

## CHAPTER 4

### STATE AGENCY OPERATIONS

#### 4-1 LEGAL AUTHORITY

##### Older Americans Act

##### SECTION 305 (42 U.S.C. 3025) ORGANIZATION

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

(1) the State shall, in accordance with regulations of the Assistant Secretary, designate a State agency as the sole State agency to-

(A) develop a State plan to be submitted to the Assistant Secretary for approval under section 307;

(B) administer the State plan within such State;

(C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this Act;

(D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and

(E) divide the State into distinct planning and service areas....

#### 4-2 FUNCTIONS OF THE COMMISSION

The Tennessee Commission on Aging was created by the Tennessee General Assembly in 1963 and the name was changed to the Tennessee Commission on Aging and Disability (TCAD) in

2001. The Commission is the designated state unit on aging and is mandated to provide leadership relative to all aging issues on behalf of older persons in the state.

Tennessee Statute describes the creation of the Commission in this way: “There is hereby created a commission known as the Tennessee commission on aging and disability, which shall plan, develop, and administer projects, programs, services and state and federal funds designated for, and relating to, disabled adults and older person in this state...The commission shall be designated as the sole state agency to plan and administer all state activities related to and authorized under the Older Americans Act, except for Title V activities...”(TCA 71-2-104, updated in 2001 to include adults with disabilities).

Tennessee Statute outlines the Tennessee Commission on Aging and Disability’s (TCAD) responsibilities in the powers and duties of the Commission as: “Stimulate more effective use of existing resources and services for older persons and disabled adults and develop programs, opportunities and services that are not otherwise provided for older persons and disabled adults, with the aim of developing a comprehensive and coordinated system for the delivery of health and social services” (TCA 71-2-105).

TCAD has been administering Older Americans Act services and providing oversight as mandated by the United States Administration on Aging (AoA) since 1965. TCAD has administered federal funds from the Centers for Medicare and Medicaid Services to operate the statewide State Health Insurance Assistance Program (SHIP) since 2003. From 2004-2008, the Bureau of TennCare (state Medicaid agency) designated TCAD as the operating agency for the Statewide Home and Community Based Services Waiver for Elderly and Disabled (Waiver). The Long Term Care Community Choices Act was passed by the Tennessee General Assembly in 2008 and a new HCBS Waiver was approved by the Centers for Medicare and Medicaid in June

2009. On July 1, 2009 TennCare began contracting directly with the Area Agencies on Aging and Disability (AAADs) to operate the Waiver and contracted with TCAD to provide Waiver marketing, consumer satisfaction surveys, quality assurance functions, as well as, Ombudsman services for residents of assisted living facilities.

In 2001, the Tennessee Legislature expanded the authority of TCAD to provide home and community based services to older persons to include adults with disabilities under age 60 in the state funded Options for Community Living Program. TCAD also administers state funds for multi-purpose senior centers, public guardianship, homemaker, personal care services and home-delivered meals.

#### **4-3 FUNDING OF THE COMMISSION**

##### **4-3-.01 FUNDING AUTHORITY**

TCAD is authorized to accept funds from the federal government, the Tennessee General Assembly, and from public and private sources. The allocation of such funds is subject to the limits of the appropriation by the General Assembly and to the funds available or received from the federal government or other funding authority for such projects and services.

##### **4-3-.02 FUNDING STRATEGY**

Under the strategy outlined in the Older Americans Act (OAA), the responsibility for setting service priorities and funding Title III services lies with the designated AAAD within each planning and service area. Under Title III, TCAD funds the AAAD rather than individual service provider applications. Each AAAD is expected to garner resources in addition to the funding provided under the OAA and the state appropriations.

#### **4-4 PERSONNEL PRACTICES**

TCAD is responsible for recruiting and employing staff members to administer the State Plan on Aging and for carrying out the functions and responsibilities prescribed under OAA, federal regulations and state law.

