AAA to purchase equipment or property, including real property, shall maintain appropriate records of all such property.

5.19(2) *Transfer upon termination.* Upon the termination of the grant or contract period, the grantee or supplier is required to transfer the property back to the department or AAA. The property shall be returned in as near the original condition as possible.

5.19(3) *Standards.* The standards and guidelines utilized by the department to implement this rule shall be in compliance with U.S. Department of Health and Human Services property management regulations, Administration of Grants, 45 CFR 74, November 4, 1988, unless a higher standard is required by this chapter. Iowa Aging Program Instruction 93-11, dated December 14, 1992, was issued as supplemental guidance to these regulations.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]

These rules are intended to implement Iowa Code chapters 231 and 249H.

[Filed 5/20/82, Notice 3/17/82—published 6/9/82, effective 7/14/82]

[Filed 10/19/84, Notice 8/15/84—published 11/7/84, effective 12/12/84]¹

[Filed emergency 1/11/85—published 1/30/85, effective 1/11/85]

[Filed 11/27/85, Notice 10/9/85—published 12/18/85, effective 1/22/86]

[Filed 5/16/86, Notice 12/18/85—published 6/4/86, effective 7/9/86]

[Filed 5/30/86, Notice 3/12/86—published 6/18/86, effective 7/23/86]

[Filed 5/1/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]²

[Filed emergency 8/20/87—published 9/9/87, effective 9/2/87]

[Filed 12/6/91, Notice 6/12/91—published 12/25/91, effective 1/29/92]

[Filed 4/3/92, Notice 2/19/92—published 4/29/92, effective 6/3/92]

[Filed 3/23/93, Notice 11/11/92—published 4/14/93, effective 5/19/93]

[Filed 11/5/93, Notice 9/15/93—published 11/24/93, effective 12/29/93]

[Filed 11/3/95, Notice 8/16/95—published 11/22/95, effective 12/27/95]

[Filed emergency 2/15/02 after Notice 1/9/02—published 3/6/02, effective 2/15/02]

[Filed 2/21/06, Notice 11/23/05—published 3/15/06, effective 5/1/06]

[Filed Emergency ARC 8489B, IAB 1/27/10, effective 1/7/10]

- ¹ Effective date of 20—9.22(2) delayed 70 days by the Administrative Rules Review Committee.
- ² Effective date of Ch 5 delayed 70 days by the Administrative Rules Review Committee.