

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-4-04

Rule Type: Rescission

Rule Title/Tagline: Older Americans Act nutrition program: procuring for person direction.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 10/14/2022
2. Is this rule the result of recent legislation? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor? SB 9 - 134 - McColley, Roegner
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11, 1321.17
5. What statute(s) does the rule implement or amplify? 173.39, 173.392; 42 U.S.C. 3025, 3030e, 3030f; 45 C.F.R. 1321.11, 1321.17
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule exists to comply with R.C. §173.392 and 45 C.F.R. 1321.11. The primary purpose of this filing is to reduce regulatory restrictions.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule establishes requirements on procuring for person direction. ODA proposes to amend this rule to achieve the following:

1. Delete the use of unnecessary regulatory restrictions from this rule without substantively changing the rule's requirements.
2. Replace lowest responsive bid in paragraphs (B)(1)(c) and (B)(2)(c) of this rule with responsiveness of a bid.

9. Does the rule incorporate material by reference? No

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

Please review the BIA for details.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

Please review the BIA for details.
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
 - A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 15

(A) When an AAA procures for congregate dining project(s) or home-delivered meals project(s), the AAA SHALL comply with....

(A) ...and also REQUIRE the project(s) to include person direction.

(B)(1)(a) The AAA SHALL allow the highest level(s) of person direction that providers offer in bid(s) to determine what are responsive level(s) of person direction for its PSA.

(B)(1)(b) The AAA SHALL indicate in the RFP that....

(B)(1)(b) ...the provider SHALL explain how...

(B)(1)(b) ...it SHALL offer person direction.

(B)(1)(c) The AAA SHALL award AAA-provider agreement(s) to the provider(s) offering the most-responsive bid(s).

(B)(1)(c) The AAA SHALL include a score on the level of person direction....

(B)(2)(a) The AAA SHALL determine the level of person direction....

(B)(2)(a) The AAA SHALL NOT base its calculations of this level solely upon....

(B)(2)(b) The AAA SHALL indicate in the RFP that....

(B)(2)(b) ...the provider SHALL explain how...

(B)(2)(b) ...it SHALL meet or exceed the level of person direction....

(B)(2)(c) The AAA SHALL award the AAA-provider agreement(s) to the provider(s) offering the most-responsive bid(s)....

(B)(2)(c) The AAA SHALL include a score on the level of person direction....

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable