

## NEW YORK STATE OFFICE FOR THE AGING

2 Empire State Plaza, Albany, NY 12223-1251  
Andrew M. Cuomo, Governor      Greg Olsen, Acting Director  
An Equal Opportunity Employer

### TECHNICAL ASSISTANCE MEMORANDUM

Number 13-TAM-01

Supersedes

Expiration Date

**DATE:** November 14, 2013

**TO:** AAA Directors

**SUBJECT:** Provider Agreements and Targeting and Equal Access

#### **PURPOSE:**

The purpose of this Technical Assistance Memorandum is to provide Area Agencies on Aging (AAAs) with suggested provisions for the agencies' aging services provider agreements addressing targeting and equal access.

#### **BACKGROUND:**

On July 17, 2012 the New York State Office for the Aging (NYSOFA) issued its revised Equal Access and Targeting Policy (12-PI-08) clarifying the responsibilities of New York State's Aging Network Providers under federal and state laws regarding equal access to services and nondiscrimination in serving all cohorts of New York's older adults and caregivers. The Program Instruction also addressed the federal and state requirements for targeting activities to reach those unserved and underserved groups that are in greatest social and/or economic need.

The AAAs were instructed that they are responsible for requiring all aging service providers under their respective planning and service area (PSA) to comply with requirements for equal access (including language accessibility), nondiscrimination and concentration of services on target populations as required in the Older Americans Act (OAA), NYS regulations, other relevant laws, and NYSOFA policies. The AAAs were instructed to include these requirements in each agreement made with such providers (OAA §306[a][4][A]) and to specify how the provider intends to meet specific objectives for satisfying the service needs of, and providing services to, low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas (OAA §306[a][4][A]).

Some area agencies on aging have requested technical assistance regarding development of contract language that would satisfy the targeting and equal access

(nondiscrimination) requirements. For this reason we are providing the following as model provisions addressing equal access to services and targeting that an AAA could incorporate in the body of the contract or incorporate by reference as an attachment or appendix to the contract (e.g., Appendix \_\_\_\_ Standard Terms and Conditions for Aging Programs and Services Contracts):

1) Statutes, Regulations, and Policies: The Contractor agrees that all its activities under this Contract shall conform with all applicable Federal, State, and Local laws, and with Federal and State regulations, and program standards and Program Instructions of the New York State Office for the Aging (NYSOFA) that apply to such activities, including, but not limited to:

Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination)

Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])

Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)

Older Americans Act

Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)

Federal Executive Order 11246, as Amended by Executive Order 11375

(Affirmative Action); as Amended by Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations.)

Executive Law, Article 15 (State Human Rights Law Prohibiting Discrimination

Based on Race, Color, Creed, National Origin, Sex, Age, Disability, Sexual Orientation and Other Factors)

Equal Access to Services and Targeting Policy (12-PI-08)

Elder Law

2) Targeting: The Contractor, to the extent it has discretion regarding to whom it will provide services, agrees to provide services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with limited English proficiency, Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such services, and to meet specific objectives established by the AAA for providing services to the above groups within the PSA. The Contractor agrees to concentrate the services on older adults in the targeted populations identified by the AAA following the methods the AAA has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the New York State Office for the Aging.

3) Language Access: The Contractor shall inform persons with limited English proficiency (LEP) of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP

persons at service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation services provider of their choice. The Contractor shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

4) Conformance with AAA Area Plan: To the extent that the contract with the AAA is for a program or service funded under the Area Plan, the Contractor agrees that it and any subcontractors will perform such work in accordance with the terms of the Area Plan. The AAA agrees to make the Area Plan available to the Contractor.

5) The Contractor agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the Contractor shall: specify how it intends to satisfy the service needs of low-income minority individuals, older adults with limited English proficiency, and older adults residing in rural areas in the area served by it; to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-income minority individuals, older adults with limited English proficiency, and older adults residing in rural areas within the planning and service area.

Many counties have standard contract forms that may not be modified to facilitate review by the county attorney and other county oversight offices. If that is the case, the foregoing provisions could be included in the contract as an attachment or appendix that are used specifically for programs funded under the federal Older Americans Act and/or the New York State Elder Law.

The AAAs that are county government agencies are advised to consult with the county attorney about the need to cover these issues in the AAA's contract (including providing a copy of the NYSOFA suggested language) and to follow the county procedures for approval of contracts.

**PROGRAMS AFFECTED:**

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|---|---|---|--|--|
| <input checked="" type="checkbox"/> Title III-B | <input checked="" type="checkbox"/> Title III-C-1 | <input checked="" type="checkbox"/> Title III-C-2 |  |  |
| <input checked="" type="checkbox"/> Title III-D | <input checked="" type="checkbox"/> Title III-E   | <input checked="" type="checkbox"/> CSE           | <input checked="" type="checkbox"/> SNAP   | <input checked="" type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> EISEP       | <input checked="" type="checkbox"/> NSIP          | <input checked="" type="checkbox"/> Title V       | <input checked="" type="checkbox"/> HIICAP | <input checked="" type="checkbox"/> LTCOP  |

Other:

**CONTACT PERSON:**  
Aging Services Representatives

**TELEPHONE:**  
(518) 474-5476