



**STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL**

**A PERFORMANCE AUDIT
of
THE ARIZONA ADVISORY COUNCIL ON AGING
MAY 1979**

THE ARIZONA ADVISORY COUNCIL ON AGING HAS BEEN ADVERSELY IMPACTED AND ITS EFFECTIVENESS IMPAIRED BY THE UNSTABLE ORGANIZATION AND INCONSISTENT LEADERSHIP PROVIDED TO IT BY THE DESIGNATED STATE AGENCIES RESPONSIBLE FOR ADMINISTERING THE OLDER AMERICANS ACT IN ARIZONA. IN ADDITION, WHEN COMPARED TO TWO OTHER GOVERNOR'S ADVISORY COUNCILS, THE ARIZONA ADVISORY COUNCIL ON AGING IS SUBSTANDARD IN STAFF SUPPORT AND BUDGET.

**A REPORT TO THE
ARIZONA STATE LEGISLATURE**



STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

May 21, 1979

The Honorable Bruce Babbitt, Governor
Members of the Arizona Legislature
Members of the Arizona Advisory Council on Aging

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Advisory Council on Aging. This report is in response to a September 19, 1978, resolution of the Joint Legislative Budget Committee and a January 18, 1979, resolution of the Joint Legislative Oversight Committee.

A summary of this report is found on the blue pages at the front of the report. A response to this report from the members of the Arizona Advisory Council on Aging and the Department of Economic Security is found on the yellow pages preceding the appendices of the report.

My staff and I will be happy to meet with the appropriate legislative committees, individual legislators or other State officials to discuss or clarify any items in this report or to facilitate the implementations of the recommendations.

Respectfully submitted,

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Auditor General

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OFFICE OF THE AUDITOR GENERAL

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REPORT TO THE
ARIZONA STATE LEGISLATURE

REPORT 79-2

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	1
INTRODUCTION AND BACKGROUND	3
SUNSET FACTORS	7
FINDINGS RELATED TO COUNCIL FUNCTIONS	
FINDING I	12
The Arizona Advisory Council on Aging has been adversely impacted and its effectiveness impaired by the unstable organization and inconsistent leadership provided to it by the designated state agencies responsible for administering the Older Americans Act in Arizona. In addition, when compared to two other Governor's Advisory Councils, the Arizona Advisory Council on Aging is substandard in staff support and budget.	
CONCLUSION	25
RECOMMENDATION	25
FINDING II	26
There is a conflict between Arizona state law and federal regulation regarding the membership of the Arizona Advisory Council on Aging. As a result, the membership of the Council has not been in compliance with federal requirements.	
CONCLUSION	30
RECOMMENDATION	30
FINDINGS RELATED TO COUNCIL ADMINISTRATIVE DUTIES PERFORMED BY THE DEPARTMENT OF ECONOMIC SECURITY	
FINDING III	31
In 1977 a Department of Economic Security official awarded an illegal contract for the development of a workplan for the Arizona Advisory Council on Aging. The Department of Economic Security has not established sufficient contracting controls to prevent other illegal contracts from being awarded.	
CONCLUSION	38
RECOMMENDATION	39

	<u>Page</u>
FINDING IV	40
Members of an Indian Advisory Council on Aging were improperly reimbursed for travel expenses.	
CONCLUSION	43
RECOMMENDATION	44
WRITTEN RESPONSE TO THE AUDITOR GENERAL'S REPORT	45
APPENDICES	
APPENDIX I - Arizona Revised Statutes Sections 46-183 and 184 and Federal Regulation 1321.50(c)	
APPENDIX II - Senior Citizen Group Representation on the Arizona Advisory Council on Aging	
APPENDIX III - Comparison of Executive Orders establishing the Arizona Advisory Council on Aging, Developmental Disabilities Planning and Advocacy Council and the Governor's Council on Children, Youth and Families	
APPENDIX IV - Government and Non-Government Organization Recommendations from 1971 White House Conference on Aging	
APPENDIX V - Survey of State Advisory Councils on Aging by the Office of the Auditor General	
APPENDIX VI - Letter from the Attorney General Regarding Role of the Attorney General in Contract Review - March 6, 1979	
APPENDIX VII- Memorandum from Legislative Council Concerning Eligibility for Travel Expenses - March 12, 1979	
APPENDIX VIII- Letter from the Regional Program Director, Administration on Aging Concerning Council Membership Compliance - April 10, 1979	

SUMMARY

The Arizona Advisory Council on Aging was created in 1966 to advise the state agency responsible for administering the Older Americans Act in Arizona. Since its inception, the duties and responsibilities of the Arizona Advisory Council on Aging have been expanded so that currently the Council also functions as an advisory council to the Governor.

The Council now consists of 15 members appointed by the Director of the Department of Economic Security (DES) for three year terms, subject to the approval of the Governor. The Council receives 75 percent of its funds from Federal Title III monies of the Older Americans Act with a state match of 25 percent. Staff support to the Council is provided by DES. The Council has maintained high attendance at meetings, established a strong committee organization, maintained open communication with senior citizens groups throughout the state, sought extensive citizen input regarding its operations, and participated in planning for and resource allocation of Older Americans Act monies. (page 3)

Our review of the Arizona Advisory Council on Aging revealed that the Council has been adversely impacted by the unstable organizations, inconsistent leadership and substandard staff support and budget from the state agencies that have administered the Council. As a result, the effectiveness of the Council has been impaired. (page 12)

Our review revealed that the Council has been out of compliance with federal regulations regarding Council membership. (page 26)

In addition, our review also disclosed that personnel in DES in the past misused Council funds in awarding a contract and that similar misuses in DES contracting could occur again. (page 31)

Lastly, our review revealed that members of an Indian Advisory Council on Aging were improperly reimbursed for travel expenses. (page 40)

It is recommended that:

1. Either the purpose, resources and independence of the Council be clearly established or an independent agency or office on aging with an advisory council be established reporting directly to the Governor. (page 25)
 2. State statutes and Council membership be reviewed for compliance with the new federal regulations which are in the process of being developed. (page 30)
 3. DES establish additional financial controls to monitor the award and payment of contracts. (page 39)
 4. DES Director provide additional information to his employees regarding criteria for reimbursement of travel claims and definition of a public officer. (page 44)
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INTRODUCTION AND BACKGROUND

In response to a September 19, 1978, resolution of the Joint Legislative Budget Committee and a January 18, 1979, resolution of the Joint Legislative Oversight Committee, the Office of the Auditor General has conducted a performance audit as a part of the sunset review of the Arizona Advisory Council on Aging in accordance with ARS 41-2351 through 41-2374.

The Advisory Council on Aging began in 1966 as an advisory group for the state agency responsible for administering the Older Americans Act in Arizona. The Council, as well as the Older Americans Act, was initially administered through the Arizona Health Department until 1968, at which time the Arizona Welfare Department assumed this responsibility. In 1973, responsibility for administering the Older Americans Act and its federally required advisory council was transferred to the newly formed Department of Economic Security (DES). (ARS 46-183 and 46-184)*.

In December 1975, the Governor created a Task Force on Retirement and Aging (Executive Order 75-13). In 1976, the Task Force produced a report entitled The Elderly Arizonan which contained recommendations to improve the status of the elderly in Arizona. In December 1976, the Governor formed an Oversight Committee on Aging to monitor the implementation of the recommendations in The Elderly Arizonan report and advise the Governor, Legislature and others on their implementation. In May 1977, the Governor issued Executive Order 77-4, which merged the purposes and memberships of the Oversight Committee on Aging and the Advisory Council on Aging and recognized the DES Council as a Governor's Council on Aging.

The Council consists of fifteen members who advise the Governor and DES on matters, problems and programs that affect older persons. The Council is also responsible for stimulating more effective use of existing resources for the aged, including collaborating and coordinating with state agencies, commissions and voluntary and professional associations for the aged.

* See Appendix I for full text of these statutes and applicable federal regulations.

When the Governor recognized the Advisory Council on Aging as a Governor's Council, he directed the Council to work with him in encouraging the development of positive retirement and pre-retirement programs and in planning for the future of the state to include the needs and capabilities of older persons. Older persons (60 years or older) in 1979 constitute 15.3 percent (388,550) of Arizona's population. Population projections for 1985 show older citizens increasing to 16.91 percent (497,375); and to 18.24 percent (673,525) by 1995. In addition, Arizona was second only to the state of Nevada in the percentage increase since 1970 in persons 65 or older (55.3 percent). Based upon past and projected population trends, it appears that the needs of older persons will be a matter of continuing concern for the state of Arizona.

ARS 46-184 states that the Advisory Council on Aging shall advise DES on all matters or problems regarding the administration of the state plan on aging. The state plan is administered within DES through the Bureau on Aging*. The state plan identifies the uses and allocation of Older Americans Act resources in Arizona. The Bureau is also responsible to:

1. Cooperate with the Federal Commissioner on Aging and provide information to the Administrator on Aging, Department of Health, Education and Welfare;
2. Serve as a clearinghouse for information related to state problems on aging, gather and disseminate information and conduct hearings, conferences and special studies;
3. Develop plans, conduct and arrange for research and demonstration programs;
4. Provide consultation to counties with respect to local community programs for the aged and aging. Develop, coordinate and assist other public and private organizations which serve the aging;

* During the course of this audit, DES merged the functions of this Bureau with others into an "Aging and Adult Administration".

