

Contract Administration Aging Policy Manual

I. Introduction

This chapter summarizes the standards, policies, procedures and recommended practices governing the working relationships among the AAAs or aging units and their providers funded under the AAA plans.

II. Contract Compliance

Area agencies and aging units have the responsibility to be in compliance with all of the laws, regulations and policies detailed in the following documents:

- (1) Federal Regulations 45 CFR Part 92 - Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule)
- (2) Federal Regulations 45 CFR Part 74 - Administration of Grants
- (3) OMB Circular A-110 - Administrative Requirements, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations
- (4) State Statutes s. 46.036 - Purchase of Care and Services
- (5) State Division of Long Term Care – Current Year Purchase of Services Model Contract and State Review Requirements
- (6) State Department of Health Services – Allowable Cost Policy Manual

III. Contracts for the Provision of Social Services

A. General Overview of Contracting

1. Purpose of Contracting

Area agencies and aging units award contracts to local agencies and programs to foster the development and

implementation of programs for the elderly.

These awards are made under the authority and in accord with the provisions of the act, federal regulations and state statutes. Aging units provide services funded through their plans by the contracting procedure.

2. General Requirements and Responsibilities Regarding Contracts

Recipients of federal- or state-funded contract awards from an area agency or aging unit are subject to all provisions of applicable federal laws and regulations, applicable state and local laws and Bureau of Aging and Disability Resources policies. The Bureau of Aging and Disability Resources, area agencies and aging units share responsibility to ensure that federal and state funds awarded under area and aging unit plans are obligated and expended in accord with all the applicable laws, regulations and policies.

3. Relationship of Contracts to the Area or Aging Unit Plan

Contract awards made by an area agency or an aging unit shall be related to the purposes of the act or state statute and to the objectives and action plans set forth in the area agency's or aging unit's approved plan.

B. Contract Award Procedures

The following material describes recommended procedures and practices for area agencies and aging units to follow in awarding contracts. Area agencies and local units of government (counties and tribes) are responsible for developing their own purchasing procedures. These procedures shall comply with federal, state and local laws and with procurement standards.

1. Starting Point: The Area and Aging Unit Plan

The contract-awarding process begins with the development of the area or aging unit plan. Through its plan, an area agency or aging unit indicates both the service needs it has identified and the objectives or action plans it has developed to meet those needs. The contracts an agency subsequently awards are the mechanisms by which it fulfills its specific service goals.

2. Service Proposals

Area agencies and aging units solicit detailed program proposals from potential service providers or plans based

on information, criteria and objectives provided by the area agency or aging unit. The proposals and plans should then be used as guidance in the design and development of the agency's final contract.

3. Written Award Procedures

All awarding agencies shall have written procedures for awarding contracts which include the components set forth in this chapter.

4. Eligibility of Contract Recipients

a. General

Area agencies and aging units are authorized to contract for the provision of services with public or governmental bodies, private non-profit organizations, profit-making corporations, individuals and sole proprietorships.

b. Incorporation

Non-profit and profit-making contracting organizations shall be incorporated in order to safeguard the interests of the area agency or aging unit, the recipient of the contract, and the people served in the program. The area agency or aging unit must verify incorporation before awarding a contract to an agency.

c. Capacity and Compliance

To be eligible for a contract, prospective agencies or organizations shall provide evidence of capacity to fully and competently deliver the proposed services and the capability and willingness to meet all the legal, fiscal and program requirements established by federal and state law, regulations and guidelines; and the policies of the Bureau of Aging and Disability Resources, the area agency, and when appropriate, the aging unit.

5. Contracting with Small and Minority Firms, Women's Business Enterprises, and Labor Surplus Area Firms

It is national policy to award a fair share of contracts to small and minority business firms. Affirmative steps shall be taken to ensure that small and minority businesses are utilized, when possible, as sources of supplies,

equipment, construction and services. Affirmative steps shall include the following:

- (1) including qualified small and minority businesses on solicitation lists
- (2) ensuring that small and minority businesses are solicited whenever they are potential providers
- (3) when economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum small- and minority- business participation
- (4) where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business
- (5) using the assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, as required
- (6) if any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in (1) through (5) above

Providers shall take similar appropriate affirmative action in support of women's business enterprises.

Providers are encouraged to procure goods and services from labor surplus areas.

6. Contract Cost and Price Analysis

The policies governing contract cost and price analysis are as follows:

- (1) A cost or price analysis shall be performed in connection with every procurement action, including contract modifications by providers.
- (2) For each contract in which there is no price competition and in all cases where cost analysis is performed, providers and their subcontractors shall negotiate profit as a separate element of the price.
- (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with federal and state cost principles.
- (4) Methods of contracting shall not be used which involve the following: cost, plus a percentage of cost, plus a percentage of construction cost.

7. Contracting with a Profit-Making Organization

Area agency contracts with profit-making corporations must be approved by the Bureau of Aging and Disability Resources. Aging unit contracts with profit-making corporations must be approved by the area agency and by the Bureau of Aging and Disability Resources.

IV. Procurement

Procurement is the process of buying services or property.

A. General Procurement Responsibilities

- Area agencies and aging units are responsible for developing their own purchasing procedures which comply with federal, state and local laws, regulations and procurement standards.
- Aging units that are part of a local government shall comply with the county or tribal purchasing procedures.
- Where local government does not have procurement procedures, aging units shall follow the procurement procedures outlined in this chapter.
- Non-profit aging units shall develop their own purchasing procedures, which must comply with federal, state and local laws and procurement standards.
- Area agencies and aging units are responsible for developing contracts which comply with federal and state laws and standards.
- Area agencies and aging units are responsible for settling contractual and administrative disputes.

B. Federal Procurement Standards

Area agencies and aging units shall adhere to all of the federal procurement standards listed below. In awarding contracts, area agencies and aging units shall do all of the following:

- (1) maintain a contract administration system which ensures that providers perform in accordance with the terms, conditions and specifications of their contracts
- (2) maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts
- (3) provide for a review of proposed procurements to avoid purchase of unnecessary or duplicate items

- (4) make awards only to responsible providers possessing the ability to perform successfully under the terms and conditions of a proposed procurement
- (5) maintain procurement records that include rationale for method of procurement, selection of contract type, provider selection and basis for cost
- (6) have procedures to handle and resolve disputes relating to procurement
- (7) make efforts to enter into state and local intergovernmental agreements for procurement or use of common goods and services for greater economy and efficiency
- (8) make efforts to use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces cost

C. Open Competition

The required policies governing open competition are as follows:

- (1) Area agencies and aging units shall conduct all procurement transactions in a manner providing full and open competition consistent with the standards listed in this chapter.
- (2) Area agencies' and local units' procurement procedures shall not restrict or eliminate competition. Examples of restricted competition include, but are not limited to, the following:
 - unreasonable requirements on firms in order for them to qualify
 - unnecessary experience and excessive bonding
 - non-competitive pricing practices between firms
 - non-competitive awards to consultants that are on retainer contracts
 - organizational conflicts of interest
 - specification of only a brand-name product instead of allowing an equal, non-brand-name product
 - any arbitrary action in the procurement process
- (3) Area agencies and aging units shall have written selection procedures for procurement transactions. These procedures will ensure that all solicitations do both of the following:
 - incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured
 - identify all requirements which the firm shall fulfill and all other factors to be used in evaluating bids or proposals

- (4) Awarding agencies shall ensure that all pre-qualified lists used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition; this includes lists of persons, firms or products.

D. Methods of Procurement

Procurement shall be made by one of the following methods, whichever is most appropriate for the situation.