- (1) TCAD has on file for review a staffing plan identifying the numbers and types of staff assigned to carry out TCAD responsibilities and functions under this part.
- (2) TCAD may contract for the performance of certain functions and responsibilities to other parties, but such contractual arrangements shall not be utilized as a substitute for adequate staffing.
- (3) Hiring and all other personnel practices shall be conducted in conformity with the Tennessee Department of Human Resources standards, to assure nondiscrimination and exclusion of patronage.
- (4) TCAD shall maintain a code of conduct, consistent with Tennessee Department of Human Resources policies, for its staff and those working with all programs under its authority. TCAD staff are prohibited from using their positions to solicit favors or gratuities from any persons connected with these programs or in any way misusing their authority in the performance of their duties. Any staff member who abuses his/her authority shall be subject to dismissal.

#### **4-5 STATE AGENCY LOCATION AND OFFICE HOURS**

TCAD is located in the Andrew Jackson State Office Building, 500 Deaderick Street, Suite 825, Nashville, TN 37243-0860. Office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday, Central Time. The offices are closed for State Holidays.

#### **4-6 STATE AGENCY STAFFING**

TCAD staffing pattern will meet the following functional standards:

- (1) TCAD staff is headed by the Executive Director, an individual qualified by education and experience to assume leadership of the agency. The Executive Director is administratively responsible to the Commission for TCAD's program activities and interagency coordination.
- (2) The Community Services Section provides program management, consultation, guidance, training and technical assistance related to ongoing program implementation to AAADs, local councils on aging, and other agencies providing aging services under Title III of the Older Americans Act including Information and Assistance, Senior Centers, Health Promotion, Nutrition, and Emergency Preparedness. The Community Services Section provides program management, consultation, guidance and technical assistance related to the State Health Insurance Assistance Program funded by the Centers for Medicare and Medicaid.
- (3) The Planning Section is responsible for statewide aging and disability planning and supports the efforts of the aging services network. The Planning Section is responsible for developing the State Strategic Plan and the State Program Plan required by the State of Tennessee. The section coordinates planning activities with other agencies and develops the format for Area Plans. The State Plan on Aging required by AoA is

developed and monitored by this section. Other planning functions include: developing, maintaining, and making available information about the characteristics and needs of aging Tennesseans, both current and future populations; the resources to meet those needs; reviewing and commenting on plans and proposals; coordinating the preparation of agency reports; and conducting hearings. This section investigates sources of funds and develops applications for funding special projects. The Planning Section maintains the program and policy manual, and oversees special short-term and demonstration projects.

- (4) The Fiscal Section is responsible for developing and maintaining accounting systems and financial controls for all programs administered by TCAD, as well as for the preparation of financial reports. These include funds from the OAA, state appropriations, and special grants or contracts from other sources. The Fiscal Section prepares TCAD budgets and reviews audits for grant and contract programs administered by TCAD. The section also provides fiscal technical assistance to contractors and grantees. The section is responsible for the allocation of all funds. The section is responsible for personnel functions, payroll, contract management, procurement, property maintenance of the office facilities and the agency vehicle.
- (5) The Elder Rights Section provides program management, consultation, guidance, training and technical assistance related to the Office of the State Long Term Care Ombudsman, Legal Assistance for the Elderly, Elder Abuse Prevention, and Public Guardianship for the Elderly.
- (6) The Monitoring Section provides monitoring of contract compliance. The section works in accordance with the Policy 22 Plan (State Subrecipient Contract Monitoring Requirements) to monitor the AAADs. The section is responsible for completing reviews

of AAADs in accordance with the Policy 22 Plan, monitoring Title VI compliance and writing monitoring reports.

- (7) The Information Technology Section is responsible for the management and maintenance of the information technology system, the website maintenance, and records management. The section is responsible for coordinating the State Program Report (SPR) submitted to the Administration on Aging. The section is also responsible for submitting the Information Systems Plan (ISP) annually and maintaining all computer hardware and software at TCAD. The section is also responsible for the coordination of the Aging and Disability Resource Center (ADRC) grant.
- (8) The Human Resources Section is responsible for managing personnel matters for TCAD employees such as benefits, health insurance, Workman's Compensation, and retirement. The section is responsible for compliance with the policies and procedures of the Tennessee Department of Human Resources regarding interviewing and hiring of staff, as well as, job performance plans and annual reviews.

