

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-3-05

Rule Type: Amendment

Rule Title/Tagline: Older Americans Act: procurement standards.

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
5. What statute(s) does the rule implement or amplify? 173.39, 173.392; 42 U.S.C. 3030d; 45 C.F.R. Part 75, 1321.11, 1321.53
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.

Rules 173-3-05 and 173-3-05.1 of the Administrative Code list the procurement standards for services paid with Older Americans Act funds and the procurement standards for renewable and multi-year AAA-provider agreements (agreements) respectively. ODA proposes to rescind rule 173-3-05.1 of the Administrative Code and to merge its contents into rule 173-3-05 of the Administrative Code. The text that ODA proposes to merge into rule 173-3-05 of the Administrative Code will contain 20 fewer unnecessary regulatory restrictions, 2 transferred regulatory restrictions, and 1 new regulatory restriction. Additionally, ODA proposes to amend rule 173-3-05 of the Administrative Code to delete unnecessary regulatory restrictions. The proposals to merge these rules and to delete regulatory restrictions will not substantively change the requirements from the current versions of those rules.

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? 1

(C)(2)(a) Every agreement for a renewable agreement or agreement with a multi-year term SHALL clearly state the following:

B. How many existing regulatory restrictions do you propose removing from this rule? 7

(B) To request authorization from ODA to use a non-competitive procurement process, the AAA SHALL comply with paragraph (A) of this rule and provide a written or electronic request to ODA that meets all of the following conditions:

(B)(1) The AAA SHALL make its request to ODA....

(B)(2) The AAA's request SHALL not consider a public exigency or emergency to be a basis for non-competitive procurement if the AAA created the exigency or emergency.

(B)(3) The AAA's request SHALL provide ODA with evidence....

(B)(4) If the AAA wants to procure services from a single source, the AAA's request SHALL verify that the circumstances in 45 C.F.R. 75.329(f)(1) exist....

(B)(4) The AAA's request SHALL provide the services the AAA wants to procure.

(B)(4) If the providers are unwilling to provide emails or letters to the AAA, the AAA SHALL retain record of its efforts to obtain information from the providers.

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).

To combine rules 173-3-05 and 173-3-05.1 of the Administrative Code into one rule, ODA needs to add 1 use of "shall" to rule 173-3-05 of the Administrative Code and transfer 2 uses of "shall" from rule 173-3-05.1 of the Administrative Code to rule 173-3-05 of the Administrative Code. Simultaneously, ODA will remove 7 regulatory restrictions from rule 173-3-05 of the Administrative Code and will not be importing 20 regulatory restrictions from rule 173-3-05.1 of the Administrative Code to rule 173-3-05 of the Administrative Code.