1. Small Purchase Procedures

a. General

Small-purchase procedures are those relatively simple and informal procurement methods for securing services and goods. Area agencies and aging units shall have "small-purchase procedures" for procuring a single item costing less than \$5,000.

When the cost of a single item to be purchased is in excess of \$5000, prior approval from the awarding agency is required. This approval is secured through the awarding agency's acceptance of a plan or plan amendment which contains information about the item to be purchased and about the procurement procedure to be utilized.

b. Procedures Governing Small Purchases

The following is a list of steps to use when purchasing equipment and services costing less than \$5,000:

- (1) Obtain approval (from commission, board or director as required in the agency) to purchase the item and to obtain quotes from vendors.
- (2) Write down detailed specifications for what you want to buy.
- (3) If required, obtain approval for the purchase from the Bureau of Aging and Disability Resources or area agency (e.g., for computer equipment).
- (4) Find out the names of at least three vendors who are reliable based on past experience, reputation and technical resources. Obtain a list of minority-owned businesses, women-owned businesses and small businesses; add these to the list of vendors to be contacted.
- (5) Call or write to the vendors on the list and give the same specifications to all of them.
- (6) Upon receipt of their bids or quotes, compare their offers in writing. Make sure that staff that is comparing offers does not have a financial interest in the vendors submitting bids. Staff may

- not accept gratuities or favors from the vendors.
- (7) Write down the criteria used to make the decision.
 - (8) Select a vendor and write down the reasons for selection.
 - (9) Obtain written approval from the board or commission to purchase the item from the selected vendor.
 - (10) Notify the vendor and either complete a purchase order or enter into a written agreement.

The above steps shall be in writing in the policies and procedures manual of the area agency or aging unit.

2. Competitive Sealed Bids (Formal Advertising)

Sealed bids can be used for procuring a specific item such as a van. Bids are publicly solicited; a fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid is lowest in price and conforms to all the material terms and conditions of the invitation for bids.

a. Necessary Conditions for Sealed Bidding

In order for sealed bidding to be feasible, all of the following conditions should be present:

- (1) A complete, adequate and realistic specification or purchased description is available.
- (2) Two or more responsible bidders are willing and able to compete effectively for the business.
- (3) The procurement lends itself to a fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

b. Requirements Governing Sealed Bidding

If sealed bids are used, all of the following requirements apply:

- (1) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
- (2) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.

- (3) All bids will be publicly opened at the time and place prescribed in the invitation for bids.
- (4) A fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost and life-cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
- (5) Any or all bids may be rejected if there is a sound documented reason.

3. Competitive Proposals: Request for Proposals (RFP)

This method is used when competitive sealed bids are not appropriate. If this method is used, the following requirements apply:

- Requests for proposals shall be publicized and shall identify all evaluation factors and their relative importance.
- Proposals shall be solicited from an adequate number of qualified sources.
- Awarding agencies shall have a method for conducting technical evaluations of the proposals received and for selecting contract recipients.
- Awards shall be made to the responsible firm whose proposal is most advantageous to the program with price and other factors considered.

4. Non-Competitive Proposals (Sole Source)

Non-competitive negotiation is procurement through solicitation of a proposal from only one source, which may occur when, after soliciting a number of sources, competition is determined to be inadequate.

Non-competitive negotiation may be used only when it is not feasible to use small-purchase procedures, sealed bids or competitive proposals and when any one of the following circumstances applies:

- The item is available only from a single source.
- A public emergency for the requirement will not permit a delay.
- The awarding agency authorizes non-competitive proposals.
- After soliciting a number of sources, competition is determined inadequate.

E. Written Contracts

Federal regulations do not specify when a contract is required for procurement. However, federal regulations imply the use of contracts.

State statutes require contracts for all purchase of care and services except for the following:

- (1) Care provided by foster homes licensed under s. 48.62, Wis. Stats.
- (2) the Family Support Program

"Purchase of care and services" is interpreted to mean only the care and services provided to clients by licensed or certified (as required) providers. This excludes administrative contracts for such non-client-related items as office supplies, computer charges, waste disposal, etc.