5. Prepare, publish and disseminate educational materials dealing with the health and welfare of aged persons. Stimulate public awareness of the problems of the aging by conducting a program of public education; and
6. Stimulate more effective use of existing resources and available services for the aged. (ARS 46-181)

ARS 46-183 also states that an executive secretary shall be designated from among DES staff to serve the Council and that DES shall provide necessary staff services to the Council. With the exception of fiscal year 1977-78 DES has not provided the Advisory Council on Aging with any full-time support staff.* Staff support, both professional and clerical, has been provided to the Council on a part-time basis primarily by the Bureau on Aging.

The Advisory Council on Aging is funded through the Older Americans Act, State Administrative monies. These monies are available on a 25 percent state match of Arizona's allocated federal funds. The funds used to support the Arizona Advisory Council on Aging are contained within the Social Services program budget for DES. Council expenditures for fiscal year 1975-76 through 1977-78 are shown below:

<u>Expenditures</u>	<u>Fiscal Year</u>		
	<u>1975-76</u>	<u>1976-77</u>	<u>1977-78**</u>
Personal services	\$3,958.00	\$3,075.00	
In-state travel (Staff)		36.25	\$ 424.47
In-state travel (Council)	1,844.27	1,772.60	6,689.84
Professional & outside services		1,242.75	17,500.00
Other operating expenditures	261.68	2.75	5,751.75
Training			756.44***
Total expenditures	<u>\$6,063.95</u>	<u>\$6,129.35</u>	<u>\$31,122.50</u>

* On March 12, 1979, Ms. Gloria Heller was appointed Executive Director of the Council.

** Time period is the federal fiscal year from October 1, 1977 to September 30, 1978. During the quarter from July 1, 1977 to September 30, 1977, expenditures were \$1,750.88.

*** Source of funds, Older Americans Act, Title IVA 100 percent federal funds.

The Office of the Auditor General expresses its gratitude to present and former members of the Arizona Advisory Council on Aging and employees throughout DES for their cooperation, assistance and consideration during the course of our audit.

SUNSET FACTORS

In accordance with ARS 41-2351 through 41-2374, nine factors were considered to determine, in part, whether the Arizona Advisory Council on Aging should be continued or terminated.

These factors are:

1. Objective and purpose in establishing the Council,
2. The degree to which the Council has been able to respond to the needs of the public and the efficiency with which it has operated,
3. The extent to which the Council has operated within the public interest,
4. The extent to which rules and regulations promulgated by the Council are consistent with the legislative mandate,
5. The extent to which the Council has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public,
6. The extent to which the Council has been able to investigate and resolve complaints that are within its jurisdiction,
7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under enabling legislation,
8. The extent to which the Council has addressed deficiencies in their enabling statutes which prevent them from fulfilling their statutory mandate, and
9. The extent to which changes are necessary in the laws of the Council to adequately comply with the factors listed in this subsection.

SUNSET FACTOR: OBJECTIVE AND PURPOSE IN ESTABLISHING THE COUNCIL

The Arizona Advisory Council on Aging was codified in 1972. ARS 46-184A states:

"The Advisory Council shall advise the department on all matters or problems with respect to the administration of the state plan on aging. In performing this function, the council shall not be limited to the provisions of the Older Americans Act of 1965, as amended."

Executive Order 77-4, dated and effective on May 11, 1977, states:

"It is desirable for the Governor to have a Council who will advise him on all existing or proposed programs and practices in the governmental and private sectors that significantly affect older citizens, and who will stimulate more effective use of existing resources and available services for the aged and aging, including coordination of the activities of other state departments, and the collaboration with such departments, agencies or commissions, with county officials and voluntary agencies and with state and local professional associations and societies for the aged and aging.

Now, therefore, I...recognize the Arizona Advisory Council on Aging to be an advisory council to the Governor in addition to the council's other duties and order and direct:

1. The Council to work with the Governor in encouraging effective participation by older persons in the development and implementation of positive retirement and pre-retirement programs.
2. Cooperate, consult and work closely with the Governor in planning for Arizona's future to include the needs and capabilities of older persons."

The Council identifies its functions to include the following:

- Provide information about attitudes, needs and opinions of older people;
- Serve as a sounding board for preliminary ideas;
- Provide a medium for generating both planning insight and consensus;
- Promote and support the role of the Bureau on Aging, Department of Economic Security, and its programs in the community;
- Serve as a source of community education and as an avenue for putting older people in touch with service providers;
- Create a bridge to specific constituencies;
- Foster two-way communications between the Bureau on Aging and the public;
- Supplement staff resources; and
- Serve as a political force in lobbying for appropriate legislation supported and/or proposed by DES.

SUNSET FACTOR: THE DEGREE TO WHICH THE COUNCIL
HAS BEEN ABLE TO RESPOND TO THE NEEDS OF THE PUBLIC
AND THE EFFICIENCY WITH WHICH IT HAS OPERATED

The Arizona Advisory Council on Aging has been constrained in its ability to respond to the needs of the public by the unstable organization, inconsistent leadership, and substandard staff support from the state agency administering the Older Americans Act. (See page 12 for a discussion of this issue). However, the Council has addressed the needs of aged persons and has attempted to obtain services or assistance to meet those needs.

The Council has been less costly than two other Governor's Councils on human resources (Developmental Disabilities Planning and Advocacy Council and the Governor's Council on Children, Youth and Families) whose functions are similar, but of a wider scope, than the Advisory Council on Aging (See page 18 for a discussion of this issue).

SUNSET FACTOR: THE EXTENT TO WHICH THE COUNCIL
HAS OPERATED WITHIN THE PUBLIC INTEREST

The Council's actions appear to be consistently within the interest of the aged population except for misuses of funds which occurred in 1977 (see pages 31 and 40) and past non-compliance with federal regulations (see page 26). Notable among the Council's actions are the 1978 Governor's Conference on Aging, the publication in 1978 of an updated version of The Elderly Arizonan, and regular monitoring and advocacy for legislation affecting the aged.

Council members represent all planning districts of the state and include members from a number of senior citizen groups at the federal, state and local levels.* Compared to other human resource citizen councils in Arizona, the Arizona Advisory Council on Aging has a high meeting frequency, maintained high attendance at its meetings and established a strong committee organization.

* Appendix II is an analysis of senior citizen group representation of the Council.

SUNSET FACTOR: THE EXTENT TO WHICH RULES AND REGULATIONS PROMULGATED BY THE COUNCIL ARE CONSISTENT WITH THE LEGISLATIVE MANDATE

The Arizona Advisory Council on Aging has not promulgated any rules and regulations. Based upon a review of legislation (ARS 46-183 and 46-184), it appears the Council is not required to promulgate rules and regulations.

SUNSET FACTOR: THE EXTENT TO WHICH THE COUNCIL HAS ENCOURAGED INPUT FROM THE PUBLIC BEFORE PROMULGATING ITS RULES AND REGULATIONS AND THE EXTENT TO WHICH IT HAS INFORMED THE PUBLIC AS TO ITS ACTIONS AND THEIR EXPECTED IMPACT ON THE PUBLIC

The Council has made substantial efforts to inform the public of its actions. Meetings are open to the public. Agendas and minutes are mailed to interested parties. Agendas of each meeting allow time for public comment. Council members have been speakers at community senior citizen meetings regarding the Council and pertinent issues concerning the elderly. Liaisons to and from selected senior citizen organizations have been identified. Council meeting dates and times are coordinated with regular meetings of DES Older Americans Act staff, area agency and service project representatives and service providers, called the "Aging Network." However, from March 25, 1976, to April 27, 1979, the Council was not in compliance with ARS 38-431.02 and DES Executive Directive 34 regarding the posting of public meeting notices of Council meetings.

On April 27, 1979, the DES Director filed a statement with the Secretary of State specifying where Council meeting notices will be posted.

The Council, is not required to promulgate rules and regulations. Therefore, this aspect of the sunset factor is not applicable to the Council.

SUNSET FACTOR: THE EXTENT TO WHICH THE COUNCIL HAS BEEN ABLE TO INVESTIGATE AND RESOLVE COMPLAINTS THAT ARE WITHIN ITS JURISDICTION

This sunset factor is not applicable to the Council. Legislative and Executive mandates do not indicate that the investigation and resolution of complaints are within the jurisdiction of the Arizona Advisory Council on Aging.

SUNSET FACTOR: THE EXTENT TO WHICH THE ATTORNEY
GENERAL OR ANY OTHER APPLICABLE AGENCY OF STATE
GOVERNMENT HAS THE AUTHORITY TO PROSECUTE ACTIONS
UNDER ENABLING LEGISLATION

The enabling legislation and Executive Order concerning the Arizona Advisory Council on Aging do not define any actions for prosecution by the Attorney General or any other applicable agency.

