



**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

*Office of the State Forester
Office of the State Entomologist
State Soil and Water Conservation Board
Texas Department on Aging
Texas Commission for the Deaf
Texas Advisory Board of Occupational Therapy*

**A Staff Report
to the
Sunset Advisory Commission**

1984

TEXAS DEPARTMENT ON AGING

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FOREWORD

Over the past several years, there has been a sustained interest among the states in a new concept in legislative review popularly described as sunset. Since 1976, more than half the states have enacted legislation which embodies the primary element of sunset, the automatic termination of an agency unless continued by specific action of the legislature.

The acceptance of this concept has been aided by a general agreement that the normal pressures of the legislative process tend to prevent a systematic review of the efficiency and effectiveness with which governmental programs are carried out. The sunset process is, then, an attempt to institutionalize change and to provide a process by which a review and redefinition of state policy can be accomplished on a regular systematic basis.

The Texas Sunset Act (Article 5429K, V.A.C.S., as amended) was enacted by the 65th Legislature in 1977. Under the provisions of the Act, agencies are automatically terminated according to a specified timetable, unless specifically continued by the legislature.

To assist the legislature in making the determination of whether an agency should be continued and, if continued, whether modifications should be made to its operations and organizational structure, the Act establishes a ten-member Sunset Advisory Commission composed of eight legislative members and two public members. The commission is required to evaluate the performance of the agency in accordance with specific criteria set out in the Act and to recommend necessary changes resulting from the findings of the evaluation.

The process by which the commission arrives at its recommendations moves through three distinct phases beginning with a self-evaluation report made by the agency to the commission. The second phase involves the preparation of a report to the commission by its staff, evaluating the activities of the agency, and proposing suggested changes for commission consideration. The final phase involves public hearings on the need to continue or modify an agency and the development of commission recommendations and legislation, based on the agency self-evaluation, staff report, and public testimony.

The Sunset Commission's findings, recommendations, and proposed legislation are then required to be transmitted to the legislature when it convenes in regular session.

INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

The Texas Sunset Act abolishes this agency on September 1, 1985 unless each is re-established by the 69th Legislature.

The staff reviewed the activities of this agency according to the criteria set out in the Sunset Act and has based its conclusions on the findings developed under these criteria.

Taken as a whole, these criteria direct the review of an agency to answer four primary questions:

1. Does the state need to perform the function or functions under review?
2. Could the public still be adequately served or protected if the functions were modified?
3. Is the current organizational structure the only practical way for the state to perform the function?
4. If the agency is continued and continues to perform the same functions, can changes be made which will improve the operations of the agency?

The report is structured to present the performance evaluation of each agency separately. The application of the across-the-board recommendations developed by the commission to deal with common problems are presented in a chart at the end of each report.

SUMMARY

The Department on Aging, created in 1965, is currently active. The department was established to administer all federal programs relating to the aging which were not the specific responsibility of another state agency, as well as to coordinate all existing services provided by state, federal and local agencies and private organizations, and assist in the establishment of programs for the elderly at the local level. Currently, in addressing the needs of the state's elderly, major programs administered by the department include: 1) local services designed to provide nutrition and supportive services to older persons; 2) the senior Texans employment program; 3) the retired senior volunteer program; and 4) special advocacy and coordination programs.

The need for each of the board's responsibilities was analyzed and the review indicated that there is a continuing need for state involvement in these areas. The conclusion drawn from the analysis of the need was based on two primary factors. First, the state would lose approximately \$38 million dollars in federal funding and second, an estimated 500,000 older Texans would be denied the ability to receive congregate and home-delivered meals, and in-home and other supportive services. In regard to the current operations, the review determined that while the agency is generally operated in an efficient and effective manner, there are changes which should be made in the event the legislature decides to continue the agency. An analysis of alternatives to the current practices of the agency did not reveal any changes which offered substantial benefits without potential disadvantages. Two issues were identified, however, that could offer potential benefits but would also require major changes in current state policy and could involve potential disadvantages.

The changes which should be made if the agency is continued and a discussion of the additional policy issues are set out below.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE AGENCY WITH MODIFICATIONS

A. Policy-making Structure

- 1. The statute should be amended to reduce the board membership from ten to nine members and to authorize the governor to appoint the chairman from among the nine members.**

The current board structure consists of nine citizen members appointed by the governor with the advice and consent of the senate. Members serve six-year staggered terms. In addition to these nine members, the governor appoints a chairman who serves during the tenure of the governor. This board structure does not comply with constitutional provisions which require that boards with six-year terms have a membership number divisible by three.

2. **The statute should be amended to require the board to adopt a policy defining the respective responsibilities of the board and staff of the agency.**

The review indicated that the policy-making responsibilities of the board and the administrative duties of the staff have not been clearly defined or consistently observed and that this has caused operating difficulties.

3. **The statute should be amended to require that all members of the state advisory council be members of their respective area advisory councils and to specify that it is a duty of advisory council members to facilitate the communication of local needs and concerns to policymakers and administrators at the state level.**

The state citizens advisory council consists of 28 members from each of the regions served by the 28 area agencies on aging (AAA's). A need exists for a mechanism to transmit problems and concerns from the local level to the board and agency staff. The council can fill this need since all areas of the state are included in its membership. Requiring advisory council members to come from the AAA's local area advisory council should ensure that the council member has a firsthand knowledge of the operations and concerns of the region and AAA he or she represents.

B. Overall Administration

1. **The agency should review its organizational structure to improve agency efficiency and effectiveness through separation of line and support functions and creation of a central administrative staff. (management improvement - non-statutory)**

Under the agency's current organizational structure there is no centralized administrative staff. Instead, these activities are supervised by various program supervisors who may not have sufficient expertise to effectively manage activities as diverse as planning and data processing. This structure also tends to limit the availability of support services to all programs within the agency, results in a lack of coordination among the staff, and generally reduces the efficiency and effectiveness of the agency's activities.

C. Evaluation of Programs

1. **The statute should be amended to require the board to develop and adopt formal policies and procedures in agency rules for the administration of the local services program, the senior Texans employment program, and the retired senior volunteer program.**

Currently, the agency is, in large part, operating programs according to informal policies and procedures which have not been formally adopted as rules in accordance with the Administrative Procedures Act. Adoption of formal rules would ensure compliance with state and federal law, adequate guidance as to basic program requirements, and adequate public participation.

2. **The statute should be amended to require the agency to establish adequate controls over administrative costs at the area agency level.**

Although the Federal Government restricts administrative costs of area agencies to a statewide average of 8.5 percent, there are other categories through which area agencies are reimbursed for administrative costs where controls are limited or non-existent. Sufficient guidelines should be established for controlling these costs and thus maximizing service dollars.

3. **The statute should be amended to authorize the agency to collect the information necessary to establish controls over administrative costs at the provider level.**

The amount of administrative costs allowed at the local services provider/subcontractor level could not be determined. The agency does not collect this information due to standard reporting formats it is

required to use under the Uniform Grants Management Act. Specific statutory authority is needed to enable the agency to collect necessary data for establishing administrative cost controls.

4. The agency should adopt a standard policy regarding carry-over of funds by agencies rather than using a case-by-case approach. (management improvement - non-statutory)

Currently, the board determines at the end of each fiscal year whether an area agency will be allowed to retain "unspent" funds in addition to the next year's allocation or whether the subsequent year's funds will be reduced by all or part of the amount of the carry-over funds. The absence of a consistent policy concerning the treatment of these funds creates uncertainty and confusion, and a potential for inconsistent treatment of the various area agencies.

5. The statute should be amended to require the agency to monitor grantees, including area agencies and the STEP contractor, in a manner which provides for adequate documentation of work performed.

The review indicated there was a general absence of any workpapers and other supporting documentation concerning the agency's evaluation, assessment and follow-up visits of grantees. No conclusion could be made as to whether the monitoring of grantees was adequate. Requiring the agency to adequately document monitoring activities would provide evidence that grantees' activities are being properly monitored and would serve as a defensible basis for allocating funds in the future.

6. Technical assistance materials should be developed in the form of guidelines in areas of major area agency responsibility.

Provision of technical assistance to the 28 area agencies is one of the primary functions of the agency's program staff. A survey of area agencies indicated that the technical assistance currently provided was of limited effectiveness. The review identified a need for assistance in the form of guidelines for use by area agencies in developing and administering service systems, including information in areas of major AAA responsibility such as needs assessments, subcontractor

management and evaluation procedures, and program performance standards. This information should be developed in order to ensure this need is met, and to maximize the effectiveness of agency program staff technical assistance activities.