#### **4-7 STATE AGENCY PROCEDURES**

TCAD has, and follows, written procedures in carrying out all of its functions under OAA. Such procedures are adopted in accordance with the following steps. TCAD:

- (1) Develops proposed procedures;
- (2) Publishes the proposed procedures in a manner that allows AAADs, service providers, and older Tennesseans adequate opportunity to comment;
- (3) Considers all comments in establishing final procedures;
- (4) Incorporates, directly or by reference, all current policies and procedures and,
- (5) Keeps its procedures current and revises them as necessary by written notice.

## **4-8 PUBLIC INFORMATION AND DISCLOSURE OF INFORMATION**

### **4-8-.01 CONFIDENTIALITY**

TCAD requires that any personal information or data concerning individuals applying for services is solely for the purpose of providing services. The individual's right to personal autonomy and to privacy will be respected in all cases. Details of the individual's condition and identity will not be disclosed without his/her informed consent, except in compliance with court orders or to report elder abuse as required by TCA-71-6-101 the Tennessee Adult Protection Act.

### **4-8-.02 Disclosure**

Subject to confidentiality requirements, TCAD will make available at reasonable times and places to all interested parties, the written procedures required under the OAA and all other information and documents developed or received by TCAD in carrying out its responsibilities.

### **4-8-.03 Copies**

A fee of \$.15 (fifteen cents) per black and white page and \$.50 (fifty cents) per color page may be charged for photocopies of documents unless there is a statutory requirement for TCAD to provide such information at no cost. Photocopying fees will be waived for local, state or federal government agencies and legislative offices. All publications which have been printed at TCAD expense will be available for purchase for the cost of printing plus postage by any agency or individual upon request.

## **4-9 STATE PLAN ON AGING**

- (1) The State Plan on Aging is the document submitted by TCAD in order to receive funds from its allotments under OAA. It contains provisions required by Section 307 of OAA and implementing regulations, and commitments that TCAD will administer or supervise



the administration of activities funded under the OAA in accordance with all federal requirements.

- (2) The State Plan shall be developed in accordance with all guidelines issued by AoA.
- (3) The State Plan shall be based on plans of the AAADs through consultation with all AAADs in the state to:
  - (a) Determine needs of older persons in the state;
  - (b) Assist in establishing statewide priorities; and
  - (c) Ensure that the objectives established in the State and Area Plans are consistent.
- (4) TCAD shall conduct a public hearing on the State Plan, and on all substantive amendments to the State Plan. Adequate public notice of the date, time, and location of the hearing shall be given to older persons, public officials, and other interested parties. The public hearing shall be held in an accessible location which allows a reasonable opportunity for participation. All attendees at the public hearing shall be provided printed information on the state plan, and be given opportunity to comment verbally and/or in writing.
- (5) These standards for public hearings are met through the following specific procedures: The public hearing(s) shall be advertised at least two weeks in advance in local newspapers across the state. AAADs, service providers, and Commission members shall be sent special notices.
- (6) The State Plan shall be reviewed by the Commission before submission to the Governor for review and signature. After signature by the Governor, the plan shall be submitted in accordance with Program Instructions issued by AoA to the regional office of AoA for their review and their submission to the Assistant Secretary for Aging for approval.

#### **4-10 AREA PLANS ON AGING**

##### **4-10-.01 PREPARATION AND DISSEMINATION OF UNIFORM AREA PLAN FORMAT, INSTRUCTIONS AND FUNDING LEVELS**

- (1) The uniform Area Plan format, instructions, and schedule for submission, review and approval will be made available to the AAADs at least 90 days before the plans are due.
- (2) The federal allocation will be based upon the best estimates of federal funding available. If federal allocations have not been received from AoA, the allocations will be calculated based on the assumption of level funding from the latest available final award.
- (3) The annual allocation plan will be based upon the periodic development of an intrastate funding formula that takes into consideration the following factors in the formula: total persons 60+, persons 60+ with income below 125% of federal poverty guidelines; and 60+ living in rural areas.

##### **4-10-.02 REVIEW AND APPROVAL PROCESS**

- (1) Area Plans, and Area Plan Updates, shall be received by the Supervisor of Planning, who shall be responsible for developing and coordinating the Area Plan review process. This review process shall be approved by TCAD's Program Director and Supervisors.
- (2) Area Plans, with recommendations regarding approval, shall be presented by staff to the Planning Committee of the Commission.
- (3) Conditions of Area Plans must be met before final approval.

