Texas Department of Aging and Disability Services (DADS) – Access and Intake Division

The Department is revising the program instruction (PI) to reflect the changes affecting 40 TAC (Texas Administrative Code) §83.2 AAA Fiscal Responsibilities and 40 TAC §84.1 General Service Requirements. Effective September 1, 2008, the number of 40 TAC §83.2 changed to 40 TAC §85.202 and the General Services Requirement, 40 TAC §84.1, was repealed. The information listed below, from 40 TAC §85.201 AAA Administrative Responsibilities, was updated.

The PI provides as a general overview of program income requirements and to provide clarification in response to requests from Area Agencies on Aging (AAAs). For your convenience we have referenced applicable state and federal requirements.

**Definition of Program Income:**

*Code of Federal Regulations (CFR) Part 45 §92.25* – “Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds and interest earned on any of them. Program income means gross income received by the grantee or subgrantee directly generated by a grant-supported activity, or earned only as a result of the grant agreement during the grant period. During the grant period is the time between the effective date of the award and the ending date of the award reflected in the final financial report.”

**Program Income Collection:**

*CFR Part 45 §92.25* – “Grantees are encouraged to earn income to defray program costs.”

*CFR Part 45 §1321.67 – Service Contributions.* “For services rendered with funding under the Older Americans Act, the area agency on aging shall assure that each service provider shall:

1) Provide each older person with an opportunity to voluntarily contribute to the cost of the service;
2) Protect the privacy of each older person with respect to his or her contributions; and
3) Establish appropriate procedures to safeguard and account for all contributions.”
(b) VOLUNTARY CONTRIBUTIONS.—

(1) IN GENERAL.—Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this Act if the method of solicitation is noncoercive. Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line, at contribution levels based on the actual cost of services.

(2) LOCAL DECISION.—The area agency on aging shall consult with the relevant service providers and older individuals in the agency’s planning and service area in a State to determine the best method for accepting voluntary contributions under this subsection.

(3) PROHIBITED ACTS.—The area agency on aging and service providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute to the cost of the service.

(4) REQUIRED ACTS.—The area agency on aging shall ensure that each service provider will—

(A) provide each recipient with an opportunity to voluntarily contribute to the cost of the service;

(B) clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;

(C) protect the privacy and confidentiality of each recipient with respect to the recipient’s contribution or lack of contribution;

Program Income Reporting:

(b)(D) establish appropriate procedures to safeguard and account for all contributions.”

40 TAC §85.201 – AAA ADMINISTRATIVE RESPONSIBILITIES.

“(p) Records. A AAA:

(1) must develop, maintain, and retain records in accordance with the Uniform Grant Management Standards, Subpart C;

(2) must establish written procedures to adequately ensure proper development, maintenance and retention of all financial records, supporting documents, statistical records and all other records relating to its performance;

(3) must maintain all records for a minimum of five years following the end of the federal fiscal year to which the records pertains and until any pending litigation, claim or audit findings, issuance or proposed disallowed costs or other disputes have been resolved;

(4) must maintain all records at a designated central location regardless of whether the AAA has one or multiple locations; and

(5) must give DADS, the Comptroller General of the United States, and the State of Texas, through any authorized representatives, access to its records, including:

(A) financial records such as contracts, general ledgers, invoices, accounts payable, and accounts receivable:

(B) program participant records unless specially prohibited by law;

(C) other documents related to DADS funded programs; and

(D) any other records not directly related to the AAA if the purpose of such access is to review charges to any indirect costs pool.

(q) Service provided compliance. A AAA must ensure that a service provider complies with requirements described in subsections (f)-(p) of this section.”

Program Income Expenditure:

CFR Part 45 §92.25(g) - USE OF PROGRAM INCOME. “Program income shall be deducted from outlays, which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In
specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) Deduction. Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project. “(Please note: deductive method is not allowable for OAA programs in accordance with the program instruction issued by the Administration on Aging.)

“(2) Addition. When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) Cost sharing or matching. When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(h) Income after the award period. There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.”

CFR Part 45 §1321.73. “Grant related income under Title III-C. States and sub-grantees must require that their subgrantees' grant related income be used in either the matching or cost sharing alternative in 45 CFR 92.25(g)(2) or the additive alternative in Sec. 92.25(g)(3) or a combination of the two. The deductive alternative described in Sec. 92.25(g)(1) is not permitted.”

40 TAC §85.201 AAA ADMINISTRATIVE RESPONSIBILITIES
“(l) Contributions. A AAA:

(4) must protect the privacy of a program participant with respect to the program participant’s contribution;

(5) must establish appropriate procedures to safeguard and account for all contributions made; and

(6) must use all program participant contributions to support or expand series for which the program participant contributed, in accordance with applicable state and federal laws, rules, and regulations.”