For purchases of \$10,000 or less, the requirement of a written contract may be waived by the area agency. However, the Bureau of Aging and Disability Resources encourages the use of contracts as good business practice.

V. Code of Conduct

The federal government requires that awarding agencies maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds.

No employee, officer or agent of the awarding agency shall participate in selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved.

A conflict of interest would arise when an employee, officer or agent or any member of their immediate family, their partner or an organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for the award.

The awarding agency's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors.

To the extent permitted by state or local law or regulation, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the awarding agency's officers, employees, or agents or by the contractors or their agents.

VI. Contract Review Policies

A. Contract Review Responsibility of Area Agency and Aging Unit

The area agency has the primary responsibility to develop, award, monitor and evaluate contracts issued in connection with its approved area plan. Likewise, the aging unit assumes primary responsibility for developing, awarding, monitoring and evaluating contracts issued in connection with its approved plan. Aging units should consult with their legal counsel when developing the contract format.

B. Contract Review by the Awarding Agency

The awarding agency will be responsible for review of the provider's contract and the contracting procedure. This review should consist of the following components.

1. Pre-Award Review by Awarding Agency

The Bureau of Aging and Disability Resources requires each area agency to submit one blank copy of its contract form prior to use. The Bureau of Aging and Disability Resources recommends that each awarding agency review its provider's contracts in a similar manner. These contracts should be reviewed for their completeness, conciseness and compliance with federal regulations. The awarding agency then will provide the recipient agency with comments regarding the compliance of the contract, suggest simplifying the contract, or ask the recipient to revise the contract form.

a. Pre-Award Review Requirements

The awarding agency's pre-award review and approval of its provider's proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, is permitted only under the following circumstances. If the review of the procurement system indicates non-compliance with one or more significant aspects of this manual, the awarding agency will notify the subcontractor in writing, with a

copy of such notification sent to the Bureau of Aging and Disability Resources.

At the request of the awarding agency, providers shall make available the technical specifications on proposed procurements where the awarding agency believes that a review is necessary to ensure the item or service specified is the one being proposed for purchase.

For the awarding agency's pre-award review procurement, providers shall make available documents such as the following: requests for proposals, invitations for bids, independent cost estimates, etc., when so requested and when any one of the following is true:

- (1) a provider's procurement procedures or operation fails to comply with procurement standards outlined in this chapter
- (2) the procurement is expected to exceed \$5,000 and is to be awarded either without competition or when only one bid or offer is received in response to a solicitation
- (3) the proposed award over \$5,000 is to be awarded to other than the apparent low bidder under a sealed bid procurement
- (4) a proposed contract modification changes the scope of a contract or increases the contract amount to more than \$5,000

b. Exemptions and Self-Certification

Policies governing exemptions from the pre-award review are as follows:

- (1) The contract recipient will be exempt from the pre-award review if the awarding agency determines that its procurement systems comply with the standards outlined in this chapter.
- (2) A provider may request that its procurement system be reviewed by the awarding agency to determine whether its system meets the standards outlined in this chapter.
- (3) A provider may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure awarding agencies may wish to rely on written assurances from the contract recipient that it is complying with these standards.

2. Monitoring

During the annual assessment of the provider, the contracting procedures which were utilized by that agency should be reviewed and evaluated by the awarding agency. A few contracts shall be examined, on a selected basis, for their completeness during the assessment. Any contracts found to be incomplete, as a result of on-site review, shall be required to be revised in accordance with BADR's standards and policy.

VII. Single Year and Multi-Year Contracts

A. Single Year Contract

Contracts made by an area agency or aging unit to support or conduct activities under an approved plan are limited to one year (12 sequential months), January 1 through December 31; with the exception of aging units, which may choose to enter into multi-year contracts under conditions described below in this chapter.