##### **4-10-.03 PROCEDURES FOR DISAPPROVAL OF AN AREA PLAN**

- 1) Any Area Plan or update which is not in substantial conformity with OAA, the federal regulations and Commission policy shall be disapproved.

- (2) For disapproval of funding of an Area Plan, written notification shall be sent to the AAAD at least thirty (30) days prior to the beginning of the state fiscal year for which continuation funding is being requested.
- (3) Any AAAD whose request for approval of its Area Plan has been denied in whole or in part shall be granted an opportunity for a hearing before the Commission as described in Chapter 3 of these policies.

#### **4-11 APPROVAL OF CONTRACTS UNDER AN AREA PLAN**

- (1) TCAD will require prior approval of all contracts proposed for funding with profit-making organizations under an Area Plan.
- (2) Copies of all executed contracts must be forwarded to TCAD within 30 working days after the plan becomes effective.

#### **4-12 REPORTING PROCEDURES**

- (1) TCAD will review reports submitted by AAADs to:
  - (a) Determine that federal, state, and local funds have been expended according to approved budgets;
  - (b) Determine that each contractor's request for funds is correct and corresponds with its cash needs;
  - (c) Determine whether projects are making progress toward achieving stated goals and objectives;
  - (d) Identify any significant operational problems which should be corrected (e.g., ineligible activities, inferior services, inadequate fiscal knowledge, or excessive administrative costs);
  - (e) Identify the need for technical assistance;

- (f) Provide information needed for TCAD to prepare and submit reports to the AoA or other funding agencies; and,
  - (g) Provide information which will enable TCAD to allocate, or reallocate, funds for maximum impact.
- (2) The reporting information from service providers must be maintained in the AAAD's official files to permit review by TCAD staff or other authorized persons.

#### **4-13 PROGRAM AND FISCAL REVIEW OF GRANTEES/CONTRACTORS**

TCAD is responsible for reviewing the administration of Area Plans and the performance of its grantees and contractors to ensure that all recipients of federal and/or state funds operate effectively and in compliance with the conditions of their grants/contracts.

##### **4-13-.01 PURPOSE OF REVIEW**

Program and fiscal review activities carried out by TCAD are directed toward:

- (1) Measuring the AAAD's progress toward developing a comprehensive and coordinated service delivery system in the planning and service area, and to guide TCAD in providing resources and technical support to enhance the development of such systems;
- (2) Identifying performance problems as a basis for determining grantee/contractor needs for technical assistance and training;
- (3) Ensuring compliance with applicable federal and state laws, regulation, performance standards, and other requirements; and
- (4) Ensuring cost-effective use of available resources.

#### 4-13-.02 REVIEW PROCEDURES

TCAD will carry out its review responsibilities as follows:

- (1) TCAD staff will periodically conduct desk reviews of grantees/contractors, consisting of review and analysis of such areas as subcontracts, correspondence, expenditure reports and requests for cash, program reports, and audit reports. (2) TCAD staff may conduct unannounced visits to service sites only when authorized by the Executive Director.
- (3) TCAD staff will conduct monitoring activities in accordance with TCAD's Policy 22 Plan using desk review and/or on-site review. Procedures for on-site visits shall include:
  - (a) TCAD will provide written notification to the AAAD, grantee, or contractor two weeks prior to the on-site visit. Such notice shall include date and time of entry interview, the approximate date of completion, appropriate staff to be present, and TCAD contact person for the review.
  - (b) At the discretion of the grantee director, each on-site review will begin with a conference in which the state staff will brief the AAAD Director, contractor signatory official (or designee), and other appropriate staff. During the entry interview, the state staff will explain the purpose of the review and the areas to be examined, make appointments with appropriate staff, itemize the records required for review, make logistical arrangements, and answer any staff preliminary questions.
  - (c) In most cases, structured tools or questionnaires shall be used to review grantees. The response to each question will be based upon the most accurate source of information, primarily written documentation such as procedures and records. Responses indicating non-compliance should include copies of documentation

sufficient to support the non-compliance finding, where possible. Reported fiscal and program data will be verified during the visit.