OAA §315 - VOLUNTARY CONTRIBUTIONS.
“(b)(E) use all collected contributions to expand the service for which the contributions were given and to supplement (not supplant) funds received under this Act.”

AoA Technical Assistance Brief 11/19/2001. The voluntary contributions and cost sharing fees of recipients of Title III services and interest from deposits of federal receipts may not be used as match for any Title III service, including Title III-E. These funds may only be used to expand services.

The Department classifies all funds received directly from or on the behalf of program participants as program income. In addition, any funds generated through the use of goods or services purchased with federal funds for a grant-supported activity is classified as program income. Please note, federal funds may not be used for fund raising activities (see OMB Circular A-87 and OMB Circular A-21).

Contributions received from non-program participants are classified as local funds and should not be classified as program income. Generally, a program income contribution is received at the time service is provided and is classified as income for the service provided. When a contribution is received at a time
other than when the service is provided, the AAA or service providers, where possible, should determine if the contributor is a program participant or non-program participant in order to correctly classify the funds as program income or local funds. If the contributor is a program participant, the service or services received must also be determined. The verification of this information must not compromise the privacy and confidentiality of the contributor with respect to the program participant’s contribution or lack of contribution. When program income is received from a program participant who has received multiple services and the contribution does not identify for which service it is being contributed, the AAA or service provider must have a procedure that provides a consistent method of classifying the program income. Possible methods:

- classify the program income to the service most recently received by the program participant
- classify the program income to the service in which the program participant received the most units
- classify the program income on a percentage to each of the services received by the program participant

Neither the AAA nor service provider can classify contributions received to any service without regard to the services provided to the program participant.

Program income must be reported as earned in the period in which it was earned. Due to the absence of Federal requirements governing the disposition of program income earned after the final financial report for the award period (CFR Part 45 §92.25(h)) the Department requires AAAs and providers expend all program income prior to the submission of the final closeout report. As program income is earned through the final day of the contract period (September 30) and the final financial report is due two months later (November 30), AAAs and service providers may expend and report the balance of program income earned during the first two months of the following contract period.

Example: The AAA receives $500 of program income for residential repair the last week of September and reports it as earned on the September closeout report. The AAA does not expend the $500 in September and the closeout shows a balance of $500 which is carried forward into the next contract year. The AAA expends the $500 of program income for residential repairs in November. On the quarterly report for the new contract year, the AAA will report the $500 as program income expended in November.

When the amount of available program income is insufficient to cover a full unit cost, the AAA or service provider has two options:

1. carry over the unexpended program income into the next reporting period or
2. combine the program income funds with local funds to purchase a whole unit. The program income would be shown as expended. The local funds would be listed as “Other Local Funds Expended.” Only one unit would be reported as a unit purchased with program income funds.

AAAs utilizing the Direct Purchase of Service methodology must ensure vendors provide program participants an opportunity to make voluntary contributions towards the services they receive. Program income received by vendors must be used to expand the service in accordance with the requirements detailed above. Program income received by vendors can be handled through two methods:

1. AAAs may collect the program income from the vendor, record the program income and use the program income to purchase additional units from the vendor; or
2. The AAA may require the vendor report the amount of program income collected and provide documentation that supports the purchase of additional units of service for eligible clients.
Program income must be used to expand the service for which the contribution was given. Expansion of the program is defined as increased service units or persons, or both. Program income cannot be used to reduce the unit rate for a service. For example, a meal provider cannot use program income to pay for the meal site utility bill and not include the cost of utilities in the rate-setting budget. In addition, program income cannot be used to supplement a provider rate. For example, a provider whose contract or vendor rate with the AAA is $10, but who claim their unit rate is actually $20 cannot be reimbursed $10 by the AAA and have the rate subsidized $10 by program income collected.

Program income generated by grant-supported activities cannot be used to purchase goods or services that are not allowed under the service. For example, a meal provider cannot use program income to purchase cakes or party favors for monthly birthday parties for program participants.

Program income cannot be transferred between services. For example, program income received for congregate meals cannot be combined with program income received for home delivered meals and be used to purchase additional home delivered meals. Following this example, program income earned under the homemaker program cannot be used to purchase units under personal assistance.

The use of program income for activities other than the purchase of units may be appropriate in certain instances for some services. AAAs and service providers who do not utilize program income to purchase units of service are required to maintain documentation regarding the expenditures and how it enhances or expands the services.

Please forward all questions or comments to the Help Desk at T3AHelp@dads.state.tx.us.