B. Multi-Year Contracts

- Aging units may award contracts on a multi-year basis (up to three years) if they so desire. There is no federal or state requirement that would prohibit such awards.
- Aging units may enter into annual contracts with provisions for extension.
- Aging unit contracts do not all need to be written for the same number of years.
- For a particular procurement, the maximum period between competitions is three years.
- Aging units are responsible for deciding whether to award multi-year contracts at their own risk. In making that decision, aging units should consider the following issues:
 - Likelihood that funding will be available for more than one year. State funds and federal Older Americans Act Title III funds are only committed for one-year periods. Therefore, if a contract extends beyond one year, there is a risk that funding will be discontinued or decreased for the second year of the contract period. Contract language shall clearly state that funding is committed for one year only, and that future funding levels are contingent upon federal and state appropriations.
 - likelihood of new and potentially better providers coming into the market
 - possibility that the need for service will decline over a three-year period
 - fairness to competing providers of comparable quality
 - access by minority contractors

- likelihood that the aging unit will be satisfied for three years with the provider most likely to win the contract
- difficulty in amending the contract for new policies as they are established
- opportunity to lock into a lower price over a longer period
- The aging unit shall continue to comply with federal regulations requiring local governments to follow procedures that guarantee fairness to all prospective providers and to the awarding agency.
- All contracts shall continue to be awarded on a calendar-year basis because that is the fiscal year used for administration of Older Americans Act funds and state aging program funds.
- All multi-year contracts shall require annual budgets. This will ensure that funds awarded for each calendar year within a multi-year contract are closed out at the end of each year, according to BADR's closeout policies and procedures.
- Procurement contracts should include provisions for early termination and for modification of the contracts due to unforeseen events, such as unsatisfactory performance, reduced funding, changed market conditions, mandated program requirements, etc. Terms and provisions for renewal, if any exist, shall be incorporated in the bid specifications and the contract document.
- Contracts shall clearly state that second- and third-year funding is contingent upon availability of funds.

VIII. Contract Elements

A. General Contract Elements

The following contract elements are included in the Division of Long Term Care model contract for counties and tribes. When preparing a contract document, refer to the model contract for specific wording.

- (1) general provisions:
 - beginning and ending date of contract
 - description of services to be provided, such as number of clients, number of units, cost per service and unit rate
 - legal name of contracting agencies
- (2) total contract cost (maximum amount to be paid):
 - billing and payment procedures

- dates when invoices are to be submitted and paid
 - return of funds in excess of allowable costs
 - surety bond if advance is paid
- (3) participant contributions: provisions which are in compliance with federal laws and regulations
 - (4) reporting requirements
 - (5) prohibition of subcontracts unless prior approval is given
 - (6) compliance with federal and state laws, rules and regulations
 - (7) audit requirements
 - (8) maintenance of double-entry accounting system
 - (9) transfer of clients only with approval of purchaser
 - (10) eligibility standards for recipients
 - (11) right of client to appeal
 - (12) maintenance and retention of records required by federal, state and local laws and regulations
 - (13) access to fiscal and program records
 - (14) confidentiality of client records
 - (15) indemnity and insurance requirement
 - (16) compliance with Title VI of the Civil Rights Act of 1984 - Discrimination
 - (17) reasons for negotiation of changes to the contract:
 - increased or decreased volume of service
 - changes required by law
 - funds available
 - (18) provision for contract revision and termination:
 - provider convenience
 - provider's inability to provide services
 - failure to comply with terms of contract
 - manner in which revision or termination will be accomplished, including number of days' notice to be given
 - termination due to lack of federal or state funds
 - (19) resolution of disputes: procedure for provider appeal
 - (20) special conditions:
 - contract does not supersede lawful powers

- licensing and certification
 - acceptance of terms in contract
 - notify purchaser of complaints
 - copy of licensing report to purchaser
 - basis for settlement if contract is terminated
- (21) witnessed signatures, date of contract execution, and titles of those signing contract
- (22) additional contract elements for aging-program contacts:
- rights to inventions and materials
 - disposition of program income
 - non-federal matching requirements

B. Standard Assurances and Provisions

All recipients of federal or state funds shall include assurances of compliance with federal and state laws and regulations, as a part of or as an attachment to every contract. Required assurances are included with the area-agency and aging unit plans.