SUNSET FACTOR: THE EXTENT TO WHICH THE COUNCIL HAS
ADDRESSED DEFICIENCIES IN THEIR ENABLING STATUTES WHICH
PREVENT THEM FROM FULFILLING THEIR STATUTORY MANDATE

A conflict has existed between ARS 46-183 and federal regulation concerning membership of the Council. DES identified this problem for legislative action in 1978, but statutory change was not proposed by DES pending the issuance of new federal regulations. (For a discussion of this, see page 26).

SUNSET FACTOR: THE EXTENT TO WHICH CHANGES ARE
NECESSARY IN THE LAWS OF THE COUNCIL TO ADEQUATELY
COMPLY WITH THE FACTORS LISTED IN THIS SUBSECTION

For a discussion of these issues, see pages 12 and 26.

FINDINGS RELATED TO COUNCIL FUNCTIONS

FINDING I

THE ARIZONA ADVISORY COUNCIL ON AGING HAS BEEN ADVERSELY IMPACTED AND ITS EFFECTIVENESS IMPAIRED BY THE UNSTABLE ORGANIZATION AND INCONSISTENT LEADERSHIP PROVIDED TO IT BY THE DESIGNATED STATE AGENCIES RESPONSIBLE FOR ADMINISTERING THE OLDER AMERICANS ACT IN ARIZONA. IN ADDITION, WHEN COMPARED TO TWO OTHER GOVERNOR'S ADVISORY COUNCILS, THE ARIZONA ADVISORY COUNCIL ON AGING IS SUBSTANDARD IN STAFF SUPPORT AND BUDGET.

Since its inception in 1966, the Arizona Advisory Council on Aging and the designated state agency responsible for administering the Older Americans Act in Arizona have been subjected to numerous organizational relocations and changes in leadership. Our review of the Advisory Council on Aging revealed that these organizational relocations and changes in leadership have resulted in disrupted communication and discontinuity in the working relationship between the Advisory Council and the state agency responsible for administering the Older Americans Act. In addition, the Council is substandard when compared to other Governor's Advisory Councils in staff support and budget. This lack of resources has hindered the effectiveness of the Advisory Council on Aging.

PURPOSE OF THE OLDER AMERICANS ACT AND ADVISORY COUNCIL

The primary program for the aged in Arizona has been the federal Older Americans Act of 1965, as amended. The purpose of the Act is to provide assistance in the development of new and improved programs to help older persons through grants to the states for community planning and services and for training; through research, development or training project grants.

In order for a state to be eligible to participate in the federal program of grants to states, a state must designate a State Agency as the sole state agency to: (1) develop the State plan to be submitted to the Commissioner;* (2) administer the State plan; (3) be primarily responsible for the coordination of all State activities; (4) review and comment on, at the request of any federal department or agency, any application from any agency or organization to such

* The "Commissioner" refers to the Commissioner of the Administration on Aging, Department of Health, Education and Welfare.

federal department or agency for assistance related to meeting the needs of older persons; (5) divide the state into distinct areas and determine areas where an area plan will be developed; and (6) for each such area, designate a public or non-profit agency on aging; and, (7) provide assurances satisfactory to the Commissioner that the state agency will take into account in connection with matters of general policy arising in the development and administration of the state plan for any fiscal year, the views of recipients of social services provided under such plan.

The role of and need for the Advisory Council on Aging is contained in federal regulation 1321.50(c) which states:

"The State Plan shall provide for the establishment of an advisory committee to the Governor, the state agency, and the single organizational unit on the implementation of the State Plan." (Emphasis added)

In Arizona, the above federal requirements were satisfied by the designation of a state agency to administer the Older Americans Act and the creation of the 15 member Advisory Council on Aging.

UNSTABLE ORGANIZATION

From 1965 to 1979, the designated single organizational unit responsible for the Older Americans Act has been in three state agencies and has had eleven organizational locations within these agencies. In addition, the Advisory Council on Aging has had four organizational locations since its inception in 1966.

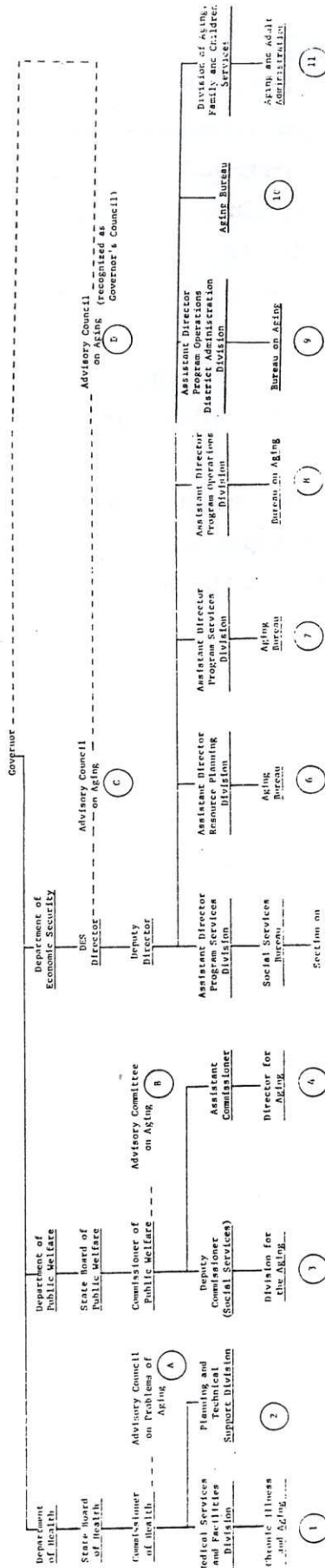
The designated state agency for the Older Americans Act was initially the Department of Health (1965-68), then the Department of Public Welfare (1968-73) and finally the Department of Economic Security (1973-79). The single organizational unit responsible for the Older Americans Act had two organizational locations while in the Department of Health, two locations while in the Department of Public Welfare and seven locations since being placed in the Department of Economic Security.

Table 1 summarizes the organizational locations of the single organizational unit responsible for administering the Older Americans Act in Arizona and the Advisory Council on Aging from 1965 to 1979.

TABLE 1

ORGANIZATIONAL LOCATIONS OF THE DESIGNATED STATE AGENCY, SINGLE ORGANIZATIONAL UNIT RESPONSIBLE FOR ADMINISTERING THE OLDER AMERICANS ACT IN ARIZONA AND THE ADVISORY COUNCIL ON AGING

1965-1979



Organizational Locations of the Advisory Council on Aging

- A. 1966 to 1968
- B. 1968 to 1973
- C. 1973 to 1977
- D. 1977 to 1979

Organizational Locations of the Designated Single Unit Responsible for Administering the Older Americans Act

- 1. 1965 to 1966
- 2. 1966 to 1968
- 3. 1968 to 1972
- 4. 1972 to 1973
- 5. 1973
- 6. 1973 to 1975
- 7. 1975 to 1976
- 8. 1976 to 1977
- 9. 1977 to 1978
- 10. 1978
- 11. 1979

INCONSISTENT LEADERSHIP

From May 1, 1968, to March 15, 1979, the Advisory Council on Aging has had to establish working relationships with and provide information to seven individuals who were responsible for administering the Older Americans Act in Arizona. In addition, since 1973 when the organizational unit responsible for administering the Older Americans Act was placed in the Department of Economic Security, the Directorship of that Department has changed six times.

Table 2 summarizes the leadership changes that have occurred in the single organizational unit responsible for administering the Older Americans Act from May 1, 1968, to March 15, 1979. It should be noted that no one individual was assigned on a full-time basis to administer the Older Americans Act while it was located in the Department of Health from 1965 to 1968. A similar situation has existed in the Department of Economic Security since December 5, 1978.

TABLE 2

SUMMARY OF LEADERSHIP CHANGES
IN THE SINGLE ORGANIZATIONAL UNIT RESPONSIBLE
FOR ADMINISTERING THE
OLDER AMERICANS ACT

1965 to 1979

<u>Department</u>	<u>Administrator</u>	<u>Inclusive Dates</u>		<u>Length Of Service</u>
		<u>From</u>	<u>To</u>	
Department of Health	Part-time	1965	4/30/68	
Department of Public Welfare	R.W. James	5/1/68	6/16/71	3 years, 2 months
	T.N. Tracy	6/17/71	5/31/72	1 year
	R.W. James*	6/1/72	1/31/73	8 months
Department of Economic Security	Vacant	2/1/73	6/30/73	
	R.L. Bouvea	7/1/73**	6/26/74	1 year
	Vacant	6/27/74	8/31/74	
	L.L. Martin	9/1/74	5/8/76	1 year, 8 months
	R.G. Thomas	5/9/76	11/18/76	6 months
	N. Mlover	11/19/76	8/26/77	9 months
	R.G. Thomas*	8/28/77	3/6/78	6 months
	J.B. Fooks	3/7/78	12/4/78	9 months
	Part-time***	12/5/78	3/15/79	

* Second Appointment

** Mr. Bouvea on site from 3/1/73

*** The Assistant Director for Aging, Family and Children Services has assumed leadership for the Older Americans Act program while a new administrator for "Aging and Adult Administration" is recruited.