- (d) Each on-site visit may conclude with an exit interview in which the state staff will brief the AAAD director, grantee/contractor signatory official (or designee), and other appropriate staff of any significant findings of the review and recommendations which the state staff will make to TCAD. Findings are not official until the grantee receives them in writing from TCAD.
  - (e) Within 30 working days following each on-site review, the state staff will submit to the grantee a written report consisting of any findings. A finding is an objective narrative description of non-compliance with federal regulation, contract, applicable Office of Management and Budget (OMB) circulars, or any other state or federal policy or law. Documentation necessary to support the findings and pertinent data will be referenced in the report.
  - (f) Each report will be submitted to the Executive Director of TCAD along with a transmittal letter, for approval and signature. The Executive Director will forward the report to the grantee/contractor. The letter will include time frames for completion of corrective actions and TCAD follow-up.
  - (g) In the event that TCAD staff discovers an indication of possible fraud, mismanagement, or program abuse during the course of an on-site review, the staff person will immediately notify the Executive Director of TCAD.
- (5) Termination or suspension of an Area Plan, withholding funds, or other punitive actions may be taken by the Commission if an AAAD grantee, or contractor fails to take action

and correct problems specified by TCAD as a result of findings. See Chapter 3 for “Rules of Procedure for State Agency Hearings on Contested Cases.”

#### **4-14 TECHNICAL ASSISTANCE**

- (1) TCAD will provide technical assistance (including on-site visits) as needed to AAADs and other grantee agencies and to other organizations engaged in activities relating to the State Plan or Area Plans.
- (2) The technical assistance provided will be closely related to findings, needs identified by AAADs, and/or needs identified through review of Area Plans (or applications submitted by other applicants.)
- (3) The following procedure will be applied in responding to requests for technical assistance initiated by AAADs and service providers under Area Plans.
  - (a) Technical assistance will be provided by program and fiscal staff on routine program implementation as the need arises.
  - (b) Requests for technical assistance from AAADs, service providers, and other public or private agencies/organizations that are not related to routine program implementation will be handled as follows:
    1. Service providers should submit a request for technical assistance to the AAAD for response. AAADs will determine if the AAAD or TCAD is the appropriate agency to provide such assistance.
    2. Referral of requests for such technical assistance on behalf of providers, or requests for technical assistance to AAAD staff not related to routine program implementation, should be made in writing addressed to the Executive Director of TCAD.

3. The Executive Director will review the technical assistance request, determine appropriate response, and make staff assignment for formulating response.
4. AAADs will be notified in writing of the actions of TCAD relative to any technical assistance requests submitted.

#### **4-15 PUBLIC INFORMATION RESPONSIBILITIES**

- (1) TCAD will maintain information on the needs and characteristics of individuals who are elderly and other adults with disabilities and on programs serving this population.
- (2) TCAD will utilize a system of dated and numbered memoranda to promulgate program and policy information to AAADs and project directors and to disseminate information from the national, regional, and state levels.
- (3) TCAD will process requests for information in the following manner:
  - (a) **Processing Routine Requests:** All routine requests for information or materials made by letter, fax or e-mail will be given to the appropriate staff person, who may request assistance from other staff in formulating a response to the requests. Requested information or materials will be provided within five (5) working days whenever possible.
  - (b) **Processing VIP Requests:** All requests for information from the President, the Governor, Congressmen, State Legislators and Commission Members may be distributed by the Executive Director or Program Director to appropriate staff to formulate draft responses to requests. A specified deadline for completion will be indicated on the letter when routed for



reply. Information will be provided within two (2) working days if possible. When this is not possible because of the volume or type of information requested, an acknowledgment of receiving the request will be sent within two (2) working days. This type of request will receive immediate handling. The Executive Director will sign all VIP requests.

- (c) **Media Requests:** All requests from the media must be directed to the Elder Rights Attorney for action who must notify the Executive Director when a request for information from the media is received.

#### **4-16 POLICY WAIVERS**

- (1) Any policy contained herein which is not mandated by law or regulation may be waived by TCAD when circumstances warrant such action.
- (2) Contractors desiring a waiver should request a copy of TCAD's policy waiver form and instructions.
- (3) In no instance shall policy waivers be effective beyond the budget period for which they are granted.