7. The agency should revise and clarify hearing procedures for service providers. (management improvement - non-statutory)

Currently, agency hearing procedures for service providers are not in compliance with federal regulations, and do not provide adequate due process guarantees.

8. The statute should be amended to require adequate on-site monitoring of RSVP projects.

The agency has conducted only limited on-site program monitoring of RSVP projects. Requiring the agency to conduct on-site monitoring on a frequent basis would help to ensure accountability of state funds.

II. OTHER POLICY CONSIDERATIONS

1. Should the board be abolished and its functions transferred to the division on aging and disabled services in the Department of Human Resources?

The review identified the Department of Human Resources (DHR) as another state agency which administers programs providing services to older persons. In some service areas, such as congregate meals, the two agencies fund the same service and even use the same subcontractor. Cost savings could result from utilizing the administrative structure of DHR. However, programs of TDoA and DHR do not necessarily serve the same individuals since no means test can be applied in TDoA's local services program while participants in DHR programs must meet strict income-related eligibility requirements. In addition, important advocacy and coordination functions performed by TDoA would likely receive much less emphasis under DHR.

2. Should state funding of the RSVP program be discontinued?

There are 33 RSVP sponsors who receive approximately \$1.1 million in federal funds directly from ACTION, the federal sponsoring agency. The TDoA program disburses about \$550,000 a year in general revenue funds to these same sponsors for state support of the RSVP program.

These sponsors use the state funds to meet their matching requirements. If the state dollars were discontinued, the sponsors would have to look elsewhere for a source of matching funds. If they were unable to generate a similar amount from other sources, there is a potential that there would be a loss of federal funding from ACTION. The program provides positive benefits both to older persons in keeping them actively involved in community life, and to the communities they serve.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
 2. Does the agency operate efficiently?
 3. Has the agency been effective in meeting its statutory requirements?
 4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
 5. Is the agency carrying out only those programs authorized by the legislature?
 6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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BACKGROUND

Organization and Objectives

The Texas Department on Aging, created in 1965, is currently active. When originally established, the agency was part of the governor's office and known as the Governor's Committee on Aging. Establishment of the committee was preceded by a decade of studies of aging problems and issues which led to a recognition of the need for a single, statutorily authorized agency to coordinate the state's resources to address the growing problems identified concerning the health, housing, financial and recreational needs of the state's elderly. The committee was also established in response to passage by Congress in 1965 of the Older Americans Act, which required the designation of a state agency on aging to become eligible for federal funds appropriated under the Act. The committee was directed to administer all federal programs related to aging which were not the specific responsibility of another state agency, as well as to coordinate all existing services provided by federal, state and local agencies and private organizations, and to assist in the development of services at the local level. Subsequent amendments to the Older Americans Act have expanded programs and created new ones, and federal funds appropriated under it have grown from \$6.5 million to nearly \$1 billion. The rapid growth in aging services and programs resulted in an expansion of the committee's responsibilities and activities and in the creation in 1981 of the Department on Aging as an independent state agency. Today the department serves a potential population of nearly two million older Texans or 13 percent of the state's population.

The board of the agency consists of ten members. Nine members are appointed by the governor with the consent of the senate for overlapping six-year terms. Experience qualifications of the members require that they must have shown an interest in and knowledge of the problems of aging. The tenth member, appointed by the governor, is designated as board chairman and serves during the tenure of the appointing governor.

Federal regulations and state law also require the creation of an advisory body to the state board. State statutes provide that advisory council members are to be appointed by the chairman of the board from each of the regions served by the area agencies on aging, which now number 28. The council's purpose is to advise and make recommendations to the board on matters related to the planning

and coordination of services to the state's elderly. Council members participate in such activities as public hearings on the state plan, annual evaluations of area agencies, and in studying various issues affecting the elderly.

In fiscal year 1984, the agency has a staff of 41 and a budget of approximately \$42 million from general revenue and federal funds. Of that total budget, approximately \$1.3 million is appropriated for agency operations, and \$40.4 million is appropriated for pass-through grants for aging services.

In addressing the needs of the state's elderly, major programs administered by the department include: 1) local services designed to provide nutrition and supportive services to the elderly through a network of local area agencies and subcontractors; 2) the senior Texans employment program (STEP); and 3) the retired senior volunteer program (RSVP). In addition, the agency conducts a number of special programs and activities related to advocacy and coordination, including the long-term care ombudsman program and the legal services development program. Each of the programs are discussed below.

Local Services

The objective of the local services program is to promote the development of a comprehensive and coordinated system of services which will enable elderly Texans to remain active and independent in a home environment. The program structure and requirements are established in Title III of the Older Americans Act. The Act establishes an aging network consisting of the Administration on Aging under the U.S. Department of Health and Human Services, state units on aging, regional area agencies on aging, and local service providers (See Appendix - Exhibit 1). The Act provides for the designation of a state unit on aging, requires a division of the state into planning and service areas, and requires the designation of area agencies on aging (AAA's) with responsibility for community-based planning and coordination. Area agencies generally do not provide services directly, but are responsible for subcontracting with local public and private entities for delivery of services.

From 1973 to 1977, the Department on Aging established 28 area agencies on aging in all geographic regions of the state (See Appendix-Exhibit 2). Twenty-four of these serve multi-county regions; the remaining four serve the state's four most populous counties: Harris, Dallas, Tarrant and Bexar. The majority of the AAA's operate as divisions of councils of government or regional planning councils, which are the grantee organizations for federal and state funding channeled through the

Department on Aging. Area agencies subcontract funds to over 900 service providers for delivery of services at the local level.

Texas's allocation under the Older Americans Act is based on the state's proportionate share of the nation's population aged 60 and over. In fiscal year 1984, the department's budgeted appropriations for the program included approximately \$32 million in Title III federal funds and \$1.9 million in state funds. State appropriations are used as a portion of total funds required for federal matching. Federal and state funding is also supplemented by local match monies. The U.S. Department of Agriculture makes additional funds available to the agency, estimated at about \$5.5 million for fiscal year 1984, based on the number of meals served to elderly persons with Title III funds. Title III federal and state funds are allocated to the area agencies by TDoA based on a funding formula developed by the agency. The formula is based on three factors: the total 60 plus population in each area, the 60 plus minority population, and the 60 plus population with incomes below the poverty level. Area agencies receiving funds subcontract for the delivery of services in accordance with an area plan approved by TDoA. While funds allocated for congregate and home-delivered nutrition services must be spent for those services, the area agency is given greater flexibility in determining the particular mix of services to be provided with supportive services funds. The area agency subcontracts for supportive services based on identified priorities of the area. A broad range of supportive services is authorized under Title III of the Older Americans Act, including: access services such as information and referral, transportation and outreach services; in-home services, such as homemaking, visiting, and telephone reassurance services; legal services; and community services, including senior center operations, recreational services, and residential repair and renovation. In addition, supportive services funds may be used for the acquisition or renovation of multi-purpose senior centers, or where no suitable structures are available, construction of new facilities; and for counseling, placement and relocation assistance, and visiting services to residents of care-providing facilities.

All local services funded under Title III of the Older Americans Act must be available to anyone 60 years of age or older, regardless of income. While income cannot be used as a factor for Title III participation, federal law requires that preference be given to older persons with the greatest economic or social needs. Participant contributions are allowed, but must be voluntary in nature.

According to agency records, in fiscal year 1983 the service delivery system in Texas funded by Title III funds, and state and local match monies included 468 social service providers, 801 congregate nutrition service sites, and 174 home-delivered meals providers. Approximately 449,000 older persons were social service participants, 245,000 were congregate nutrition service participants, and 42,000 were home-delivered meal participants. Over 9.3 million congregate and 2.4 million home delivered meals were served.

In implementing the local services program as outlined above, major agency functions include state planning, review and approval of area plans, programmatic and fiscal monitoring, technical assistance and training, and coordination activities. Both TDoA and the area agencies must develop plans for aging programs as a prerequisite to the receipt of grant awards. The two-year state plan, adopted by reference in agency rules, includes the agency's estimated operating budget for each year of the period, projected program allocations to each of the area agencies for local services, the funding formula by which the allocations are made, and agency goals and objectives. The planning process includes development of preliminary objectives with input from area agencies and members of the state advisory council. In 1983, to develop the current plan, a series of hearings, conducted by advisory council and board members, were held in eight cities around the state, and attended by 761 persons. Information received during the hearings is incorporated into the goals and objectives statements by the state agency, and opportunity is provided for final review by the advisory council. Upon approval by the board, the plan is submitted to the Administration on Aging regional office in Dallas. Final approval by the U.S. Commissioner on Aging is a condition for Texas' eligibility for grants from its Title III allotments.