IX. Payment of Funds to Contractors

A. General Standards

The area agency and aging units shall develop uniform payment procedures which do all of the following:

- minimize the time elapsing between the receipt of funds and disbursement of funds
- meet the cash needs of contractors on a prompt and timely basis
- conform to applicable federal cash management guidelines
- provide an effective cash control system

B. Methods of Payment

Area agencies may forward up to three prepayments to contract recipients at the beginning of a contract. Further payments shall be made on a monthly reimbursement basis. Aging units are not required to make any prepayment

and may make all payments on a monthly reimbursement basis.

Contract language shall specify how the prepayments are to be recalled. One method would be to apply the first prepayment against the first month's actual expenditures and to adjust the payment accordingly.

C. Allowable Costs

Payments to contractors shall be limited to those costs which are allowable under federal and state regulations and which are directly related to performance of the contract. Particular reference should be made to the State of Wisconsin's Allowable Cost Policy Manual.

X. Revision, Suspension and Termination of Contracts

An area agency or aging unit shall include in every contract, provisions for the revision, suspension or termination of the contract in certain specified circumstances.

Described below are BADR's procedures and policies related to the alteration of contracts; some are mandatory and some are recommended.

A. Funding Contingency

All contracts made by the area agency or the aging unit are conditioned on the availability of funds. The unavailability of federal or state funds should be stipulated as sufficient justification to revise, suspend or nullify a contract.

B. Revisions and Amendments of Contracts

A contract modification, approved by the awarding agency, is required whenever there is a significant change in the program or in the administrative activities of a program funded under an approved plan.

C. Suspension or Termination of Contracts

1. General

Area agency and aging unit contracts shall include clear provisions for the suspension or termination of a contract under specified circumstances.

2. Circumstances Warranting Suspension or Termination of Contracts and Courses of Action

Suspension or termination of a contract may be warranted in either of the following instances:

- if funding under the area or aging unit plan has been suspended by the federal or state government, or by BADR, or by the awarding agency
- if a provider materially fails to comply with any term of an award stated in federal law, state law or regulation, in an assurance, in an area or aging unit plan or application or elsewhere

The awarding agency may take one or more of the following actions as appropriate to the circumstance:

- temporarily withhold cash payments pending correction of the deficiency by the contract recipient
- disallow funds for all or part of the cost of the activity or action not in compliance
- wholly or partly suspend or terminate the current award for the contract recipient's program
- withhold further awards for the program
- take other remedies that are legally available

3. Effects of Suspension and Termination

Provider costs resulting from obligations incurred during a suspension or incurred after termination of an award are not allowable unless the awarding agency expressly authorizes them.

Other costs during suspension or after termination which are necessary and not reasonably avoidable are allowable, if both of the following are true:

- The costs resulted from obligations which were properly incurred by the provider before the effective date of suspension or termination, were not in anticipation of it, and in the case of a termination are not cancelable.
- Had the award not been suspended or terminated, the costs would have been allowed.

4. Procedures for Suspension or Termination of Contracts

If a decision to suspend or terminate a contract is made after serious efforts have been undertaken to remedy the

causes, the following procedures shall be followed:

- The provider shall be given written notification of the action, the reasons for the action, and the effective date of suspension or termination.
- The provider shall be informed of its right to an appeal hearing and the procedures to be followed.
- The provider shall be informed of any reports or materials required by the area agency or aging unit.

5. Termination for Convenience

The awarding agency and the provider may agree to terminate the contract. The two parties must also agree upon the termination conditions.

