



August 15, 2023

Administrator Alison Barkoff  
Administration for Community Living  
Administration on Aging, Attention: ACL-AA17-P  
330 C Street SW  
Washington, DC 20201

Re: RIN Number 0985–AA17 Proposed Update to Older Americans Act Regulations

Submitted electronically via: <https://www.regulations.gov/commenton/ACL-2023-0001-0001>

Dear Administrator Barkoff,

LeadingAge appreciates the Administration on Community Living's (ACL) attention to older adults through the updating of the regulatory framework governing Older Americans Act (OAA) funded programs. We are grateful for the opportunity to submit comments on the proposed rulemaking: RIN Number 0985–AA17 Proposed Update to Older Americans Act Regulations

The mission of LeadingAge is to be the trusted voice for aging. We represent more than 5,000 mission driven aging services providers that touch millions of lives every day. Alongside our members and 38 state partners, we use applied research, advocacy, education, and community-building to make America a better place to grow old. Our membership encompasses the entire continuum of aging services. We bring together the most inventive minds to lead and innovate solutions that support older adults wherever they call home.

As advocates for high quality long-term services and supports across the aging services continuum, LeadingAge applauds ACL's goals to align regulatory and statutory language governing OAA programs to promote clear objectives and optimize programs and services. We feel the sentiment and major provisions of the rule are well intentioned and could meaningfully transition OAA into the 21<sup>st</sup> century providing more accountability and increased flexibility.

LeadingAge members are integral contributors to their communities, serving individuals across the care continuum from a wide range of funding and programs. Many of our members engage with Area Agencies on Aging (AAA) as referral sources, contracted providers, local hubs for education, and trusted resources within localities.

Historically, contracts for provision of OAA services would require approval from the state unit on aging (SUA). Multiple reauthorizations of the Older Americans Act included clarifications and improvements to assure that both OAA programs and providers carrying out the OAA mission are operating with integrity. The statute allows approval of contracts but also states that nothing in the OAA shall limit a provider's ability to provide services not enumerated in the Act. ACL has asserted that their interpretation is that these two provisions should be interpreted jointly and therefore proposes to require SUA approval of all AAA contracts and commercial relationships.

LeadingAge is concerned regarding the proposals around the authority for state units on aging (SUAs) to have expanded oversight into Area Agency on Aging (AAA) contracts. It is not clear whether ACL intended to loosely

allow SUAs to review and approve some contracts while streamlining approval for other types of contracts. LeadingAge urges clarification of the proposals around limited contract approval similar to language used in § 1321.9(c)(2)(xiv)(B)(2) explicitly relating to provision of OAA funding and inclusive of the title under which the funds are allocated. We believe backlogs or slow processing by SUAs could cause unnecessary administrative burden and bureaucracy for AAAs causing downstream contractual roadblocks and delays. These delays in turn will lead to limited service availability and further dampen older adults' access to critical services. We respectfully suggest careful consideration of the proposal's intent and suggest refinement to allow SUAs to provide contracting support for AAAs seeking assistance, but also leaving flexibility for AAAs with commercial engagements outside OAA funded programs and services.

As currently drafted, LeadingAge has concerns that the overly broad language included in the proposed regulation may allow state units on aging (SUA) to exhibit a degree of control or approval over all of the contracts that AAAs may execute. This has not existed to date. We are concerned that if this is the case, the proposed OAA regulation could compel state units on aging (SUAs) to establish onerous policies under which contractual engagements using OAA funding are reviewed. While administrative oversight can be useful in some cases, in this case we are concerned that service delivery and availability would be slowed unnecessarily – we do not see a need for SUAs to have oversight over contracts not involving OAA funds. SUAs and AAAs are already stretched with labor shortages, requiring additional administrative approval over contracts that the SUA may not understand does not promote accountability. Onerous processes for contract and commercial relationship execution will likely drive AAAs out of some business lines further hampering access to services in the local communities served by the AAA.

It is possible that ACL takes the position that all AAAs receive administrative and operating funding through OAA, therefore granting SUAs some oversight into wholistic AAA operations and contracting. We believe the purview of SUAs should be limited to programs administered using OAA funding or other funding appropriated at the state level for SUA programs.

As an alternative to the proposal for SUA approval of all contracts, SUAs could be required to develop integrity guidelines and criteria to protect AAA in all contracting and commercial engagements. These criteria could then be required in each AAA contract or commercial agreement as a template or boiler plate. Each non-OAA contract or agreement could receive a summary review for compliance with established integrity criteria, but not be up for wholesale review and approval by SUAs.

LeadingAge appreciates the ongoing support of ACL in assessing and promoting access to the full continuum of community-based services for older adults. OAA funded services provide vital supports for families, family caregivers, and older adults. We are grateful for the opportunity to provide comments on the proposed OAA rule and would appreciate ongoing dialog with the administration on aging services and their providers.

Sincerely,



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