A similar process is required of each local area agency which develops a two-year plan defining services to be provided in the area, the method for financing the services, AAA goals and objectives, and assurances or commitments that the area agency will administer Title III activities in accordance with federal requirements. In developing the plan, area agencies are required to assess the kinds and levels of services needed by elderly in the area. They must hold at least one public hearing on the plan to ensure input from the area's elderly. As far as feasible, the objectives and goals along with the allocation of resources should reflect identified needs and concerns of the area's elderly. TDoA's responsibilities with respect to area planning include development of a standard format for area plans, and plan

review and approval. Approval of the area plan by the board is required before a notification of grant award is issued to the agency. A plan has never been denied approval by the board, although a small number of grant awards have been issued with conditions attached.

The monitoring and compliance activity of the agency is intended to evaluate the fiscal and program performance of area agencies in implementing the area plans. Program monitoring is performed by six program specialists, each with responsibility for five to six AAA's, who annually conduct an on-site assessment and an on-site evaluation of each AAA. The assessment activity is intended to evaluate whether the program is set up properly to implement the area plan and ensure compliance with federal and state requirements. The purpose of the annual evaluation procedure is to determine the status of goals and objectives in the area plan and to review the agency's performance during the past year. In addition to program monitoring, fiscal monitoring of Title III grantees is conducted in order to determine if good fiscal management practices are followed. Each grantee is monitored on-site at least annually by one of two TDoA staff accountants. The agency uses a written monitoring guide to assess fiscal compliance in a number of areas including accounting records, cash management, fiscal monitoring of and technical assistance to subcontractors, and fiscal reporting.

The agency indicated that generally when problems are identified in the course of monitoring activities, recommended corrective action is taken promptly. If a local agency does not act to correct instances of non-compliance with terms of the grant, the state agency may impose sanctions which include: changing to a reimbursement rather than advance payment method; withholding of funds; requesting return of funds not expended on allowable costs; or withdrawal of area agency designation. In fiscal year 1983, fiscal monitoring and program assessments and evaluations were conducted for all 28 area agencies. One grantee was temporarily put on a reimbursement payment basis.

Technical assistance is another major function performed by the agency in connection with the local services program. The agency indicated that areas of technical assistance provided by agency program specialists include: interpretation of federal and state laws and policies impacting the local services program; development of procedures for subcontract development and evaluation; budget development; area advisory council training; interpretation of fiscal and program management information, such as service unit cost data; resource identification

and development; and development of new services and programs. Technical assistance is provided by the fiscal staff in such areas as financial reporting, the budget development and amendment process, allowable costs, property management, procurement policies and development of performance based contracts with service providers. Other technical assistance provided includes assistance by the planning staff in such areas as program performance reporting.

In addition, TDoA administers training activities funded through discretionary grants under Title IV of the Older Americans Act. Title IV provides authority for the U.S. Commissioner on Aging to grant awards to states for support of training, research and demonstration programs in the field of aging. Title IV discretionary grant funds awarded to TDoA during fiscal year 1983 totalled approximately \$230,000. Of that amount training funds totalling approximately \$31,000 were allocated by TDoA directly to AAA's in the form of grants to support individualized training programs developed by the AAA's. The major portion of funds supported training events planned and coordinated by TDoA, or financed attendance by AAA staff and service providers at events or conferences on aging issues coordinated by other agencies or organizations. Training covered such topics as nutrition and food handling; senior management skills; fiscal management; collection, reporting and use of program performance data; new state legislation of interest to the elderly; elderly abuse; and housing for the elderly.

Finally, in implementing the Title III program, the agency performs a number of activities related to coordination with other state agencies. The planning division circulates the goals and objectives of the state plan developed by TDoA among state agencies and organizations mentioned in the plan. Comments are requested particularly on those initiatives which would require interagency coordination. Beginning this year the agency indicates that more emphasis will be placed on coordination as a major function of the program staff. Recently revised job descriptions for program specialists reflect that 50 percent of their time will be spent on coordination with certain state agencies including the Department of Human Resources, the Department of Mental Health and Mental Retardation, the Department of Health, the Department of Community Affairs, the Commission for the Deaf, the Commission for the Blind, the Department of Public Safety, the Highway Department, and the Governor's Commission on Physical Fitness.

Senior Texans Employment Program

The purpose of the senior Texans employment program (STEP) is to provide part-time employment and training opportunities for low-income Texans 55 years or older. STEP is funded through federal grants available under Title V of the Older Americans Act and through general revenue appropriations. Title V, administered by the U.S. Department of Labor, authorizes awards to state agencies on aging, and public and private non-profit agencies, including national contractors, to create employment positions that contribute to the general welfare of the community. A portion of total Title V appropriations in excess of amounts which must be awarded to national contractors, are required to be distributed to state agencies on aging according to a formula which takes into account the population aged 55 and older. Texas' total Title V allocation, including grants to national contractors operating in Texas and TDoA, amounted to approximately \$15.9 million for fiscal year 1984. Of that amount, approximately \$3.2 million was appropriated to TDoA with the remainder allocated to the following national contractors administering federal Title V funds in Texas: the American Association of Retired Persons, National Council on Aging, U.S. Forest Service, Green Thumb, the National Council of Senior Citizens, Pro-Spanish Speaking Elderly, and the National Urban League. In addition, the state appropriated approximately \$598,000 of general revenue funds during fiscal year 1984 for the STEP program. Part of the general revenue funds are used to meet federal matching requirements and the remainder funds a small state program.

TDoA contracts state and federal funds awarded to it with the Texas Farmer's Union Community Development Association, Inc. for management of the program. Currently, approximately 900-1,100 STEP workers are employed part-time on projects operated by state, county and regional governments and school districts, including projects designed to provide recreation, conservation, restoration and beautification services. They also fill positions at human service agencies, such as senior centers, nutrition projects, day-care centers, and hospitals. STEP enrollees must be 55 years of age or older, and must qualify under federal poverty guidelines. Responsibilities of Farmer's Union include publicizing the program; recruiting and determining the eligibility of applicants; and placing enrollees in projects best suited to their skills and interests. They also work to place enrollees in private sector or other jobs not funded by STEP.

TDoA functions in relation to the STEP program include development of a fair share distribution plan, monitoring and compliance, and technical assistance. The fair share distribution plan, intended to promote an equitable distribution of STEP placements throughout the state, is developed annually by TDoA and reflects each county's 55 plus population with incomes below the poverty level. Based on the plan, TDoA designates the counties in which Farmer's Union will place enrollees supported by state and federal funds. The agency also works with national contractors administering Title V funds in Texas and encourages their cooperation in ensuring a fair distribution of enrollees, although TDoA has no administrative control over these operations.

Farmer's Union is monitored by state agency staff to assess the overall effectiveness and efficiency of operations, and to ensure compliance with terms of the contract. Monitoring involves an annual on-site evaluation of Farmer's Union for purposes of determining administrative efficiency, including appropriateness of staffing and internal organization; adequacy of training provided by Farmer's Union to project sponsors, enrollees, and staff; and effectiveness in selected areas of program and fiscal management. The evaluation generally includes visits to project sites, providing an opportunity to question enrollees directly. Members of the local advisory council to Farmer's Union are encouraged to participate in project visits. Monitoring also includes an in-house review of quarterly and annual reports filed with TDoA with information on enrollees, job placements, and overall program accomplishments. In fiscal year 1984, the TDoA fiscal staff will begin fiscal monitoring of Farmer's Union to assess the adequacy of the financial management system. Agency staff also provide technical assistance upon request in such areas as staff and advisory council training, proper role of the advisory council, problems involving enrollees or project sponsors, reporting requirements and budgeting activities.