The provider may terminate the contract upon written notification to the awarding agency, setting forth the reasons for termination, the effective date and, in the case of partial termination, the portion to be terminated.

In the case of partial termination, if the awarding agency determines that the remaining portion of the contract will not accomplish the purposes for which the contract was made, the awarding agency may terminate the contract in its entirety.

6. Provider Appeals of Area Agency or Aging Unit Decisions

An area agency or aging unit provider has the opportunity to appeal a decision by its awarding agency to suspend or terminate.

a. Request for Appeal Hearing

The provider has 30 days to file a written request for a hearing following receipt of the notice of the adverse action.

b. Appeal Hearing Schedule

When the awarding agency receives a request for a hearing, it shall notify the provider of the date, time and location of the hearing. The awarding agency shall complete the hearing within 120 days of the date when the request for the hearing was received by an awarding agency. The awarding agency shall issue the hearing decision within 60 days after the hearing is completed.

c. Hearing Procedures

- The provider shall receive timely written notice of the reasons for the awarding agency's action being appealed, and shall receive the evidence on which the action was based.
- The provider shall have an opportunity to review any pertinent evidence on which the awarding agency's action was based.
- The provider shall have an opportunity to refute the decision's basis by appearing, in person or by representation, before the board or commission of the awarding agency, before a subcommittee thereof, or before an impartial decision-maker agreed to by both parties.
- The provider shall have an opportunity to be represented by counsel or other representative.
- As part of the hearing process, the provider shall have an opportunity to present witnesses and documentary evidence and to cross-examine witnesses.
- The provider will receive a written decision by the impartial decision-maker which sets forth the reasons for the decision and the evidence on which the decision is based.
- The awarding agency may terminate formal hearing procedures at any point, if the awarding agency and the provider who requested the hearing negotiate a written agreement that resolves the issue(s) which led to the hearing.
- After the appeal hearing, if the provider is dissatisfied with the decision resulting from the hearing, the provider may appeal the decision to the awarding agency's oversight agency. The appeal procedure outlined above must be followed.

XI. Reporting Requirements for Contract Recipients

A. General Reporting Standards and Criteria

Area agencies and aging units shall require all providers funded under the area aging unit plan to provide sufficient information to complete BADR's required reports. The required forms and instructions are issued by BADR.

B. Recordkeeping

All documents, records, and materials that support a provider's fiscal and program reports are to be retained in good order by the contractor for three years or pending an audit resolution on those records. If a provider agency ceases to exist, the records related to the contract revert to the awarding agency.

XII. Monitoring and Assessment of Contractors

A. Monitoring of Contractors

Area agencies and aging units shall carefully examine their provider's fiscal and program reports to ensure accuracy and completeness. In addition to reviewing the regular fiscal and program reports, area agencies and aging units are expected to keep apprised of provider activities through periodic visits, phone contacts and routine correspondence.

B. Formal Assessment of Contractors

1. General

Assessment consists of at least one on-site appraisal of provider activities during the contract period. Said appraisal is related to objective, specific program performance criteria.

2. Procedure for Assessment of Contractors

Area agencies and aging units shall utilize established procedures for the assessment of their providers.

XIII. Technical Assistance and Training for Providers

Area agencies and aging units shall respond to the technical assistance and training needs of their providers. The kinds of technical assistance and training which area agencies or aging units provide will vary depending on the services being provided and the results of the monitoring and assessment activities.

Certain technical assistance and training needs are common to all contractors and include the following:

- (1) assisting potential providers in the preparation of proposals and in the definition of service objectives or action

- plans
- (2) informing providers of their compliance with all applicable laws, regulations, requirements and policies
 - (3) assisting providers in the preparation of required fiscal and program reports
 - (4) alerting providers to coordination opportunities
 - (5) helping providers to identify potential resources for ongoing financial support
 - (6) providing guidance for the conduct of ongoing programs