As shown in Table 2, there were nine administrative appointments made from May 1, 1968, to March 15, 1979, with two administrators serving two nonconsecutive terms. This instability of leadership is further aggravated by a similar instability in the important position of Director of the Department of Economic Security. Since 1973, when the Advisory Council was located within the Department of Economic Security, the Directorship of that Department has changed six times. Table 3 summarizes these changes.

TABLE 3

DEPARTMENT OF ECONOMIC SECURITY
DIRECTORS FROM JANUARY 15, 1973
TO MARCH 15, 1979

<u>Department of Economic Security Director</u>	<u>Start Date</u>	<u>End Date</u>	<u>Length of Service</u>
William J. Mayo	January 1973	March 1975	2 years, 2 months
James L. Schamadan, M.D.	April 1975	May 1975	1 month
Henry G. Diaz	May 1975	June 1975	1 month
John L. Huerta	July 1975	November 1977	2 years, 4 months
Edward D. Crowley	November 1977	May 1978	7 months
William S. Jamieson, Jr.	May 1978		

According to past and present members of the Advisory Council on Aging the unstable organization of the state agency responsible for the Older Americans Act and the Advisory Council together with the inconsistent leadership at both the Administrative and Department Director level have adversely impacted the effectiveness of the Advisory Council on Aging.

Reverend Monsignor Robert J. Donohoe, past chairman of the Council, explained the effects of frequent organizational and leadership changes as follows:

"Frequent leadership changes in the Bureau Chief on Aging position as well as the DES Director and several DES reorganizations have had an adverse, impact on the Council... The Council in effect 'died' after each reorganization or leadership change and had to be reactivated. Many times the Council operated 'in a vacuum' since the direction from DES leaders, and especially from the Bureau on Aging, was unclear."

According to Reverend John Fooks, former Council member as well as former Bureau Chief of the Bureau on Aging:

"Frequent personnel changes of Aging Bureau Chiefs and Directors of the Department of Economic Security (DES) along with frequent reorganizations of DES have created difficulties for and decreased the effectiveness of the Advisory Council on Aging. Different philosophies and directions were associated with each administrative change and the Council had to take time to establish rapport, redirect efforts and educate new personnel."

Further, Mr. Abia Judd, present Chairman of the Council, noted that:

"The DES Council was not functioning well at the time of the merger (with the Governor's Oversight Committee on Retirement and Aging) - the Council was not meeting regularly and repeated Bureau Chief on Aging changes were adversely affecting it. Areas of Council operations needing change include obtaining stable leadership so Council time devoted to adjusting to a new Bureau Chief and reactivating the Council after a change could be eliminated."

One example of the detrimental effects that continual organizational and leadership changes have had on the Advisory Council, since being recognized as a Governor's Council in 1977, is that means of communication with and direction from the Governor's Office have been ill-defined. For example, during our review it was revealed that Advisory Council on Aging members and DES staff were unaware that the Governor was not receiving copies of minutes from Advisory Council meetings. In addition, the Advisory Council was unaware that no gubernatorial liaison staff had been assigned to monitor Council meetings or that no other form of regular communication had been established to provide the Governor with reports of Council activities.

SUBSTANDARD STAFF SUPPORT AND BUDGET

The Advisory Council on Aging is substandard in the staff support and budget provided to it by its administering state agency, the Department of Economic Security, when compared with two other Governor's Advisory Councils.

The Advisory Council on Aging was organizationally located within DES on January 15, 1973. The level of staff support provided to the Council by DES has generally consisted of part-time secretarial assistance and incidental professional support. With the exception of fiscal year 1977-78*, the expenditures of the Advisory Council have not exceeded \$6,129.

The level of staff support and budget provided to the Council appears to be insufficient, especially when contrasted with the level of DES staff support provided to other Governor's Advisory Councils -- the Developmental Disabilities Planning and Advocacy Council and the Governor's Council on Children, Youth and Families.

Table 4 summarizes the annual expenditures and full-time equivalent positions allocated to the Advisory Council on Aging, Developmental Disabilities Planning and Advocacy Council and the Council on Children, Youth and Families during fiscal years 1975-76 through 1977-78:

* It should be noted that during fiscal year 1977-78, DES received a supplemental allocation of federal Title III funds. \$17,500 of these and 25 percent state matched funds were used to provide the Council with a Council Coordinator. Fiscal year 1977-78 was the only year supplemental Title III funds were available and the only full year the Council had a coordinator. On March 12, 1979, Ms. Gloria Heller was appointed to an exempt DES position and named Executive Director of the Council.

TABLE 4

SUMMARY OF ANNUAL EXPENDITURES AND FULL-TIME EQUIVALENT POSITIONS ALLOCATED TO THE ARIZONA ADVISORY COUNCIL ON AGING, DEVELOPMENTAL DISABILITIES PLANNING AND ADVOCACY COUNCIL, AND THE COUNCIL ON CHILDREN, YOUTH AND FAMILIES.

FISCAL YEARS 1975-76 THROUGH 1977-78.

<u>Fiscal Year</u>	<u>Arizona</u> <u>Advisory</u> <u>Council</u> <u>On Aging</u>	<u>FTE</u>	<u>Developmental</u> <u>Disabilities</u> <u>Planning and</u> <u>Advocacy Council</u>	<u>FTE</u>	<u>Council on</u> <u>Children,</u> <u>Youth & Families</u>	<u>FTE</u>
	<u>Annual</u> <u>Expenditures</u>		<u>Annual</u> <u>Expenditures</u>		<u>Annual</u> <u>Expenditures</u>	
1975-76	\$ 6,064	-	N/A	N/A	\$36,879	2
1976-77	\$ 6,129	-	\$85,000*	5	**	3
1977-78***	\$31,122****	1	\$99,100	5	\$52,931*****	4

* Expenditures for the Developmental Disabilities Planning and Advocacy Council were made in the federal fiscal year from October 1, 1976, to September 30, 1977.

** Expenditures are not historically identifiable.

*** Expenditures for the Advisory Council on Aging and the Developmental Disabilities Planning and Advocacy Council were made in the federal fiscal year from October 1, 1977, to September 30, 1978.

**** Includes one-time federal Title III supplement of \$23,067.

***** Expenditures reflect costs associated with one FTE. Expenditures for the other three FTE are not historically identifiable.

While a comparison of the Executive Orders that established the Advisory Council on Aging, (77-4), the Developmental Disabilities Planning and Advocacy Council (78-4), and the Council on Children, Youth and Families (78-2) as Governor's Advisory Councils reveals that the Advisory Council on Aging has a somewhat less specific mandate, it appears that the intended purpose of the three councils is similar overall.*

Inadequate staff support and budget were identified by Council members and DES staff as having detrimental effects.

Reverend Monsignor Donohoe identified this problem and stated:

"While a member of the Council, requests for staff assistance were frequently denied due to lack of funds."

Reverend Fooks explained the effect of substandard staffing as:

"Prior to the staff support provided to the Advisory Council on Aging by Ms. Altman (Fiscal Year 1978 Council Coordinator), council members would request information at one quarterly meeting and then either the Council member or the staff would forget about it by the next meeting.

Staff support is essential if the Council is to be an effective advocate for the aged. Council members represent all regions of the state and it is difficult for them to conduct well-documented research, much of which has to be done in Phoenix, the site of state agencies' main offices, without regular staff assistance.

Areas where additional staff support would improve the Council's effectiveness, include inter-departmental coordination of services for the aged in transportation, home health care, education, nursing home standards and the process for granting certificates of need to health service providers.

The council's role is to unearth the needs of the aged, to be a 'sounding board' for the Governor and the Legislature on senior citizen needs and to advocate on behalf of the aged. Council members are constrained from performing this role effectively because of insufficient staff support."

* Appendix III is a detailed comparison of the Executive Orders.

Mr. Judd noted that:

"Regular professional staff support (as provided by Ms. Altman in FY 1978) is crucial to Council accomplishments and only clerical and incidental professional support have been available in past years.

When functioning only with part-time clerical and incidental professional staff prior to FY1978, the Council almost became non-functional. With professional staff support in fiscal year 1978, the Council was able to hold a Governor's Conference on Aging, publish an update of the Elderly Arizonan and actively monitor proposed legislation. When the Council Coordinator left, it became impossible for the Council to initiate any actions and instead it operated in a 'holding pattern.'

During the 1979 legislative session the Council has also been impaired by lack of staff in its ability to keep abreast of proposed legislation affecting the aged."

A further example of the effects of substandard and inadequate staffing is demonstrated by the Advisory Council sponsoring a state-wide Governor's Conference on Aging in 1978; the proceedings and recommendations of which still have not been published because of insufficient staff and resources.

The Executive Orders that established the Developmental Disabilities Planning and Advocacy Council and the Council on Children, Youth and Families as Governor's Councils both provide for staff support.

Executive Order 78-4 states the Developmental Disabilities Planning and Advocacy Council shall:

"In accordance with DES and Division of Personnel regulations in conjunction with the DES Director, hire appropriate staff (within available funds) to fulfill its responsibilities, including a director. The staff, in accordance with DD program guidelines, shall be responsible to the state council but receive administrative supervision from the Department of Economic Security."

Executive Order 78-2, which established the Governor's Council for Children, Youth and Families states:

"The council shall:

- a. utilize staff and resources within the Department of Economic Security or within other departments of state government as designated by the Governor."

However, Executive Order 77-4 which established the Advisory Council on Aging as a Governor's Council makes no provision for staff support.

The absence of an Executive Order provision regarding staff support for the Advisory Council on Aging is further compounded by the absence of an identifiable operating budget for the Council. Except for fiscal year 1977-78, when a one-time Title III supplemental allocation was used for council operations, the Advisory Council on Aging has operated without a budget. Monies for its operation are provided, when available, from Title III administrative funds which are used primarily to operate the Older Americans Act program at the state level.

In comparison, the Developmental Disabilities Planning and Advocacy Council has had an established budget since its inception and the Council on Children, Youth and Families has had a partial or complete operational budget for three of the past four years, including fiscal year 1978-79.

NATIONAL RECOMMENDATIONS AND OTHER STATE OPERATIONS

In 1971 a White House Conference on Aging was held at the call of the President to develop recommendations for further research and action in the field of aging. Conference delegates included representatives from all levels of government as well as people working in the field of aging and the public at large. The delegates were organized into fourteen sections, one of which was a section on Government and Non-Government Organizations. This section was primarily concerned with "the paramount problems of developing and sustaining strong and effective organization for and by the aging." This section prepared twelve recommendations*, the second of which addressed the organizational placement in government of a central office on aging to assess the needs of the aged and states, in part:

"At all levels of government, a central office on aging should be established in the Office of the Chief Executive, with responsibility for coordinating all programs and activities dealing with the aging, fostering coordination between governmental and non-governmental programs directly and indirectly engaged in the provision of services and for planning, monitoring and evaluating services and programs."

A survey of other states, conducted by the Office of the Auditor General**, revealed that the above recommendations have been implemented in 22 states where an independent agency or commission on aging to which an Advisory Council or Committee provides advice has been established. In eight states other organizational configurations, such as independent Councils on Aging, have been established. In 20 states, including Arizona, the Advisory Council is associated with an umbrella agency, such as the Department of Economic Security.

* Appendix IV contains a full text of the recommendations of the Section on Government and NonGovernment Organizations.

** Appendix V contains the results of the state survey by the Office of the Auditor General on Advisory Councils on Aging.

CONCLUSION

Since its inception in 1966, the Advisory Council on Aging has been subjected to the effects of three departmental relocations, eleven organizational relocations and nine changes of leadership for the Older Americans Act program in Arizona. In addition, the Council is substandard in staffing and budget for its operations when compared with two other Governor's Advisory Councils. This has impaired the Council's effectiveness in providing advice to the administering state agency on problems and matters related to the state plan on aging and in its functioning as a Governor's Advisory Council.

RECOMMENDATION

It is recommended that consideration be given to the following options:

1. The Governor clearly establish the purpose and independence of the Advisory Council on Aging to insulate it from organizational and leadership changes in the administering state agency. Consideration should also be given to designating the Department of Economic Security as only the administering agency. In addition, the Governor and Legislature need to specifically identify resources and staff to support the Council.
2. As recommended in the 1971 White House Conference on Aging, the Governor and Legislature should establish an agency or office on aging reporting directly to the Governor with an advisory council providing citizen input.

Legislation must be enacted in order to implement either of these recommendations.

FINDING II

THERE IS A CONFLICT BETWEEN ARIZONA STATE LAW AND FEDERAL REGULATION REGARDING THE MEMBERSHIP OF THE ARIZONA ADVISORY COUNCIL ON AGING. AS A RESULT, THE MEMBERSHIP OF THE COUNCIL HAS NOT BEEN IN COMPLIANCE WITH FEDERAL REQUIREMENTS.

Federal regulations require that at least half of the Advisory Council on Aging members be actual consumers of services provided under the Older Americans Act. Arizona law, however, only requires that a majority of the council members be actual or potential consumers of services provided under the Older Americans Act. This conflict between the Arizona law and federal regulation has, in the past, resulted in a council membership not in compliance with federal requirements.

Federal regulation 1321.50 (c) from the Department of Health, Education and Welfare, Office of Human Development, Administration on Aging states in part:

"...at least one-half of the committee (to advise the Governor, state agency and single organizational unit on the implementation of the state plan) shall consist of actual consumers of services under this program, including low income and minority older persons, at least in proportion to the number of minority older persons in the state."
(Emphasis added)*

However, Arizona Revised Statute Section 46-183-B states in part:*

"the advisory council on aging shall be composed of fifteen members, appointed by the director, subject to approval by the governor. At least eight of the members shall be consumers or potential consumers of services provided under the Older Americans Act of 1965, as amended. Members appointed to the council shall... be selected with due regard to geographic and other elements of representation." (Emphasis added)

* A full text of federal regulation 1321.50 (c) and ARS Section 46-183-B is included in Appendix I.

The use of the word "potential" in ARS Section 46-183-B has caused the Council membership to not be in compliance with federal regulations. This noncompliance issue was pointed out to the Department of Economic Security by federal evaluators on several occasions. For example:

In a March 23, 1976, federal assessment of the Arizona Advisory Council, it was noted:

"that at least one-half of the membership of the committee (Council) consists of consumers, including proportional low-income and minority representation is questionable at the present time...Composition of the Advisory Committee (Council) may not conform to Title III regulations. The Governor of Arizona will appoint five persons to the fifteen member advisory body. Hopefully, his appointments will be made with Title III regulations pertaining to this issue in mind. The matter should be brought to his attention."

In a January 20, 1978, assessment, federal officials observed:

"The Advisory Committee (Council) was not in compliance with the requirement stipulating that over 50% of its membership be older persons who are actual service consumers under the State Plan...In order to bring the Advisory Committee (Council) into compliance with regulations guiding its creation and function, steps should be taken immediately to reorganize the Committee's composition so that at least a simple majority of its members be actual service consumers."

In a March 14, 1978, letter to the Health, Education and Welfare Region IX Director of Administration on Aging, the Acting Director of the Department of Economic Security conceded that the Council was not in compliance with federal requirements. The Acting Director stated:

"We are well versed on Federal Regulation 903.5*, and share your concern regarding actual consumer representation on this Council. As evidenced by Arizona Revised Statute 46-183 (quoted in your report), there has been some difficulty in getting this point across in the past. The difficulty is compounded by the fact that this is now a dual-purpose Council which also advises the Governor. Furthermore, it is the Governor who makes the final decision regarding membership appointments.

However, we do feel that great progress was made in the recent appointments to the Council. Of the four new members, three were actual consumers. This raised our actual consumer representation from approximately 7% to 27%. It should be noted that, of our current membership, all but one (the Native American) are 60 years of age or over.

Although we now have an unexpired term to be filled on the Council, due to the resignation of Monsignor Donohoe, we cannot assure that the new appointee will be an actual consumer. Realistically, we will be looking toward December 31 and the expiration of five more terms before we can make any further progress in this area."

The Region IX Director responded to the Acting Director of DES on March 28, 1978, that:

"A significant issue which remains is the consumer of services issue. The Arizona statute allowing potential consumers of service is contrary to present Federal Regulations requiring the majority membership of the Advisory Council to be actual consumers of services. This is defined as habitual recipients of services funded under Title III and VII of the Older Americans Act.

Presently, the Advisory Council is out of compliance with the Federal Rules and Regulations. Please advise me of the action which you intend to take to correct the situation."

On May 5, 1978, the Acting Director of DES advised the Region IX Director that:

"As indicated in our previous letter, we have taken steps to increase the number of consumer members on the Advisory Council. We will take the appropriate steps to remove from the state statutes the word potential regarding consumers, and thereby bring the statutes into conformity with the federal regulations."

* Federal regulation was renumbered to 1321.50(c).

It should be noted that federal approval of the State Plan on Aging is required before federal Older Americans Act monies will be allocated to Arizona. In fiscal year 1978-79, these funds amounted to \$4,497,051. Any exceptions to standard procedures and regulations must be addressed and corrections or assurances of future action provided to the federal government before approval can be obtained.

This point was communicated to the Director of DES in a July 7, 1978, memorandum from the Bureau Chief of the Bureau on Aging, which stated:

"It has been brought to our attention, by the Administration on Aging, that the composition of the Governor's Advisory Council on Aging is out of compliance with federal regulations with regard to the number of actual consumer representation on its 15-member board.