Retired Senior Volunteer Program

The retired senior volunteer program (RSVP) is designed to provide a variety of opportunities for volunteer community service to persons aged 60 and over. RSVP, originally authorized under the Older Americans Act, now operates under Title II of the Domestic Volunteer Service Act of 1973, and is administered by ACTION, a federal agency with responsibility for a number of volunteer service programs. Since 1978, TDoA has administered state funds appropriated for RSVP, which amounted to approximately \$550,000 in fiscal year 1984. TDoA disburses

the funds to the 33 local RSVP project sponsors in Texas receiving approximately \$1.1 million in federal Title II grants directly from ACTION. The state funds may be used by the grantees toward federal matching requirements or any other authorized costs. In disbursing funds, the agency uses a formula which provides that 25 percent of the funds are distributed equally among the 33 sponsors, while the remaining 75 percent is allocated based on the number of volunteers in the project. The sponsors, located in 63 counties throughout the state, include public or private, non-profit organizations such as councils of government, cities, community councils, and such groups as Senior Citizens of Greater Dallas and the Houston Metropolitan Ministries. Sponsors employ a full-time project director responsible for publicizing the program; seeking out volunteer opportunities in the community; recruiting and placing volunteers in assignments appropriate to their interests and abilities; arranging for in-service training and supervision of volunteers at the work site; and paying for authorized volunteer expenses. State and federal funds may be used for payment of project costs, such as the director's salary, and volunteer expenses, including volunteer transportation costs, meals, accident and liability insurance and special events at which formal recognition is given to volunteers for service to the community. Approximately 23,000 RSVP participants are currently serving in a variety of capacities in Texas, including assisting in libraries and museums, working in senior centers and nursing homes, assisting in weatherization and restoration projects, and community beautification and conservation activities.

TDoA's major functions in administering state funds for the program include contract development, monitoring and compliance, and technical assistance. The agency contracts with each of the 33 sponsors for a one-year period. TDoA has developed a standard contract for use in the program which sets out the amount of state funds allocated to the project and covers certain responsibilities of the contractor relating to the process for requesting payment, reporting requirements, retention of and access to records, and conflicts of interest.

Monitoring of projects is for the purpose of determining compliance with contract terms and assessing overall program and fiscal performance. Program monitoring is accomplished primarily through in-house reviews of reports required to be filed with the agency. The agency began conducting on-site reviews of a limited number of contractors in fiscal year 1983. Recently, the agency fiscal division began fiscal monitoring of RSVP contractors. A written on-site

assessment guide has been developed and covers such areas as verification of volunteer strength, adequacy of financial record-keeping, and adequacy of supporting documentation for requests for reimbursement. On-site fiscal monitoring of all contractors has been scheduled for fiscal year 1984.

Technical assistance to contractors is provided by the two staff members with program responsibility for RSVP and by fiscal staff members. Assistance is provided during on-site visits, but is provided mainly by phone and generally involves questions concerning budgets, allowable costs, general reporting requirements and quarterly reports filed with the agency.

Advocacy & Coordination

TDoA conducts a number of activities and programs generally related to its mandated role as state advocate for the elderly and coordinator of programs impacting the elderly population in Texas. Major programs related to advocacy and coordination include the long-term care ombudsman program and the legal services development program.

TDoA is mandated by federal law to expend a portion of funds appropriated under Title III of the Older Americans Act for the establishment and operation of an ombudsman program for investigating and resolving complaints by residents of nursing homes and other long-term care facilities. It is intended to improve the quality of life for elderly Texans needing institutionalized care. At the state level, the program is supervised by the state ombudsman who is an employee of TDoA. Each of the 28 area agencies has one or more staff persons trained and "certified" by TDoA as ombudsmen, with responsibility for administering the local program in the area. In addition, the AAA ombudsman assembles a volunteer ombudsman task force whose members, currently numbering 266 statewide, are also "certified" to participate in investigations through training arranged by TDoA. Twelve area agencies have expanded their programs to include additional volunteers, about 741 statewide, who perform "friendly visiting" services in nursing homes. In fiscal year 1983, the area agencies dealt with 399 complaints, 2,905 requests for information, and made 87,285 resident visits under the friendly visiting program. TDoA has developed an interagency agreement with the Department of Health, the agency with principal responsibility for nursing home inspections and investigations, which outlines the respective roles of each. Under that agreement ombudsman staff and volunteers handle complaints and attempt to negotiate solutions to complaints with quality of life issues while complaints involving violations of Health Department

regulations or serious complaints involving abuse or neglect are generally referred to TDH investigators. The state ombudsman routinely follows the progress of serious complaints referred to TDH and retains authority to perform independent investigations where there is a difference of opinion over results of a TDH investigation.

TDoA's legal services development program, currently provided through a Title IV-C discretionary grant under the Older Americans Act, is intended to expand and strengthen provision of ombudsman and legal services to the state's elderly, and to monitor state and federal legislation which affects the elderly. Under this program the agency provides technical assistance and training to area agencies on aging and providers on how to improve their legal services programs, and on various legal issues affecting the elderly. In 1983, six formal training sessions were held around the state for AAA staff and legal service providers. In addition, the agency has developed technical assistance materials for distribution to AAA's in the form of a Legal Services Guidebook for the Elderly. This guidebook addresses legal issues affecting older persons in such areas as Social Security, Medicaid and Medicare, food stamps, nursing home care, estate planning, federal income taxation, and elderly abuse. Agency activities under the program also involve monitoring legislation of interest to the elderly at the state and federal levels. During the 1983 state legislative session, the agency tracked over 100 bills considered of interest to the state's elderly, and published a legislative summary of 30 bills finally passed. The staff attorney assigned to the program serves as liaison between TDoA and the State Bar of Texas in an effort to increase the formation of county and city bar programs which provide reduced fee or pro bono services for the elderly.

TDoA conducts a number of other activities generally related to advocacy and coordination. These include conducting special studies on aging, and serving as lead agency on the recently established Texas Long-Term Care Coordinating Council. As required by state law, the agency is nearing completion of a study on employment and training of the elderly. In compiling the report, the agency utilized surveys of both public and private sector employers regarding attitudes and practices on hiring the elderly, as well as surveys of colleges and universities regarding vocational programs available to older persons. The study, to be distributed to members of the legislature, selected state agencies, AAA's and

others, includes recommendations of needed action by TDoA to develop training programs for the elderly to promote their employment.

In 1983, TDoA was named as lead agency of the newly created Long-Term Care Coordinating Council. The council is composed of not more than 17 members, including providers and consumers of long-term care services; citizen members; representatives of the Department of Human Resources, the Department of Health and the Department of Mental Health and Mental Retardation; and state legislators. The council is directed to update and review implementation of the Texas long-term care plan; to review issues concerning long-term care for the state's elderly and develop appropriate policy recommendations; and to encourage cooperative planning among public and private sectors for the provision of long-term care services. The Texas long-term care plan for the elderly, developed in 1982, contains a number of goals and objectives designed to meet the long-term care needs of elderly Texans. Long-term care is broadly defined under the Act as the "range of medical, social, and supportive services for elderly persons who have lost some capacity for self-care and who are expected to need care for an extended period of time." Staff support will be provided by TDoA and the other agencies represented on the council.

REVIEW OF OPERATIONS

This section covers the evaluation of current agency operations undertaken to identify any major changes which should be made to improve the efficiency and effectiveness of those operations, if the agency is to be continued. The evaluation is divided into three general areas dealing with: 1) a review and analysis of the policy-making body; 2) a review and analysis of the overall administration of the agency; and 3) a review and analysis of the operation of specific agency programs.

Policy-Making Structure

The evaluation of the policy-making structure was designed to determine if the current statutory structure contains provisions that ensure adequate executive and legislative control over the organization of the body; competency of members to perform required duties; proper balance of interests within the composition; and effective means for selection and removal of members.

The Board on Aging is composed of nine members appointed by the governor with the consent of the senate for overlapping six-year terms. Members must have demonstrated an interest in and knowledge of the problems of aging. A tenth member, designated as board chairman, is appointed by the governor and serves during the tenure of the appointing governor. In addition to the board, federal regulations and state law also require the establishment of a state advisory council on aging. Advisory council members are appointed by the chairman of the board from each of the regions served by the 28 area agencies on aging.

Changes which should be made in the policy-making structure if the agency is continued are set out below.

The composition of the board should be changed to comply with constitutional requirements.

Currently, the board consists of nine members who serve for staggered six-year terms, plus the board chairman, who serves during the tenure of the appointing governor. The chairman functions as a board member, and except for the added responsibilities typically associated with serving as chairman, generally has the same duties and powers as other members, including voting authority in tie situations. Article 16, Section 30 of the Texas Constitution establishes that terms of office of state board members generally cannot exceed two years; however, under section 30a, six-year terms are permitted provided one-third of the membership is appointed every two years, which requires a membership divisible by three.

The current structure of the Board on Aging fails to meet these requirements in that it includes a tenth member and thus is not divisible by three. Reducing the board size from ten to nine members, to serve staggered six-year terms, and authorizing the governor to designate a chairman from among the nine members would bring the structure into compliance with constitutional requirements.

The board should adopt a policy manual defining the responsibilities of the board and the staff of the agency.

