

PROGRAM INSTRUCTION

memorandum



NEW YORK STATE OFFICE FOR THE AGING
Bldg. 2, Empire State Plaza, Albany, NY 12223-0001

No: 91-PI-35		Date: 9/20/91	
TO: <input checked="" type="checkbox"/> AREA AGENCY ON AGING DIRECTORS <input type="checkbox"/> <input type="checkbox"/>		Programs Affected: <input checked="" type="checkbox"/> III-B <input type="checkbox"/> III-C-1 <input type="checkbox"/> III-C-2 <input type="checkbox"/> III-D <input type="checkbox"/> SNAP <input type="checkbox"/> CSE <input type="checkbox"/> EISEP <input type="checkbox"/> EPIC <input type="checkbox"/> RPE <input type="checkbox"/> HEAP <input type="checkbox"/> OTHER:	
Subject: Update on Acquisition and Construction of Multipurpose Senior Centers with Older Americans Act Funds		Contact Person(s) - Phone Number(s) Aging Services Representative	
Response Due Date:		For Your Information:	
		PI Superseded by this document:	

PURPOSE

The purpose of this Program Instruction is to provide an update on the requirements which apply to multipurpose senior centers which are acquired or constructed with Older Americans Act funds.

BACKGROUND

During 1990 the Administration on Aging issued Program Instruction AoA-PI-90-04 which reminded State Agencies of their obligations related to the acquisition and construction of multipurpose senior centers with Older Americans Act funds. Our Office then issued Program Instruction 90-PI-36 which informed the Area Agencies of requirements related to multipurpose senior centers. This PI also asked the Area Agencies to notify our Office of any multipurpose senior centers acquired or constructed with Older Americans Act funds since 1980. One such multipurpose senior center was identified through this survey.

Earlier this year the Administration on Aging issued Program Instruction AoA-PI-91-04 which expanded on the general guidance provided in AoA-PI-90-04. A copy of this PI is attached.

NECESSARY ACTION

Area Agencies must notify our Office of any planned acquisition or construction (using Title III-B funds) of multipurpose senior centers in their planning and service area. This notification must be provided by submitting an appropriate ATTACHMENT D to the Four Year Plan. The notification must include the name and address of the owner, name and address of the senior center (if different from the owner), whether the senior center will be acquired or constructed, projected date of acquisition or construction, projected federal share of cost (both in dollars and as a percentage), intended use of the facility and any other pertinent information.

Area Agencies must ensure that recipients of all future awards immediately file the following Notice of Record with the appropriate unit of local government upon purchase or completion of construction of the facility:

"This is to serve as notice to all potential sellers, purchasers, transferors and recipients of a transfer of the real property described below as to the Federal Government's reversionary interests as set forth in section 312 of the Older Americans Act of 1965, as amended, 42 U.S.C. 3030b, which have arisen as a result of (grantee's name) receipt and use of Department of Health and Human Services' grant funds in connection with the purchase or construction of said property. The property to which this notice is applicable is (address) and identified as Parcel (insert appropriate number(s)) in the books and records of (insert appropriate name of local unit of government's recording agency). Said real property is also described as: (insert description provided in survey). Further information as to the Federal Government's interests referred to above can be obtained from: (name and address of Area Agency on Aging)."

After the notice has been recorded, the grantee must provide the Director of the Area Agency with a copy.

Area Agencies must annually submit a report on the status of ownership and use of any senior centers purchased or constructed with Title III-B funds. These reports will be due each year on September 1st beginning with September 1, 1992, and should be submitted to your Aging Services Representative with a copy to Frank Voce, Grants Management Budget Specialist III. The report should include the name of the Area Agency, the name and phone number of the person completing the report, the owner's name and address, the name and address of the senior center (if different from the owner) and a brief description of the current use of the center. Only the Area Agencies which have used Title III-B funds for such acquisition or construction must submit the reports.

Also, whenever it is anticipated that there will be a change in status of a multipurpose senior center the Area Agency must notify our Office in writing in advance. This notification must include a description (i.e., as required for ATTACHMENT D) of the senior center and the planned change in usage or ownership. If the facility has not been used for the required number of years (i.e., 10 years for acquisition and 20 years for construction), the Area Agency may wish to include a request for waiver of repayment of the Federal share of the acquisition or construction. See 90-PI-36 for a further description of the waiver process.

Attachment

DFA/BFO/GAA



MAR 1 1991

PROGRAM INSTRUCTION
AoA-PI-91-04

TO : STATE AND AREA AGENCIES ADMINISTERING
PLANS UNDER TITLE III OF THE OLDER
AMERICANS ACT OF 1965, AS AMENDED

SUBJECT : Protecting Federal Reversionary Interest
in Multipurpose Senior Centers

LEGAL AND RELATED
REFERENCES : Older Americans Act, as Amended
Sections 312 and 321(b)

BACKGROUND

Under Title III, Part B of the Older Americans Act (OAA), the Administration on Aging (AoA) awards grants to State Agencies on Aging for supportive services and senior centers. With respect to funds used for the acquisition or construction of multipurpose senior centers (MSCs), there remains a Federal reversionary interest for 10 years if Federal funds were used to acquire the facility or 20 years if Federal monies were used to construct the center.^{1/}

The Federal government's reversionary interest in a multipurpose senior center entitles it to recovery of funds if the owner ceases to be a public or nonprofit organization or if the center ceases to be used to provide services to senior citizens. The amount of the recovery is the percentage of the

^{1/} Title III funds may also be used for renovation or alteration of MSCs. Since the Older Americans Act is silent as to length of use for these facilities, AoA will limit its guidance in this instruction to acquisition and construction. States may assign length of use for alteration or renovation under their option to establish policies relative to the Title III program when the Act and regulations are silent and the State policy is not inconsistent with other Federal requirements.

current market value of the facility equal to the percentage of AoA funds contributed to the original cost of the facility. This precept is set forth at sec. 312 of the Older Americans Act.

A recent report of the Department of Health and Human Services, Office of Inspector General (OIG), emphasized the need for AoA to take action to protect the Federal reversionary interest in MSCs funded under Title III of the Older Americans Act. The OIG's review of MSCs indicated that not all States maintained a complete inventory listing of MSCs or had adequate procedures in place to account for the disposition of funds when circumstances warrant a recovery of funds. The OIG recommended that States: 1) be required to maintain an inventory of senior centers that have been funded by Federal monies, and 2) develop and maintain adequate procedures to handle the sale and disposition of real property, including notifying all parties of the Federal Government's interest in the property in the event that liens are placed on the property.

RESPONSIBILITIES OF STATE AGENCIES ON AGING

As indicated in our PI-90-04 issued March 6, 1990:

States are required to have in place a system to monitor the use of funds awarded for acquisition and construction of senior centers. This system must include an inventory of MSCs that have been acquired or constructed with OAA funds, and a periodic review of the utilization of the centers to ensure that they are being used for their originally intended purposes. Guidelines established for the recovery of funds must be consistent with the requirements of the Older Americans Act (OAA).

This Program Instruction expands on the general guidance provided in PI-90-04.

Establish Inventory of Senior Centers

The State inventory of senior centers must include, at a minimum, the following information for each award:

- o The date and amount of the award, and what proportion the award is of the entire project;
- o The nature of the award: acquisition or construction;
- o The name and address of the grantee; and

- o The name and address of the senior center, if different from the grantee.

This information must be provided for each new award. States should expend every effort to collect data on awards made in earlier fiscal years.

During the State's audit or assessment of Area Agency operations, the State should confirm that each MSC which has been acquired or constructed: 1) is owned by a public or nonprofit private agency or organization and 2) is being used for the purposes originally intended.

The State inventory must include all construction and acquisition awards which are subject to statutory limitations, that is, 10 years for acquisition and 20 years for construction. Since the OAA has authorized grants for construction since 1978 (less than 20 years), the inventory will include ALL awards to date for construction purposes. The recipient of a construction grant in 1978, for example, would still have an obligation to use the constructed facility as a senior center until at least 1998. Failure to continue using the center for the intended purpose would result in an obligation for the grant recipient to make repayment of funds to the Federal government in the manner and amount set forth in the Act. A recipient of a grant in 1979 for the acquisition of a senior center, on the other hand, no longer would have an obligation for repayment to the Federal government if in 1990 the facility ceased to be used as a senior center. The reason for this is that there is only a 10 year Federal reversionary interest in acquired facilities.

By August 30, 1991 each State Agency on Aging is to have available an inventory of senior centers acquired or constructed, in whole or in part, with Title III funds.

Guidance to Area Agencies on Aging

As the primary managers of Title III programs, States must provide Area Agencies on Aging with written clarification of their responsibilities with respect to acquired or constructed facilities. Included in this guidance shall be the following:

1. Procedures for notifying the State of awards made to acquire or construct senior centers and providing the information required for the inventory of MSCs;
2. A requirement that recipients of all future awards must immediately file the following Notice of Record with the appropriate unit of local government upon purchase or completion of construction of the facility:

This is to serve as notice to all potential sellers, purchasers, transferors and recipients of a transfer of the real property described below as to the Federal Government's reversionary interests as set forth in section 312 of the Older Americans Act of 1965, as amended, 42 U.S.C. 3030b, which have arisen as a result of (grantee's name) receipt and use of Department of Health and Human Services' grant funds in connection with the purchase or construction of said property. The property to which this notice is applicable is (address) and identified as Parcel (insert appropriate number(s)) in the books and records of (insert appropriate name of local unit of government's recording agency). Said real property is also described as: (insert description provided in survey). Further information as to the Federal Government's interests referred to above can be obtained from: (name and address of Area Agency on Aging).

After the notice has been recorded, the grantee must provide the Director of the Area Agency on Aging with a copy;

3. Procedures for making periodic reports to the State regarding the status of senior centers' ownership and use. At a minimum, these reports should be made annually.
4. Procedures to promptly notify the State Agency of any change in status or any other action which could affect the Federal reversionary interest in a senior center. These procedures should include guidance on requesting a waiver (based on Program Instruction 90-04) and on Area Agency actions necessary to assist in recapturing funds when a waiver is denied.

States are required to provide written procedures and guidance to Area Agencies by September 30, 1991.

Maintenance and Reporting Requirements

Once the State Agency on Aging has established the initial inventory of acquired or constructed senior centers and has developed procedures to clarify responsibilities of Area Agencies, the State Agency shall be responsible for regularly updating the inventory with any information which would affect the accuracy of the inventory. Inventory changes would occur whenever:

- o A new acquisition or construction award is made,

- o A grantee to which funds previously had been awarded no longer is subject to the 10 or 20 year requirement, or
- o A grantee which still is subject to the 10 or 20 year requirement fails to comply with the provisions of section 312 of the Act concerning ownership or use of the facility.

In addition to the responsibility to develop and maintain an inventory of MSCs, State Agencies must keep AoA apprised of actions which may affect the Federal reversionary interest in these senior centers. Within 30 days of receiving notification of a change in status of a senior center, the State must inform AoA of these changes.

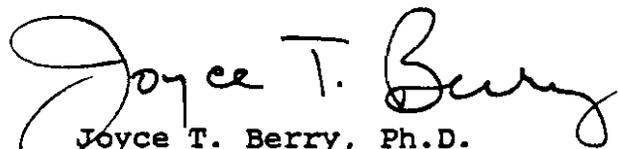
When circumstances warrant, States may request a waiver of repayment of the Federal reversionary interest. Details of the waiver process are provided in Program Instruction 90-04. In the event that a request for a waiver is denied, the State Agency must have in place procedures to ensure the recapture of funds.

Effective September 30, 1991 each State Agency must annually provide to AoA an assurance that it is maintaining an accurate inventory of MSCs which have received Federal funds for acquisition and construction, and that it has informed AoA of any change in status which could affect the Federal reversionary interest in these centers.

The guidance in this Program Instruction may be expanded upon at a future date.

EFFECTIVE DATE : Immediately

INQUIRIES TO : State Agencies should address inquiries to Administration on Aging Regional Offices


 Joyce T. Berry, Ph.D.
 U.S. Commissioner on Aging