The Standard Assurances Section of the State Plan identifies that the Advisory Council is not in compliance with the federal regulations; therefore, to enable the Governor to sign the State Plan, it is necessary to indicate a plan to bring the composition of the advisory council into federal compliance.

Our recommendation is that on December 31, 1978 when five terms of appointment expire, that appointments be made which will bring the composition of the Governor's Advisory Council into compliance with the federal regulations." (Emphasis added)

In response the DES Director, in a memorandum dated July 27, 1978, stated:

"I have discussed the Advisory Council with the Governor's Office and can give assurance that we will be in compliance after the new appointments are made."

In an attempt to address the issue of actual consumer representation on the Council, the Council Coordinator at the July 20, 1978, meeting stated:

"the Governor's Advisory Council is not in compliance with federal regulation as far as membership is concerned. According to the letter of the law 51% of Council membership must consist of 'actual' consumers. The stated definition of 'actual' consumer is: 'A person who habitually participates in programs funded under the Older Americans Act'."

During the July 20, 1978, meeting, the Council members agreed to declare in writing whether they considered themselves to be "actual consumers" of services under the Older Americans Act. In September 1978, the fourteen* Council members responded or failed to respond as follows regarding their status as consumers:

- 7 Members declared they did consider themselves consumers
- 3 Members declared they did not consider themselves consumers
- 2 Members declared they did consider themselves consumers but qualified their answer with their own definitions of consumer
- 2 Members did not reply

The Older Americans Act was amended by Congress during the 95th Congressional session. New regulations are being developed to implement the amendments.** It cannot be determined at this time if the federal requirements regarding council membership will be affected by the new regulations.***

CONCLUSION

Because of a wording difference between federal regulations and Arizona law, the membership of the Advisory Council on Aging has not been in compliance with federal requirements.

RECOMMENDATION

To prevent any future problems with approval of the State Plan on Aging concerning consumer representation on the Council, it is recommended that ARS Section 46-183-B be reviewed when regulations related to the Older Americans Act amendments are promulgated. If necessary, this section should be amended to agree with federal requirements.

In addition, future appointments to the Advisory Council on Aging should be in accordance with federal mandate.

* One member resigned on August 17, 1978.

** Appendix VIII is a letter from the Region IX Director concerning the status of the federal regulations.

*** On March 20, 1979, the five appointments for expired terms were made. Three were reappointments of members whose terms were expired and two were new members. New members have not declared their "consumer" status so representation cannot be determined at this time.

FINDINGS RELATED TO COUNCIL ADMINISTRATIVE DUTIES PERFORMED BY THE DEPARTMENT OF ECONOMIC SECURITY

FINDING III

IN 1977, A DEPARTMENT OF ECONOMIC SECURITY OFFICIAL AWARDED AN ILLEGAL CONTRACT FOR THE DEVELOPMENT OF A WORKPLAN FOR THE ARIZONA ADVISORY COUNCIL ON AGING. THE DEPARTMENT OF ECONOMIC SECURITY HAS NOT ESTABLISHED SUFFICIENT CONTRACTING CONTROLS TO PREVENT OTHER ILLEGAL CONTRACTS FROM BEING AWARDED.

In June 1977, the head of the Bureau on Aging in the Department of Economic Security (DES) issued a \$1,200 contract to Far-Mor Consultants,* a California consulting firm, to develop a workplan for the Advisory Council on Aging. This contract was illegal in that state laws regarding competitive bidding and conflict of interest were violated. The DES official who issued the contract subsequently resigned and was prosecuted; however, as of March 15, 1979, DES has not established sufficient contracting controls to prevent other illegal contracts from being awarded. The absence of sufficient contracting controls is particularly significant in view of the millions of dollars in contracts awarded annually by DES.

ILLEGAL CONTRACT

Arizona Revised Statutes Sections 41-1051 through 41-1054 require that competitive bidding procedures be followed when awarding state contracts** and state in part:

"A state budget unit desiring to contract for services under the provisions of this article shall issue a request for proposals containing but not limited to:

1. The criteria for qualifications required of persons to be selected to perform outside professional services. The selection of such persons shall be determined on the basis of demonstrated competence and qualifications to perform the required type of outside professional services at fair and reasonable compensation.

* The head of the Bureau on Aging awarded another contract to Far-Mor Consultants for \$2,000. This contract was for consulting services to develop legal services in the community.

** Competitive bidding is now required for contracts in excess of \$5,000. At the time of the Far-Mor contract, competitive bidding was required for contracts over \$1,000.

2. The information which is to be made publicly available concerning each project under consideration and the manner in which such information shall be made available to interested persons. Such information shall, as applicable, include but not be limited to:
 - (a) The time and place where the proposals are to be submitted.
 - (b) A description of the problem, or the purpose of the study or project.
 - (c) The objectives of the study, including a general statement of what is expected to be accomplished.
 - (d) The scope of the work to be done, including:
 - (i) Any desired approach to the problem.
 - (ii) The practical, policy, technological and legal limitations.
 - (iii) Specific questions that need to be answered.
 - (iv) Items expected to be delivered by a person who submits such proposal.
 - (v) The format to be used for the completed report.
 - (vi) The extent to which assistance and cooperation will be available from the state to the person who submits such proposal.
 - (e) A firm or estimated time schedule including dates for:
 - (i) Award of contract.
 - (ii) Commencement of performance.
 - (iii) Submission of progress reports, if any.
 - (iv) Completion of work.
 - (f) Known or estimated budgetary limitations for the study or project.
 - (g) Whether and to what extent progress payments will be allowable."

Requirements for public notice are defined as:

"A state budget unit shall give notice of a request for proposals to furnish such services by mailing notice to each person who has requested personal notice in the statement filed pursuant to Section 41-1053 and by publication in a newspaper of general circulation within the state for two publications not less than six nor more than ten days apart. The second publication and mailing of personal notice shall be not less than two weeks before the deadline for submitting proposals."

Arizona Revised Statute Section 38-503 defines conflict of interest for state employees and states in part:

"Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase."

The above statutes were violated when the Far-Mor contract was awarded in that 1) no other consultants were contacted or given an opportunity to bid on the consulting contract; and 2) the contract was awarded by the head of the Bureau on Aging to a company owned, in part, by her daughter.

According to officials in DES the "normal" contract award procedures in force, at the time the Far-Mor contract was awarded, included:

- Develop a "Request for Proposal"
- Advertise the "Request for Proposal"
- Accept "Proposals" from consultants
- Evaluate the "Proposals"
- Select the consultant
- Draft the consulting contract
- Obtain Attorney General approval of the consulting contract format
- Obtain the Bureau Chief's and the contractor's signatures

However, the contract award procedures for the Far-Mor contract were as follows:

- The head of the Bureau on Aging discussed the contract with her daughter
- The head of the Bureau on Aging awarded the contract to her daughter's company
- The head of the Bureau on Aging drafted the contract
- The head of the Bureau on Aging and her daughter signed the contract.

The contract with Far-Mor Consultants was signed on June 29, 1977. One day later, on June 30, 1977, Far-Mor Consultants submitted three claims of \$400 each or a total of \$1,200, the entire contracted amount. These claims were signed as approved by a DES staff member who worked for the head of the Bureau on Aging and was ordered by the Bureau Chief to sign the claims. These claims were subsequently submitted to the Department of Administration and paid.

On August 24, 1977, the Attorney General's Office, Investigation Section, initiated an investigation of conflict of interest allegations concerning the Far-Mor contract. The Attorney General was informed of the illegal contract by a DES employee. On August 26, 1977, the head of the Bureau on Aging resigned from DES. On April 25, 1978, a plea of no contest was entered in Superior Court, Maricopa County, to the crime of conflict of interest, a felony. This plea was determined through a plea agreement between the State of Arizona and the former head of the Bureau on Aging. The Court accepted the plea and made a determination of guilt to the crime. On May 25, 1978, the former head of Bureau on Aging was sentenced to two years probation and payment of \$500 in restitution.

CURRENT DES CONTRACTING PROCEDURES

Currently, neither the State of Arizona nor DES have formal procedures or manuals for the award of all contracts. In addition, DES does not have a designated responsible official to review the development and award of all contracts. It should be noted that DES is responsible for the awarding of and payment on contracts for substantial amounts of public monies. For example, for fiscal year 1978-79, \$4,137,100 in state funds were appropriated to the Mental Retardation program to fund contractual arrangements with providers of community mental retardation services.

A memorandum, dated August 9, 1978, from the DES Deputy Director to "Affected Personnel" (including the Bureau Chief on Aging) stated all contracts, amendments and terminations of contracts shall be "properly staffed and approved prior to signature on behalf of DES." A coordination sheet to obtain a series of approval signatures is mandatory "prior to authorized signature on behalf of DES to such documents." Our review of DES contracting procedures, Department of Administration claims payment procedures, and Attorney General contracting procedures revealed that the controls outlined in the above memorandum can be completely circumvented and that other illegal contracts can be awarded by DES personnel.

DEPARTMENT OF ADMINISTRATION CLAIMS PAYMENT PROCEDURES

According to Department of Administration personnel in the Claims Section the following procedures are followed when paying claims for DES contracted services:

- The claim is checked for proper authorization
- The claim is compared to a contract which must be on file with the Department of Administration
- The contract is reviewed for proper DES authorization
- A warrant is issued for the amount of the claim.

When reviewing a contract for proper authorization Department of Administration personnel check for three signatures; 1) the contractors, 2) the Attorney General's Office and 3) an authorized representative of DES. While the presence of three independent signatures on a contract may appear to provide sufficient controls to prevent illegal contracts being awarded by DES, our review disclosed that 1) the role of the Attorney General's Office in reviewing DES contracts is a perfunctory one, at best; and 2) the number of DES employees authorized to execute contracts is too large for the presence of an authorized signature to be an effective control measure.

THE ROLE OF THE ATTORNEY GENERAL'S OFFICE IN REVIEWING DES CONTRACTS

The role of the Attorney General's Office in reviewing DES contracts is primarily a review for proper form and authority. A March 6, 1979, letter to the Office of the Auditor General from an Assistant Attorney General attests to that fact and states, in part:

"This letter is in response to your letter to me dated March 1, 1979, in which you purportedly described the role of this office in the review of contracts entered into by the State Department of Economic Security.

At the outset, it should be pointed out that, with one exception, there is no legal requirement for any State agency to submit contracts to this office for our review; rather, aside from the one exception, the State agencies submit contracts for our review on a voluntary basis. The only exception is for those contracts which constitute intergovernmental agreements covered by A.R.S. Section 11-951 et seq.

The standard for our review of intergovernmental agreements is set forth in A.R.S. Section 11-952.D which provides that this office shall determine whether the agreement is in proper form and is within the powers and authority granted under Arizona law to the agency. Our standard for review of other types of contracts is the same. If it appears from the face of a contract or as a result of independent information which we may have that the contract was entered into in violation of the conflict of interest or bidding laws, then we do not approve it. We do not, however, make any independent investigation to determine whether such laws are complied with unless somebody brings a possible violation to our attention...."* (Emphasis Added)

It should be noted that the Attorney General's review of DES contracts is not designed to identify violations of the conflict of interest or bidding laws. Thus, the Attorney General's review of DES contracts does not afford effective protection against illegal contracts being awarded.

THE NUMBER OF DES EMPLOYEES AUTHORIZED TO EXECUTE CONTRACTS IS TOO LARGE

As of March 15, 1979, there were 33 DES employees of varying levels of responsibility authorized to sign contracts in lieu of the Director of DES and approve claims for payment. This delegation of authority is excessive and represents a significant lack of control over the awarding of and payment on DES contracts.

* A full text of this letter is Appendix VI.

When Department of Administration personnel check for an authorized DES signature on a contract prior to making a payment, they refer to a file of Signature Authorization Forms (A & C 3). Each form contains the following information:

- The name and title of the DES employee authorized to sign certain documents in lieu of the DES Director
- Which documents that employee is authorized to sign in lieu of the DES Director
- The signature of the DES employee authorized to sign documents in lieu of the DES Director
- The signature and title of the DES official approving the identified DES employee as an authorized signature
- The number of signatures needed for each type of document, if more than one signature is required.

Our review of the DES Authorized Signature Forms on file with the Department of Administration revealed that as of March 15, 1979:

- There were 33 DES employees authorized to sign contracts and approve claims for payment on those contracts, including the head of the Bureau on Aging
- The titles of the 33 authorized signors include Accountant, Secretary and Accounting Clerk
- One of the authorized signors, no longer holds the position shown on the Signature Authorization Form
- Three of the authorized signors did not show any agency approval on their Signature Authorization Form as required
- Nineteen of the authorized signors were not approved by the agency head as required
- One DES employee approved his own Signature Authorization for contracts.

A review of the Signature Authorization Forms on file for six similar state service delivery agencies engaged in awarding significant contract amounts revealed that all, but the Department of Corrections, have restricted the signing of contracts and claims to ten or fewer departmental officials. The following chart displays the number of authorized signatures on file with the Department of Administration for the six state service delivery agencies reviewed and DES as of March 15, 1979:

<u>Department</u>	<u>Authorized Signatures</u>
Department of Public Safety	2
State Land Department	4
Department of Education	5
Department of Transportation	6
Department of Health Services	10
DEPARTMENT OF ECONOMIC SECURITY	33
Department of Corrections	38

The above chart shows that when compared to other listed agencies, DES has an inordinately high number of employees that are authorized to approve contracts and sign claims on behalf of DES.

In our opinion, the authority to contract and approve claims on behalf of DES has been delegated to too many employees and to too low a level in the DES organization. As a result, the presence of an authorized DES signature on a contract does not insure sufficient official sanction.

In a statement regarding the appropriate number of state employees that should be authorized to approve contracts, Mr. Don Spaulding, Manager of Accounts and Controls, Department of Administration said:

"Contract approval should be restricted to a few high-level departmental officials in each agency. This would improve financial controls within the agency and within the Division of Finance."

CONCLUSION

In 1977, a DES official awarded a contract to develop a workplan for the Advisory Council on Aging that violated state laws regarding competitive bidding and conflict of interest. DES has not established sufficient contracting controls to prevent other illegal contracts from being issued and the authority to contract and approve claims on behalf of DES has been delegated to too many lower level employees. This widespread delegation of contracting authority for substantial amounts of money coupled with the absence of a designated DES official to review contracts and the limited review of contracts by the Attorney General's Office increases the potential for future contracting abuses.

RECOMMENDATION

The Department of Economic Security should establish additional contracting controls. Consideration should be given to:

- The development by DES of formal department-wide contract procedures and manuals
- The designation by DES of a responsible official to review all DES contracts
- A complete review by appropriate DES officials of the Authorized Signature Forms on file with the Department of Administration
- The issuance by DES of new Authorized Signature Forms (Authorized signatures for contract approval should be limited to as few DES officials as practical)
- DES officials authorized to approve contracts should not be authorized to approve claims for payment.

FINDING IV

MEMBERS OF AN INDIAN ADVISORY COUNCIL ON AGING WERE IMPROPERLY REIMBURSED FOR TRAVEL EXPENSES

In 1977, the head of the Bureau on Aging established an "Indian Advisory Council on Aging" to provide advice to the Governor's Council on Aging and to address the needs of elderly Indians. The Council held three meetings and the Council members were paid per diem and reimbursed for travel expenses. According to the Legislative Council; 1) the head of the Bureau on Aging did not have statutory authority to establish or appoint an advisory council and 2) the members of the Indian Advisory Council on Aging were not public officers and, therefore, were not eligible for per diem or reimbursement of travel expenses.

Lack of Authority to Establish an Advisory Council

The Indian Advisory Council on Aging was established by the head of the Bureau on Aging on July 7, 1977. The Council held three meetings on the dates and at the locations shown in the following schedule:

<u>DATE</u>	<u>LOCATION</u>
July 7, 1977	Phoenix, Arizona
July 25, 1977	Phoenix, Arizona
August 18, 1977	Gila River Indian Reservation

The members of the Council were subsequently paid \$906.80 for per diem and travel expenses incurred while attending the above meetings.

The Legislative Council, in an opinion dated March 12, 1979*, stated that the head of the Bureau on Aging did not have the authority to establish an advisory council or appoint its members. The opinion states in part:

"... In order for the Indian Advisory Council on Aging to be a validly constituted special council, there must exist:

1. A finding that it was required by state or federal law or regulations or a specific finding by the director that it was in the public interest.
2. A record of the director's consultation with the economic security council.

* Appendix VII is a full text of the Legislative Council opinion.

3. A record of the governor's approval.

If these requirements had been met, members of the council would seem to have been properly appointed to public office under the authority of the departmental director.

However, the power to appoint is inherent to certain executive positions. For example, persons employed in the office of the governor could properly be assigned the function of developing lists and screening qualifications of potential appointees, but the power to make certain appointments unquestionably rests with the actual incumbent of the office of the governor. Since the director of a department has in this instance been given statutory authority to make certain appointments, the exercise of the function cannot properly be delegated. Moreover, in the instant situation a review of federal and state law and regulations indicated no requirement for a council so the director's appointment of a council could legally be based only on the director's determination that such an advisory council was essential to the public interest. Thus we must conclude that a bureau chief cannot properly exercise the authority to make a determination of public interest and appoint an advisory council whose membership would become eligible for the subsistence and travel expense reimbursement authorized by law for state officers and employees under the authority granted to the departmental director under Arizona Revised Statutes, section 41-1981. Additionally, we are unable to find any other authority by which a department bureau chief could validly establish positions as public officers for such advisory council members." (Emphasis added)

MEMBERS OF THE INDIAN ADVISORY COUNCIL WERE NOT PUBLIC OFFICERS

According to the Legislative Council, the members of the Indian Advisory Council did not qualify as public officers and were, therefore, not eligible to receive per diem or reimbursement of travel expenses.