The review indicated that the policy-making responsibilities of the board and the administrative duties of the staff have not been clearly defined or consistently observed. The board has operated without a written delineation of respective responsibilities of the board and executive director. Although the board has, by resolution, delegated authority to perform certain enumerated duties to the executive director, it has not developed a complete definition or listing of administrative duties of the director; nor has the board attempted to define its own specific duties and responsibilities. The review showed that a clear distinction between the policy-making role of the board and administrative role of the executive director has not always been maintained, and that in the past both board and staff have become involved to some extent outside their proper areas of responsibility. The governor's handbook for state board members provides that a board should formalize the relationship between itself and the chief executive, and through rules and regulations, or a compilation of written policies delineate the responsibilities of each. Interviews with board members have indicated that members generally believe development of such board policies would provide useful guidance, particularly to new board members. The statute should be amended to require that the board adopt a policy defining the respective responsibilities of the board and staff of the agency.

The membership requirements and duties of the advisory council to the agency should be changed.

Current federal regulations and state law require the establishment of a state or citizens advisory council on aging. Advisory council members are appointed by the chairman of the board from each of the regions served by the 28 area agencies on aging. The council's purpose is to advise and make recommendations to the board on matters related to the planning and coordination of services to the state's elderly. Council members participate in such activities as public hearings on the

state plan and annual evaluations of area agencies, and in studying various issues affecting the elderly, as for example in the area of housing. Currently, in appointing a member from an area, the chairman follows an informal policy of selecting a person who serves on the local area agency advisory council; however, this policy has not always been followed in the past. It appears that a need exists for enhanced communication of problems and concerns at the local level to the policy-making board and agency staff. Since all areas of the state are represented in the council membership, the council provides a logical mechanism for meeting that need. The review indicated that many of the best working relationships between AAA's and their representative to the state council existed where the representative was also a member of the AAA's local council. In order to strengthen the role of the state advisory council as a vehicle for local input and to ensure that council members have a firsthand knowledge of the operations and concerns of the region and AAA they represent, the statute should be amended to require that members of the state council must serve on the local area agency advisory council, and that a major duty of members is to transmit concerns and problems of the respective areas to policy-makers and administrators at the state level.

Overall Administration

The evaluation of the overall agency administration was designed to determine whether the management policies and procedures, the monitoring of management practices and the reporting requirements of the agency were consistent with the general practices used for internal management of time, personnel, and funds.

The review showed that although the agency has had problems in the past in connection with its general accounting system and its system of federal grants management, the recent audit of the department by the state auditor's office for fiscal years 1982 and 1983 revealed that significant improvements have been made. However, an outstanding problem that remains relates to over \$570,000 in expenditures related to the local services program questioned by the state auditor as a result of the audit of fiscal years 1980 and 1981 and subsequently determined to be unallowable by the federal agency. The majority of the disallowed costs for which AOA is seeking repayment from the state agency involve expenditures by subgrantees of area agencies who did not have valid notices of grant awards from TDoA. The department has appealed the decision of the U. S. Commissioner on Aging to the U.S. Department of Health and Human Services grant appeals board.

It appears that if an amount is finally disallowed, the state may be liable for repayment or repayment may be made by allotment reduction.

Another major area of concern that is current was identified during the review of overall agency administration and is described below.

Agency organizational structure should be improved.

Under the current organizational structure substantive agency programs and activities are carried out through five divisions: legal/advocacy, with responsibility for the ombudsman and legal services development program; operations, which administers STEP and RSVP; planning and information management, which manages development of the state plan; fiscal, with responsibility for grants management; and program, which administers local services activities. In addition to their program responsibilities as outlined above, three of the divisions also have responsibility for various support activities since there is no central administrative staff. The director of operations, in addition to STEP and RSVP, is also in charge of agency personnel activities such as maintenance of all personnel records. The fiscal director oversees grants management activities including fiscal monitoring, as well as internal accounting activities, payroll, purchasing, processing of vouchers, and property management. Finally, the director of the planning division must oversee word processing and data processing functions in addition to activities associated with development of the state plan.

In combining line and support functions, the current structure does not reflect a logical division of functions which maximizes the efficiency and effectiveness of agency staff. It requires that program supervisors not only have expertise and skills in substantive program management, but also in support activities. The problem becomes clear when functions as diverse as state planning and data processing are involved. The lack of centralized administrative structure also tends to limit the availability of support services to all programs within the agency since support functions within a division would be more readily available to that division, and there is no one individual with responsibility for managing all support services and ensuring coordination with various program divisions. TDoA should review its organizational structure to improve agency efficiency and effectiveness through separation of line and support functions to the degree possible and creation of a central administrative staff.

Evaluation of Programs

As indicated above, major programs conducted by the agency include: local services; senior Texans employment program (STEP); retired senior volunteer program (RSVP); and advocacy and coordination programs. Problems and recommendations for needed improvement are discussed below.

The board should be required to develop formal policies and procedures in agency rules.

The review indicated that the agency has not developed formal policies and procedures for administration of its three major programs: local services, STEP and RSVP. With respect to the Title III local services program, TDoA has adopted federal regulations by reference in agency rules; however, the federal regulations clearly leave room for the state to exercise discretion in developing specific policies and procedures for administering its program. In fact, the federal regulations require that a state agency must develop written policies to carry out its functions in a manner which provides for input by older persons in the state. The review indicated that TDoA has developed formal rules in only a limited number of areas and while other written policies and procedures have been developed, including an area plan format and a fiscal manual, these have not been adopted according to formal rule-making procedures.

With respect to the STEP and RSVP programs, the agency indicated that federal guidelines for the programs are applied; however, the agency has developed few written state policies and procedures, and none of these have been formally adopted in agency rules and regulations. For example, in the case of the RSVP program, a formula has been developed for allocating state funds to RSVP sponsors; however, it has not been adopted in agency rules even though state law specifically requires that the board by rules shall establish such a formula.

The development of policies and procedures for administration of TDoA programs would serve to provide adequate notice to area agencies and STEP and RSVP contractors of program requirements and their specific responsibilities, and serve to ensure consistent and fair treatment of these groups. During the review area agencies strongly supported development of such policies and procedures as a means of providing needed guidance. In addition, the regional AOA office has supported their development in order to provide a mechanism for systematically conveying policy changes to the field. With a centrally compiled set of policies and

procedures in place, a process can be established for routinely sending notice of major policy changes to the field.

Finally, by adopting policies and procedures according to rule-making procedures required under the Administrative Procedure and Texas Register Act, the agency would ensure adequate public participation in board decisions. The rule-making process outlined under the APA provides the opportunity for input from any interested parties as rules are considered and finally adopted. As indicated, the Older Americans Act clearly intends that the opportunity for comment on agency policies be afforded to area agencies, providers, and older persons within the state. To ensure compliance with federal and state law, adequate guidance and consistent treatment of grantees, and adequate opportunity for public participation, the statute should be amended to require that the agency establish formal policies and procedures in agency rules for administration of the local services, STEP and RSVP programs. During the review the agency indicated it has begun development of rules in a number of areas; however, clearly defining this duty in statute would ensure this becomes an on-going process covering all areas of program operations.

Local Services

The agency should establish adequate controls over administrative costs at the area agency level.

In order to ensure that the funds available for direct services to the state's elderly are maximized, federal law currently limits area agency administrative costs to a statewide average of 8.5 percent of the state's total allocation for supportive and nutrition services funds. These funds are allocated to area agencies on a formula basis with each AAA guaranteed a base amount of at least \$60,000 a year. Area agencies can also apply for funds in addition to those distributed under the 8.5 percent allocation which may be used to support activities conducted by the area agency which are largely administrative in nature or at the least contain administrative elements. These include "program development" activities, including developing new services or service systems and mobilizing local funds; and "direct services" or other services which are directly provided by the AAA rather than by subcontracting with a third party. TDoA's role in controlling administrative costs at the area agency level includes not only allocating the amounts available within the 8.5 percent limitation but also approving the additional

amounts requested for other administrative activities associated with program development and provision of direct services.

The intent of federal statutes to limit administrative costs and to discourage area agencies from providing direct services seems clear. In the case of direct services federal regulations provide that area agencies are not to directly provide services unless the state determines that provision by the area agency is necessary to assure an adequate supply of services. Program development expenditures have been curtailed by recently adopted federal regulations after increasing amounts began to be awarded for that purpose.

