

**CHAPTER 411
DIVISION 11**

**PROVISION OF SERVICES BY AREA AGENCIES ON AGING
AND COMPETITIVE PROCUREMENT**

**411-011-0000 Provision of Services by Area Agencies on Aging
(AAAs)**

(Adopted 2/20/1986)

(1) "No supportive or nutrition services will be directly provided by the State agency or an Area Agency on Aging, except where, in the judgment of the State agency, provision of such services by the state agency or an Area Agency on Aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or Area Agency on Aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or Area Agency on Aging." (Older Americans Act, as amended through 1984, Section 307(a)(10)).

(2) In districts where the county has been designated the Area Agency on Aging and where the county has multiple responsibilities for health and social service delivery, services may be provided through an interagency agreement between the Area Agency on Aging and the pertinent health or social services components of the county.

(3) Decision of the Seniors and People with Disabilities Division on provision of services shall be based on the following criteria:

(a) Adequacy of supply;

(b) Administrative functions:

(A) Program Development, Coordination, Advocacy, Title XIX Case Management, and Oregon Project Independence Case Management at the option of the Area Agency on Aging are considered integral to AAA administration;

(B) The AAA may also provide service(s) directly when it can demonstrate, on the basis of documentation in the area plan, that it would not be practical to separate the service(s) from the AAA's overall administrative functions. The services which may be directly related to administrative functions are: non-Title XIX Case Management, Information and Referral and Meal Site Supervision;

(c) Quality and Economy -- This will be based upon the competitive process as specified under OAR 411-011-0005(2).

Stat. Auth.: ORS 411

Stats. Implemented: ORS 410.240, ORS 410.250, ORS 410.270 & ORS 410.280

411-011-0005 Competitive Procurement

(Adopted 2/20/1986)

(1) General Requirements:

(a) The Competition in Contracting Act of 1984 requires that, in the procurement of services, there be a solicitation, and that it be designed to achieve full and open competition for the procurement;

(b) A competitive process requires use of performance based contracts. The contract type will be a firm, fixed unit rate; fixed rate with economic adjustment; or fixed ceiling price contract. The contract will state the conditions under which economic adjustment will occur, and/or under what conditions cost will be allowed within a fixed ceiling price contract;

(c) Contract principles described in 45 CFR Part 74; Title 41 Code of Federal Regulations; and the Federal Acquisition Regulation (FAR), Part 6, outlines the principal processes for contracting and are to be followed in procuring services.

(2) Criteria to Assure Competitive Process

(a) At least annually, the Division shall solicit potential providers by advertising in the Daily Journal of Commerce (DJC) and a newspaper having statewide circulation and appropriate minority media. Additionally, the Area Agency on Aging (AAA) shall advertise in the geographic area in which services will be impacted;

(b) At the option of the AAA, make available to potential providers (contractors) identified through subsection (2)(a) of this rule, the cost (i.e., unit cost) at which the Area Agency on Aging has provided and will provide services, including enough data from the cost analysis for potential providers to determine whether they will commit to a letter of intent to submit a proposal if a Request for Proposal (RFP) is issued;

(c) If two or more potential providers are identified as a result of subsection (2)(a) of this rule and OAR 411-011-0000(3) does not apply, the AAA shall follow the provisions of subsection (1)(c) of this rule;

(d) If the AAA has determined through subsection (2)(a) of this section that there is only one potential provider of the service and OAR 411-011-0000(3) does not apply, then the AAA shall proceed with a negotiated procurement as sole source;

(e) If the AAA has determined through subsection (a) of this section that there are no potential providers, other than the AAA itself, the AAA may provide the service directly, as provided for under OAR 411-011-0000(3)(a);

(f) The AAA may respond to its own RFP in accordance with OAR 411-011-0015.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 411

Stats. Implemented: ORS 410.250, ORS 410.270 & ORS 410.280

411-011-0010 Competitive Procurement for Nutrition Services
(Adopted 2/20/1986)

(1) In accordance with the Older Americans Act, as amended through 1984: "No contract awarded after September 30, 1982, shall be entered into for the provision of nutrition services unless such contract has been awarded through a competitive process. Such process shall include evaluation of each bidder's experience in providing services to older individuals. Whenever there is no evidence of improved quality of service and cost effectiveness on the part of another bidder, a provider of services, who received funds under Title VII of the Older Americans Act of 1965 as in effect on September 29, 1978, shall be given preference". (Section 501(b))

(2) Those elements of nutrition services relevant to competitive contracting are meal preparation and meal service delivery and management.

(3) The Area Agency on Aging (AAA) may apply the criteria under OAR 411-011-0005(2) to meal preparation and meal service delivery management combined or separately and in any combination of geographic locations. Additionally, these criteria may be applied to management of a local site of which nutrition services are but one component.

Stat. Auth.: ORS 411

Stats. Implemented: ORS 410.250, ORS 410.270 & ORS 410.280

411-011-0015 Response by Area Agency on Aging to Requests for Proposal

(Adopted 2/20/1986)

(1) An Area Agency on Aging may respond to its own Request for Proposal (RFP). In doing so, it shall process the evaluation of responses to such a Request for Proposal in the following manner:

(a) The Area Agency on Aging shall place its pricing (only unit cost) proposal, along with the notice of intent to propose, in the RFP so that all other agencies or organizations wishing to submit proposals may determine whether or not they are able to submit proposals in competition to the one published by the Area Agency on Aging;

(b) When another agency or organization submits a proposal, in addition to the Area Agency, evaluation of all RFPs shall be

accomplished by a fair and impartial evaluation team. Membership on the panel by Area Agency Board and Advisory Council membership on the evaluation team shall constitute less than 50 percent. The evaluation team shall be chaired by a disinterested party not affiliated with the Area Agency or any of the proposers;

(c) Technical and price proposals must not identify the organization submitting the proposal in any way in the proposal or on the envelope. Proposals which do identify the organization submitting the proposal in the technical or price proposals shall be deemed unresponsive and shall not be considered for possible contract award. The management proposal will be the only part of the proposal that identifies the organization submitting the proposal. The evaluation team shall not be aware of the organization submitting the proposal until after the technical and price proposals have been evaluated and scored;

(d) If the Area Agency on Aging is the recipient of the award, it must meet the same contractual provisions, standards, and price that any non-Area Agency on Aging provider would be required to meet.

(2) In the event the Area Agency on Aging Board selects the Area Agency as the provider over the recommendation of the evaluation team, the Area Agency must provide its justification in a public meeting held locally, and, in writing, document to the Senior Services Division Administrator the rationale for making its selection. The Administrator of the Senior Services Division or his/her designee, shall have the discretion to either uphold or override the decision of the Area Agency Board or cause the RFP to be reissued.

Stat. Auth.: ORS 411

Stats. Implemented: ORS 410.250, ORS 410.270 & ORS 410.280