DOA Administrative Letter No. 03-14

To: Area Agency on Aging Directors
Aging Service Providers

Subject: 1. Revised Assessment Policy, Section 308, AAA Policies and Procedures Manual
2. Conflict of Interest Policy Requirement for Non-Profit Service Providers

Date: November 5, 2003

1. Revised Assessment Policy, Section 308, AAA Policies and Procedures Manual

This memorandum is to serve as notification of new monitoring requirements specified in the U.S. Office of Budget and Management (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. Circular A-133 requires states to "monitor the activities of subrecipients as necessary to ensure that the federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved." In fulfilling this responsibility, North Carolina has chosen to apply the same requirements to State funds received by subrecipients (G.S. 143-6.1).

The Circular outlines fourteen (14) required areas of compliance monitoring by funding source. North Carolina law (G.S. 143-6.1) adds a fifteenth (15th) requirement related to conflict of interest policies for non-profit subrecipients discussed below. The required core monitoring areas are as follows:

- Activities Allowed or Unallowed
- Allowable Costs/Cost Principles
- Cash Management *(not applicable to Division of Aging)*
- Davis-Bacon Act (*not applicable to Division of Aging*)
- Eligibility
- Equipment and Real Property Management
- Matching, Level of Effort, Earmarking
- Period of Availability of Funds
- Procurement and Suspension and Debarment
- Program Income
- Real Property Acquisition and Relocation Assistance (*not applicable to DHHS*)
- Reporting
- Subrecipient Monitoring
- Special Test and Provisions
- Conflict of Interest (Non-profit agencies only)

New monitoring procedures to tie the current programmatic monitoring, by service, to these requirements by fund source are specified in the revised Assessment Policy

located in Section 308 of the Area Agency on Aging Policies and Procedures Manual (see attached). Local service providers will see little to no impact other than receiving monitoring reports which address compliance or non-compliance of each of the above criteria, by funding source.

2. Conflict of Interest Policy

Beginning in 1993, the Appropriations Act passed by the General Assembly for each biennium has included a provision contained in General Statute §142-6.1 which states:

> "Each **private, non-profit entity** receiving state funds, shall file with the disbursing agency a notarized copy of that entity's policy addressing conflicts of interest that may arise involving the entity's management employees and the members of its board of directors or other governing body. The policy shall address situations where any of these individuals may directly or indirectly benefit, except as the entity's employees or members of the board or other governing body, from the entity's disbursing of state funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety".

Beginning in fiscal year 2003-2004, Area Agencies on Aging will monitor to determine compliance with this requirement as part of the new monitoring criteria established by OMB Circular A-133 and the Department of Health and Human Services. **This requirement does not apply to local service providers who are categorized as public or for-profit**.

For additional information on compliance monitoring, visit the Division of Aging Monitoring Web site at: http://www.dhhs.state.nc.us/aging/monitor/monitor.htm or contact Mark Hensley, Lead Monitor for the Division at 919-733-8390.

Sincerely,

Dennis W. Streets, Chief, Planning, Budget and System Supports Section for

Karen E. Gottovi, Director
NC Division of Aging

KEG: mch
Attachments

Definition

Conflict of interest occurs when a member of the Board of Directors of a not-for-profit organization participates in decision-making about a matter that may benefit that director, or someone with whom the Board member has a close personal relationship, directly or indirectly, regardless of the size of that benefit.

The objectives of this policy are:

- To establish clear standards for Board members' conduct when a potential conflict arises
- To provide guidelines for Board members' conduct after the conflict has been disclosed, to ensure that the conflict continues to be properly handled

Principles

- Members of the Board of Directors must not participate, or be perceived as participating, in any decision making on any matter which may directly or indirectly benefit that director, or anyone with whom the director has a close personal relationship
- Members of the Board of Directors should not use, or be perceived as using, their status as directors to gain privileged access to the members, board or staff of the program for the presentation of programming or service proposals.

Policy

1. Before any meeting of the Board of Directors, an agenda will be circulated to each Director, with agenda items described in sufficient detail to allow members of the Board of Directors to identify possible conflicts of interest.

2. A member of the Board of Directors with a conflict of interest will declare the same in writing to the Chair of the meeting prior to the introduction of the agenda item in question. The written disclosure will explain:

    - The fact that a conflict of interest may exist
    - The nature and extent of the interest
    - The nature and amount of the potential direct or indirect benefit to the member of the Board of Directors

3. The particulars of any such disclosure are noted in the minutes of the meeting.

4. The member of the Board of Directors who has disclosed a conflict of interest regarding an agenda item will refrain from participating in discussions and voting on the item, and will leave the meeting room when the Board reaches that agenda item. The Director's departure from the meeting room will be noted in the minutes. After discussion by the Board of that agenda item, the Director will return, and the return shall be noted in the minutes.