The review indicated that as other funding sources have dwindled, aging funds have become an increasingly larger portion of the total funds available to councils of government, the grantee organizations for most AAA's. Thus the incentive exists to maximize administrative costs charged to aging funds by providing more "direct services" rather than contracting them out in order to provide support for staff formerly funded from other sources. Furthermore there is a lower local match requirement (90/10) for activities funded as direct services than for administrative activities funded under the 8.5 percent limitation (75/25) which provides a further incentive for area agencies to provide direct services themselves.

While TDoA has issued memos to program specialists describing indicators to be applied to a request by an AAA to directly provide services, these appear to provide only general guidance to the staff. The agency has failed to establish specific standards for determining whether an area agency's request to provide direct services meets the general conditions in federal law designed to limit this activity, and procedures for ensuring standards are enforced. As a result, the agency indicated that currently area agency allocations for "direct services" are routinely approved at the requested level. Data available on AAA budgets in fiscal year 1983 and fiscal year 1984 reflect an increase in direct service allocations to AAA's from approximately \$370,000 in 1983 to over \$600,000 in 1984. Since these "direct service" activities are primarily administrative in nature or contain administrative elements and subject to little or no control by TDoA, they represent a loophole in existing limitations on administrative costs. Amending the statute to require the agency to establish adequate controls over administrative costs at the area agency level will provide greater assurance that funds available for services to the state's elderly are maximized.

The agency should collect the information necessary to establish controls over administrative costs at the provider/subcontractor level.

The review showed that the adequacy of controls over administrative costs at the provider level could not be determined because TDoA does not collect information regarding administrative costs of service providers, nor has the agency established guidelines regarding these costs. It is not clear under the Uniform Grants Management Act whether the agency must use standard reporting forms based on federal regulations, and cannot collect information which it is not required to report to the federal government. Federal reporting requirements do not mandate that information regarding administrative costs at the provider level be reported, and it is possible that the agency is not currently authorized to collect this type of data. However, the Uniform Grants Management Act does permit variations in reporting requirements in cases where it is specifically authorized by federal or state statute. It further provides that variations must be recognized in agency rules in accordance with the Administrative Procedures Act. In order to ensure that the agency can collect information regarding administrative costs of service providers, TDoA's enabling legislation should be amended to specifically authorize the agency to collect this type of information. Based on that authority, the agency should establish the variation in TDoA rules and regulations according to APA procedures. Finally, the agency should establish adequate guidelines limiting these costs so as to maximize funds spent on services to the elderly and to minimize administrative costs.

The agency should adopt a standard policy regarding carry-over of funds.

Currently, the agency fiscal manual provides that not spending or accruing allowable project costs by the end of the project year may result in carry-over funding, or funds being carried forward into a subsequent project year. Depending on the circumstances in each case where carry-over funds are found to exist, the agency determines whether to award the area agency the subsequent year's allocation in addition to the carry-over funds or whether the subsequent year's funds will be reduced by all or part of the amount of carry-over funds. The result of this policy is that any funds which have not been spent for services delivered within the project year, including funds obligated or contracted for services to be

delivered after the year's end, are considered "carry-over" and potentially could be deducted from the next year's allocation.

The review of carry-over policies indicated that while the agency reports that it routinely approves contracted funds so they are not deducted from the subsequent year's funds, the case-by-case approach outlined in the manual creates the potential for inconsistent treatment of area agencies, particularly since no written guidelines have been developed for use by TDoA in making the required determinations. Also, under this approach, AAA's are not provided adequate notice as to how carry-over will be treated and the resulting uncertainty makes advance planning difficult. The review indicated that the agency's handling of carry-over funds has been an issue of considerable concern to area agencies. Records indicate that fairly substantial amounts of funds are at stake, with funds designated as "carry-over" totalling approximately \$4.4 million in fiscal year 1982 and \$2.5 million in fiscal year 1983. Precedent for developing a standard policy regarding carry-over of funds can be found in the policies established for state agencies by the comptroller and outlined in Article V of the Appropriations Act. Generally, the policy provides that obligated or contracted funds may be retained by an agency with limitations imposed as to the percentage of funds that can be obligated during the last quarter of any fiscal year. In order to ensure fair and consistent treatment for AAA's and to facilitate AAA planning through adequate notice of how carry-over will be treated, the agency should adopt a standard written policy regarding carry-over funds.

Adequate documentation of AAA monitoring activity should be required.

TDoA program monitoring of area agencies on aging includes an on-site assessment during the second or third quarter of each year, as well as an on-site evaluation at the close of the year. Prior to the on-site visit area agencies are required to fill out a self-evaluation report which requests a broad range of information relating to area agency performance in meeting major responsibilities under federal and state law and in completing specific goals and objectives in the area plan. During the assessment visits the report prepared by the area agency is discussed with the program specialist, and during the evaluation visits it is discussed with a team consisting of the program specialist, a peer AAA director, a state advisory council member and/or a board member. Although the review indicated that on-site visits to nutrition service sites and senior centers are

conducted during the assessment and evaluation process, independent verification of material submitted by the AAA in its self-evaluation appears to be limited. At the conclusion of both the assessment and the evaluation reviews, written reports are prepared, including findings and any recommendations, and a copy is furnished to the area agency.

While the procedures in place appear to provide for monitoring of adequate frequency and scope, the review indicated that insufficient supporting documentation is maintained to evaluate the effectiveness of the monitoring activity. Agency files sampled for fiscal year 1983 generally contained the assessment and evaluation documents, cover letters and reports but in most cases they did not contain workpapers or other back-up documentation in support of recommendations and findings in the reports, and which would provide evidence of independent verification of data provided by the AAA in the self-evaluation documents. In a number of cases the assessment reports described findings in only a few areas and in the absence of workpapers it was impossible even to judge the scope of the review. In addition, files also generally lacked any documentation of follow-up activity by TDoA staff to determine progress in correcting identified problems. While some reports cited the status of problems identified during prior visits, this was not consistently done, and generally there was no evidence of follow-up activity. Even where written responses from the AAA's were requested, they were generally not found in the files sampled.

Working papers serve several important functions in performing program audits including identifying, substantiating and documenting deficiency findings cited in the audit report, serving as a basis for adequate supervision of the audit and providing background and reference data for future audits. As a result of the identified lack of adequate documentation, no conclusions could be reached under the sunset review concerning the effectiveness of the program monitoring efforts of the agency. The statute should be amended to require the agency to adopt monitoring procedures which provide for adequate documentation of review work and follow-up activity performed.

The agency should be required to develop technical assistance materials consisting of guidelines and standards for use by area agencies on aging.

In administering the local services program, one of the basic responsibilities of the department specifically mandated by federal law is provision of technical

assistance to area agencies. In meeting this mandate, the agency has identified technical assistance as a major function of the six program specialists assigned to particular AAA's. The agency indicated that the types of technical assistance provided by program specialists include interpretation of federal and state laws and policies; development of procedures for subcontract development and evaluation; interpretation and application of fiscal and program management information, such as service unit cost data; budget development; resource identification and development, including development of local private foundations; and training of grantee (COG) boards and AAA advisory councils.

The review sought to determine how to best maximize the effectiveness of limited staff resources in providing technical assistance to AAA's. A survey of area agencies was made during the sunset review concerning the effectiveness of the agency's technical assistance activities. The survey indicated that only two of the ten most commonly provided types of technical assistance were rated extremely useful by the majority of respondents, and half of the types of technical assistance were evaluated as of limited to moderate use by the majority of respondents. From survey results and discussions with a number of area agencies a need was identified for development of guidelines and standards for use by area agencies in developing and administering service systems, including information in the nature of models or "best practices" information.

The review indicated that the state agency is a logical vehicle for meeting this need since it is in a position to observe practices statewide, collect and compile information regarding effective methods and practices, and make these guidelines available to all AAA's. Areas identified where this type of information is needed include: the subcontracting process, including criteria for awarding contracts; methods for allocating funds; procedures for monitoring subcontractors; program performance standards for use in evaluating subcontractors; and methods of conducting needs assessments. In addition, information regarding innovative programs in specific service areas, for example, transportation systems and information and referral, might also be included in technical assistance materials developed. The review indicated that although the agency has made some effort to meet this need, for example by developing guidelines in the form of a model for nutrition services competitive bidding procedures, more of this type of information should be developed. In order to enhance the technical assistance provided by

TDoA, the agency should be required to develop guidelines and standards for use by area agencies in developing and implementing local service programs.

Hearing procedures should be revised and clarified to ensure due process and compliance with federal requirements.

Current federal law requires that state agencies provide an opportunity for a hearing to any service provider whose application to provide services under an area plan is denied or whose contract is terminated. Federal law specifies the due process requirements to be included in the hearing procedures, including appropriate notice, the opportunity to present witnesses and evidence, and to conduct cross-examination, and the right to a decision by an impartial decision-maker. The review indicated that hearing procedures developed by the agency for service providers are not in full compliance with federal regulations nor the Administrative Procedure and Texas Register Act, and are in need of clarification.

Currently, agency rules establish that any service provider whose application to provide services is denied or whose contract is terminated by an area agency may appeal to TDoA; however, rules do not guarantee a full evidentiary hearing in every case, but give the executive director discretion to determine whether a hearing with opportunity for oral testimony will be allowed. This conflicts with federal law which requires that state agencies must provide an opportunity for hearing in such cases. In addition, although this type of proceeding appears to fall within the definition of a "contested case" under the APA, agency rules state that such appeals are not contested cases within the meaning of the APA. The attorney general has held that an agency cannot by rule exempt its proceedings from application of that Act. To eliminate such inconsistencies and to ensure compliance with federal regulations and full due process, the agency should revise and clarify hearing procedures for service providers.

Senior Texans Employment Program

Adequate documentation of monitoring of the STEP contractor should be required.

As indicated earlier, TDoA contracts with Farmer's Union Community Development Association for management of the senior Texans employment program. In order to assess performance in managing the STEP program, and compliance with federal requirements and contract terms, TDoA program monitor-

ing of Farmer's Union includes an annual on-site evaluation. Procedures provide for preparation of an annual evaluation report including findings and recommendations, with a copy furnished to Farmer's Union.

A number of problems were identified with respect to documents produced as a result of the evaluation activity. During the review the agency indicated that evaluations for program years 1982 and 1983 had been conducted and the reports were being prepared. However, the most recent evaluation report on file at the conclusion of the review in February of 1984 was for fiscal year 1981. The review also showed that insufficient supporting documentation was maintained prior to 1983, including workpapers prepared by TDoA staff or other back-up documentation in support of recommendations. After that time there has been some improvement. In addition, although the agency indicated that progress in addressing recommendations is checked through frequent contact with Farmer's Union, files lacked any record of such follow-up activity. Generally accepted monitoring procedures require the maintenance of adequate workpapers and supporting documentation to verify the scope of review work and provide a defensible record of how recommendations are developed. The statute should be amended to require the agency to monitor the STEP contractor in a manner that provides for adequate documentation of review work and follow-up activity.

Retired Senior Volunteer Program

Adequate on-site monitoring of RSVP projects should be required.

As discussed above, TDoA allocates state funds appropriated for the RSVP program to 33 RSVP sponsors in Texas receiving federal funds for the program directly from ACTION, the federal sponsoring agency. Currently, TDoA program monitoring of the RSVP contractors is accomplished primarily through in-house reviews of reports filed with the agency. The agency indicated that on-site program monitoring of a limited number of sponsors was begun in fiscal year 1983 almost six years after creation of the state program. The staff person assigned primary responsibility for program monitoring of the 33 projects is also assigned other responsibilities unrelated to the RSVP program. Due to workload pressures from other required duties this employee visited only three RSVP projects in fiscal year 1983 and plans to visit at least 11 in fiscal year 1984.

Generally, where state or federal agencies conduct a pass-through function involving contracting appropriated funds with a third party to administer programs at the local level, systematic on-site monitoring of contractors is required to

ensure programmatic and fiscal accountability. Also, monitoring procedures generally require adequate documentation of work performed. While the review indicated the need to advise and monitor these programs is high, since they often lack well-trained staff, the agency indicated that staffing limitations were largely responsible for the limited monitoring of RSVP projects. However, results of the review showed that the state cannot depend on the federal government to ensure adequate accountability for these funds since the agency does not receive results of program monitoring activity conducted by ACTION, and while ACTION has recently begun forwarding copies of audit reports, RSVP sponsors are not audited by ACTION annually. The lack of an adequate mechanism in place to monitor the expenditure of state funds appropriated to the RSVP program, amounting to more than \$500,000 annually, results in the absence of controls comparable to those maintained by TDoA over federal funds. While staffing limitations may be a real problem, the review indicated that there were alternatives available to increase accountability which should not significantly increase costs including assigning responsibility for program monitoring of RSVP contractors to the local services program staff who already monitor area agencies on a statewide basis. To ensure the efficient and effective administration of state funds by RSVP contractors, the statute should be amended to require the agency to monitor RSVP contractors in a manner which provides for adequate frequency of on-site evaluations and sufficient documentation of work performed.

EVALUATION OF OTHER SUNSET CRITERIA

The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
 2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
 3. Has the agency and its officers complied with the regulations regarding conflict of interest?
 4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?
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EVALUATION OF OTHER SUNSET CRITERIA

This section covers the evaluation of the agency's efforts in applying those general practices that have been developed to comply with the general state policies which ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

Open Meetings/Open Records

Meetings and activities of the department have generally been undertaken in compliance with requirements of the Open Meetings Act and the Open Records Act. Timely notices of board meetings are filed with the Secretary of State's Office and no improper use of executive sessions was identified. The review indicated that two sets of records are considered confidential in accordance with federal law: 1) information collected from older persons in the delivery of services; and 2) information or records maintained by the ombudsman program regarding residents of long-term care facilities.

EEOC/Privacy

A review was made to determine the extent of compliance with applicable statutes of both state and federal statutes concerning affirmative action and the rights and privacy of individual employees. TDoA is operating under an affirmative action plan, reviewed and updated annually, which includes formal grievance procedures. The department complies with all Merit System Council rules relating to personnel selection and employment. The review indicated that appropriate procedures are in place to protect the rights and privacy of TDoA employees.

Public Participation

The agency's policies and practices were reviewed to determine whether the general public and those affected by the board have been kept informed of its activities and whether the public has had an opportunity to provide input during policy formulation by the agency. The review indicated that the public and those served by the agency have generally had adequate access to information about the programs operated by the agency. This is accomplished through a variety of means including a bimonthly newsletter, The Older Texan which includes reports on

activities of the department and is distributed to aging network personnel, libraries, senior citizen organizations and others. News releases on grants awarded by TDoA are distributed to the media, and brochures and pamphlets on specific services and programs for the elderly are periodically published and made available to interested persons. In addition, TDoA has developed a Gerontological Film Collection in cooperation with North Texas State University. Films from the collection, maintained on the campus, are available on free loan to organizations and individuals around the state. Finally, agency personnel are also involved in educational seminars, workshops and conferences conducted by colleges and universities, professional groups, aging associations and other organizations.

The review indicated that the agency does provide opportunities for public input in the decision-making process, for example, in the series of public hearings held throughout the state in connection with development of the state plan. In addition, the public can affect TDoA's policies through membership on the state citizens advisory council, which regularly reports to the board, and through testifying at board and advisory council quarterly meetings. Agency rules specifically provide that agendas for these meetings provide an opportunity for citizens to address the board on any item of business included on the agenda. However, as discussed earlier in the report, public participation in the agency's decision-making process would be considerably enhanced through adoption of informal policies and procedures as agency rules in accordance with rule-making procedures of the Administrative Procedure and Texas Register Act.

Conflicts of Interest

The review focused on agency efforts to inform board members and employees of responsibilities related to conflict of interest statutes and compliance with applicable statutes. New employees are provided with copies of the statutory provisions and required to sign a statement that they have received the information. Members of the board are informed of conflict of interest provisions through issuance of the governor's handbook for members of state boards, and during orientation sessions for new members.

OTHER POLICY CONSIDERATIONS

During the review of an agency under sunset, various issues were identified that involve significant changes in state policy relating to current methods of regulation or service delivery. Most of these issues have been the subject of continuing debate with no clear resolution on either side.

Arguments for and against these issues, as presented by various parties contacted during the review, are briefly summarized. For the purposes of the sunset report, these issues are identified so they can be addressed as a part of the sunset review if the Sunset Commission chooses to do so.

OTHER POLICY CONSIDERATIONS

Should the board be abolished and its functions transferred to the division on aging and disabled services in the Department of Human Resources.

The review identified the Department of Human Resources (DHR) as another state agency in Texas with responsibility for programs serving senior citizens. The department is authorized under state laws to administer federally assisted programs authorized by the Social Security Act, including the Medicaid and social services covered under Titles XIX and XX of the Act. In addition to providing medical assistance to eligible individuals, the department provides community care services designed to meet the needs of aged and disabled citizens attempting to avoid premature nursing home placement and to prevent abuse, neglect or exploitation of adults unable to protect themselves. The review indicated that DHR provides a number of the same services provided under TDoA's local services program including home-delivered and congregate meals, in-home services such as housekeeping, chore and personal care services, and transportation services. Also, in some instances not only are the two agencies funding the same service, they are also using the same subcontractor.

