

**Rule Summary and Fiscal Analysis (Part A)****Department of Aging**

Agency Name

Division

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**173-3-05**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Competitive-bidding process.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02; 173.392; Section 305 (a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11**

5. Statute(s) the rule, as filed, amplifies or implements: **173.04; 173.392; 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. Parts 74 and 92**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is proposing this new rule as part of a larger effort to codify ODA's standards for agreements between AAAs and providers who are not providing services under a Medicaid-funded program (i.e., providers who are non-certified providers under section 173.392 of the Revised Code). This effort will bring ODA into compliance with sections 173.04 and 173.392 of the Revised Code, Section 305 (a)(1)(C) of the

Older Americans Act, and 45 C.F.R. 1321.11.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This proposed new rule outlines the requirements for an AAA to undergo a competitive-bidding process before entering into a provider agreement to procure services that will be reimbursed in part or in full with Older Americans Act funds.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

On January 5, 2009, ODA refiled this rule so that it would be refiled on the same day as the other proposed rules of chapter 173-3 of the Administrative Code. No changes were made to the rule.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA does not anticipate that the proposed adoption of this new rule would have any impact on the biennial budget established for ODA by the General Assembly because this proposed new rule should not create any expenses unforeseen when the General Assembly appropriate funds to ODA in Am. Sub. H. B. No. 119 (127th G. A.).

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

322-490-618 Federal Aging Grants.

3M3-490-611 Federal Aging Nutrition.

3M4-490-612 Federal Independence Services.

GRF-490-411 Senior Community Services.

GRF-490-414 Alzheimer's Respite.

GRF-490-416 JCFS Elderly Transportation.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

ODA estimates that there is no cost of compliance for a consumer because a

consumer is not required to pay for any service provided under Chapters 173-3 or 173-4 of the Administrative Code.

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A provider who enters into provider agreement to provide services that are reimbursed with Older Americans Act funds under Chapters 173-3 or 173-4 of the Administrative Code is reimbursed for his/her fully-allocated costs, meaning any costs incurred by complying with this rule are compensated for by Older Americans Act funds. Of course, if a provider competitively-bids for an opportunity to win a provider agreement to provide a service, but loses the competition, the provider will have spent funds drafting an RFP and will not be reimbursed with Older Americans Act funds for the time spent doing so.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Providers who are government entities who enter into provider agreements to provide a service that is reimbursed with Older Americans Act funds under Chapters 173-3 and 173-4 of the Administrative Code are reimbursed for their fully-allocated costs, meaning any costs incurred by complying with this rule are compensated for by Older Americans Act funds administered under this Chapter. Of course, if a provider who is a government entity competitively-bids for an opportunity to provide a service that is reimbursed with Older Americans Act funds, but loses the competition, the provider will have spent funds drafting an RFP and will not be reimbursed with Older Americans Act funds for the expense.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Only a provider who is a government entity that competitively bids for the opportunity to provide a service that is reimbursed with Older Americans Act funds and loses the competition will incur any unreimbursed cost, as itemized below:

(a) Personnel Costs

The costs of personnel time devoted to completing the RFP.

(b) New Equipment or Other Capital Costs

NA

(c) Operating Costs

NA

(d) Any Indirect Central Service Costs

NA

(e) Other Costs

NA

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

There should be no cost of compliance for a provider who is a government provider who provides a service that is reimbursed with Older Americans Act funds, unless the government provider competitively bids for the opportunity to provide the service, but loses the competition. As a taxing authority, the government provider should be able to finance the costs incurred to prepare a RFP to compete for the opportunity.

7. Please provide a statement on the proposed rule's impact on economic development.

This proposed rule should have no impact upon economic development.