Possible benefits of transferring TDoA functions to the section on aging and disabled services in DHR might include: increased coordination of similar services funded under the Social Security Act and the Older Americans Act; increased professionalism and accountability in management due to additional administrative oversight; increased accountability and control in fiscal affairs; and cost savings from utilizing the administrative structure of DHR. A survey of other states indicated that in 24 states the designated state unit on aging is within a larger department; of these at least 15 are within a department of human resources, or a similar "umbrella" human resources agency. In the remaining states, state units on aging are independent agencies.

The review indicated that although DHR and TDoA provide a number of similar services, the programs do not necessarily serve the same individuals since TDoA has no eligibility requirements other than age for most of its services, while participants in DHR programs must meet strict eligibility requirements. The Older Americans Act strictly prohibits any means test; DHR's programs are designed to

serve the very needy and stringent income tests are applied. A possible result of transfer to DHR is that older Texans might become reluctant to take advantage of services which would perhaps, through association, be identified with a "welfare" stigma. In addition, added layers of administrative structure may bring increased "red tape" with consequent decreased responsiveness to the needs of the elderly. There are also concerns that aging programs might have a lower priority when placed with other responsibilities of the agency, and in effect became "lost" within the larger organization. In particular, the advocacy and coordination functions specifically mandated by the Older Americans Act would likely become much more limited. DHR emphasizes that it has never performed an advocacy role in connection with its programs and thus this would be an unfamiliar function in which it lacks established methods and expertise.

Should state funding of the RSVP program be discontinued.

The Retired Senior Volunteer Program is designed to provide opportunities for volunteer community service to persons aged 60 years or older. TDoA disburses approximately \$550,000 a year to 33 local sponsors who are the recipients of federal grants for the program made directly from ACTION, the federal sponsoring agency. Sponsors include public or private, non-profit organizations such as councils of government, cities and community councils. They employ a full-time project director responsible for publicizing the program; seeking out volunteer opportunities; recruiting and placing volunteers; and paying for certain volunteer expenses such as meals, transportation, insurance and special events to recognize volunteer participants.

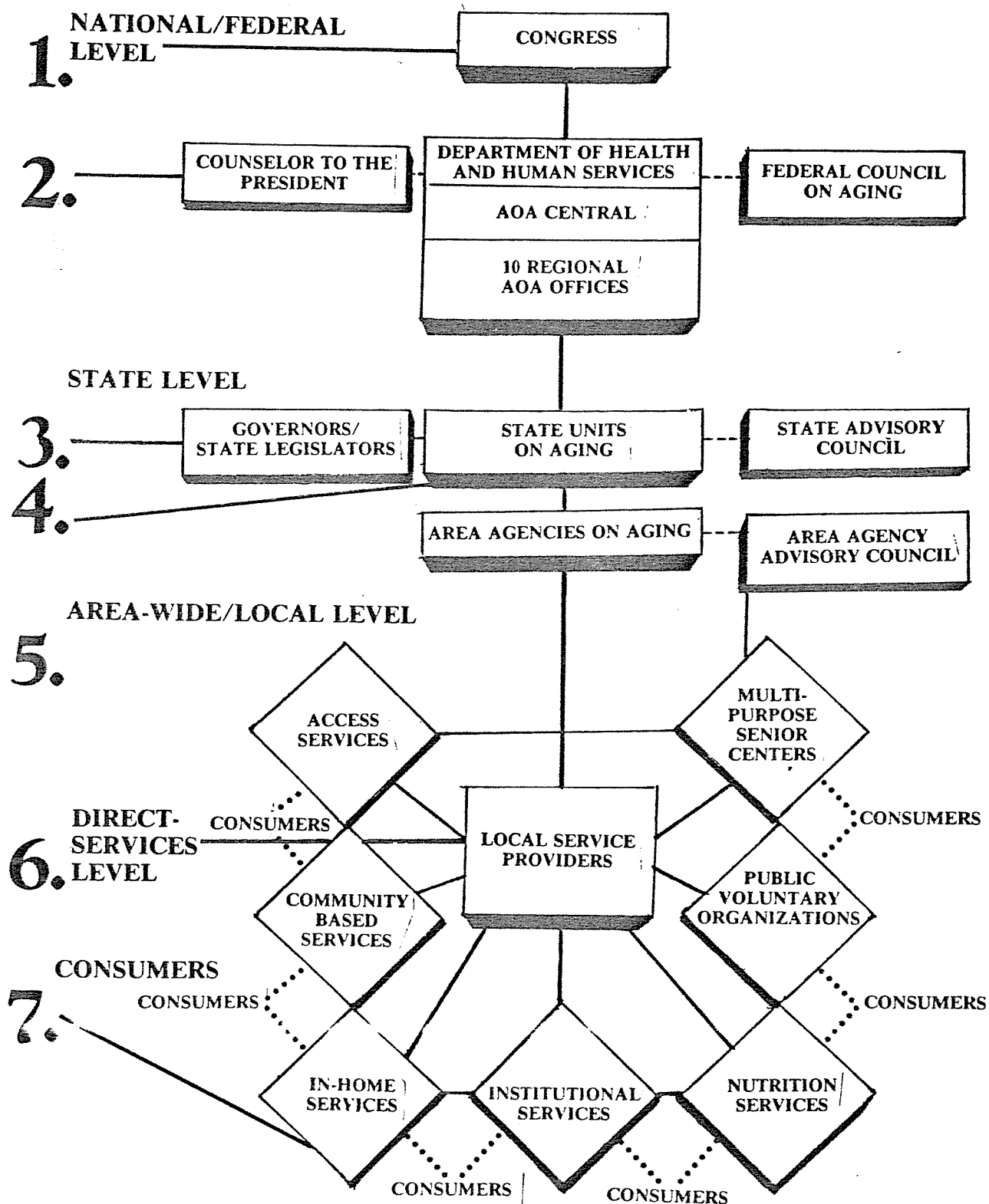
The review indicated that compared to other agency programs, relatively few direct services are provided to senior citizens under RSVP. Rather, most of the funds go into paying the administrative costs of running the program. For example, expenditures are reported by project sponsors as either volunteer support expenses, for example salaries and travel expenses of the project director and other staff, office supplies and telephone costs; or volunteer expenses, including meals, transportation, insurance and recognition costs of volunteers. The review indicated that the federal government requires only that a minimum of 25 percent of allocated funds go to volunteer expenses, and that generally a much larger portion of funds goes to the project director's salary and other support expenses than to volunteer expenses. In addition, the program would probably be continued even if state RSVP funds were no longer available since the program is funded primarily

through federal funds, and there is no state matching requirement in order to receive federal funds.

The review showed, however, that if state funds for the program were discontinued, the possibility exists that some federal funds might be lost. Since RSVP projects use their state allocations to meet up to a thirty percent matching requirement, some might not be able to generate those funds from other sources and thus be in position to lose federal monies. Proponents of state funding for RSVP emphasize that the federal government would continue funding this program only if local projects continued to match federal funds with cash or in-kind resources. They stress that generally local communities contribute in-kind resources, and that the state funds are critical in meeting the need for cash resources in view of their limited availability. In addition, proponents of the program emphasize the many benefits produced by the program not only to senior citizens but to the communities they serve. Opportunities provided by the program to volunteer and continue to make an active contribution to community life can serve to replace role loss often suffered by older persons and enhance life in later years. Communities across Texas benefit from the service of over 23,000 senior volunteers working in hospitals, schools, libraries, museums, senior centers and nursing homes, and participating in such community projects as weatherization, conservation and beautification projects.

APPENDIX

NATIONAL NETWORK ON AGING



Planning and Service Areas



ACROSS-THE-BOARD RECOMMENDATIONS

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

TEXAS DEPARTMENT ON AGING

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. GENERAL			
X			1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, creed, sex, religion, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
X			10. Provide for notification and information to the public concerning board activities.
		*	11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
		X	12. Require files to be maintained on complaints.
		X	13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	14. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
**			15. Require development of an E.E.O. plan.
**			16. Require the agency to provide information on standards of conduct to board members and employees.
**			17. Provide for public testimony at agency meetings.
**			18. Require that the policy body of an agency develop and implement policies which clearly separates board and staff functions.

*Already in statute or required.
 **Not approved for application.

Texas Department on Aging
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

*Already in statute or required.
**Not approved for application.