The Legislative Council opinion states in part:

"...Per diem subsistence and the reimbursement of travel expenses are payable by the state to its public officers and employees under title 38, chapter 4, article 2, Arizona Revised Statutes. 'Officer' or 'public officer' is defined for the purposes of Title 38, Arizona Revised Statutes, as the 'incumbent of any office, member of any board of commission, or his deputy or assistant exercising the powers and duties of the officer, other than clerks or mere employees of the officer.' (Arizona Revised Statutes section 38-101, paragraph 3). 'Office' 'board' or 'commission' means any office, board or commission of the state or any political subdivision thereof, the salary or compensation of the incumbent or members of which is paid from a fund raised by taxation or by public revenue.' (Arizona Revised Statutes section 38-101, paragraph 1).

The Arizona Supreme Court states in Tomaris v. State, 71 Ariz. 147 (1950) three requisites for a position to be a public office:

- 1) The specific position must be created by law.
- 2) There must be certain definite duties imposed by law on the incumbent.
- 3) The duties must involve some portion of the sovereign power.

Specifically, the Indian Advisory Council on Aging appears to meet none of these requirements. Hence, Arizona case law indicates that members of boards created by a department bureau chief are not public officers' who are eligible to receive subsistence payments and reimbursement for travel expenses." (Emphasis added)

Our review of the Indian Advisory Council on Aging revealed that there was confusion among DES employees as to the propriety of paying the travel claims of council members. This confusion is evidenced in the following excerpt from the minutes of the November 17, 1977, meeting of the Advisory Council on Aging:

"...there had been some question as to whether or not expenses of the members would be paid..."

DES officials stated that the Indian Advisory Council on Aging travel claims were eventually paid because it was assumed that the Council members were public officers. These DES officials further stated that: 1) the Council members were entitled to receive per diem and reimbursement of travel expenses because they were providing a service to the state; and 2) such a practice was not limited to the members of the Indian Advisory Council but was common for other areas within DES.

According to the Legislative Council:

"...If the correct statutory procedures had been followed by the department director to establish the Indian Advisory Council on Aging as a special purpose council under statutory authority with the proper assignment of definite duties in the exercise of some sovereign power, members of the council would appear to have been eligible to receive reimbursement of travel and subsistence expenses. In this case, since the Indian Advisory Council on Aging was appointed by a bureau chief who lacked authority to make such appointments, the members of the council would not appear to be eligible to receive payment of per diem subsistence or reimbursement of travel expenses...."

DES officials conceded that the statutory definition of a public officer and its application is not clear and that specific criteria would be useful when determining the propriety of future travel claims.

CONCLUSION

The head of the Bureau on Aging, without proper authority, established an Indian Advisory Council on Aging and its members were improperly paid per diem and reimbursed for travel expenses. This occurred because DES officials were unaware of the statutory requirements for establishing special purpose councils and the standards that must be met in order to be a "public officer."

RECOMMENDATION

It is recommended that the Director of DES issue a memorandum to all department employees who approve travel claims clarifying the process for establishing special purpose councils and appointing members. This would include:

1. Determination by the Director that the council was in the public interest or it was required by state or federal law.
2. Consultation by the Director with the Economic Security Advisory Council.
3. Approval by the Governor.

In addition, it is recommended that such memorandum include a definition of a "public officer" eligible to receive per diem subsistence and reimbursement of travel expenses. Included would be the Tomaris v. State criteria for a public officer of:

1. The specific position must be created by law.
2. There must be certain definite duties imposed by law on the incumbent.
3. The duties must involve some portion of the sovereign power.



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

1717 WEST JEFFERSON • PHOENIX, ARIZONA • P.O. BOX 6123 85005

Bruce Babbitt
GOVERNOR

Bill Jamieson, Jr.
DIRECTOR

TO: Mr. Douglas R. Norton DATE: May 3, 1979
Auditor General

FROM: Gloria Heller

SUBJECT: Response to Draft Report of Performance Audit of the Governor's
Advisory Council on Aging.

This is a response to the draft report of "A Performance Audit of the Governor's Advisory Council on Aging", as required by the sunset review process.

The Council believes that the format of the draft report creates some confusion. There are, in fact, two separate areas properly included but not clearly identified as separate. The Governor's Advisory Council on Aging has no control over, nor responsibility for, the internal administrative functions of the Department of Economic Security. We, of course, recognize that there is a connection between the two, but in its present format, the two areas are confused. We request that the final report consist of one document containing two parts. Part I should consist of the material concerning the Council, that is, Findings I and IV, and that Part 2, clearly identified as such, should consist of Findings II and III, which are concerned with the functions of DES and its subdivision, the Bureau on Aging, reconstituted as the Aging & Adult Administration.*

The Council is in total agreement with the analysis of the history of and recommendations for changes as they appear in the draft report (Finding I). It is heartening to have recognition of the accomplishments of the Council in spite of the difficulties under which it has functioned in the past. We are very pleased to report that recent actions by the Executive Branch have begun the process of dealing with the problems of the past. (These changes have been noted on specific pages.)

The Council believes that Finding IV** receives undue emphasis and importance in the draft report. Given the fact that regulations relating to the implementation of the amendments of the Older Americans Act have yet to be issued, the qualifications for membership on the Council may properly be continued in their present

* The report has been amended in accordance with the Council's response.
** Finding IV has been renumbered Finding II.

form. The question of compliance with Federal requirements will be relevant when the new regulations are issued.

The following is a list of specific responses to the draft report and will be identified by page and paragraph numbers:

Page 8 - Last Line: The quotation "Serve as a political force in lobbying for appropriate legislation supported and/or proposed by DES", is correctly quoted from the manual for members of the Council. The Council goes on record as wanting a change to read as follows: "Serve as a political force in lobbying for appropriate legislation for the elderly."

Page 10 - Paragraph 2: The sentence, "Liaisons to and from selected senior citizen organizations have been identified and council meeting dates and times are coordinated with a regular meeting of representatives from senior citizen groups, informally called the "Aging Network", does not identify the Aging Network membership accurately. They are representatives of service providers, not senior citizen groups.

Page 18 - Paragraph 3: The appointment of Gloria Heller as Executive Director on March 12, 1979, establishes direct reporting to the Governor and the mechanism for submitting minutes of Council meetings to the Governor.

Page 19 - Paragraph I: The council emphasizes inadequate staff support in the past. Since the appointment of the Executive Director on March 12, 1979, an additional full-time appointment has been made of Mrs. Dorothy Fowler, as secretary to the Council, effective April 23, 1979.

Page 21 - Paragraph 6: On April 2, 1979, a permanent Inter-Agency Committee to coordinate programs for the aging was established by Governor Babbitt. The Committee consists of senior staff persons from the Department of Economic Security, the Department of Health Services, and the Department of Transportation, with the Executive Director of the Governor's Advisory Council on Aging as the chairperson. Monthly meetings have already been scheduled and progress reports will be submitted regularly to the Governor and the Council.

Appendix II - It should be noted that members of the Council do hold membership in the following national

May 3, 1979

organizations:

National Indian Council on Aging
Gerontological Society
National Council for Senior Citizens
American Association of Retired Persons

We call attention to the citing of the name "The Governor's Council on Children, Youth and Family". It appears in two different forms in the draft report and should, of course, always appear in its correct form.

Public posting of any regular, special or rescheduled regular meeting shall be accomplished as stated in the Arizona Department of Economic Security Executive Directive #34.

INTEROFFICE MEMO

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

TO: Douglas R. Norton
Auditor General

DATE: May 4, 1979

FROM: Grants Administration Manager
Aging & Adult Administration

REFERENCE:

SUBJECT: Response to Performance Audit of the Governor's Advisory Council on Aging
Conducted by the Auditor General, State of Arizona

A&AA Response to Finding I:

The A&AA is in total agreement with Finding I. Until recently, the Arizona Advisory Council on Aging has been adversely impacted by the unstable organization and inconsistent leadership provided to it by the designated state agency responsible for administering the Older Americans Act in Arizona.

Since the completion of this audit, a significant event has taken place which clearly establishes the purpose and independence of the Council: The Council has a full-time Executive Director who works with the DES Director, and reports directly to the Governor.

A&AA Response to Finding II: *

The DES has established necessary and sufficient controls to insure that illegal contracts, such as the one identified in this audit finding, will not be issued. Only the Director, Deputy Director, and Assistant Directors have the authority to authorize the entering into of such contracts.

A&AA Response to Finding III: **

The A&AA disagrees with this finding for the following reasons:

- (1) The Indian Advisory Council on Aging was never an official state advisory council. It was an advisory council in name only for the purposes of assisting the Bureau on Aging (presently the Aging & Adult Administration) in planning and coordinating services for elderly Indian individuals, as well as to establish equitable allocation formulas for Indian reservations; and,
- (2) Under the provisions of the Older Americans Act of 1965, as amended, and the regulations and policies promulgated therein, it is both a common practice and allowable cost to reimburse travel and per diem expenses incurred by individuals and agencies who have come together to assist in the planning process for Older Americans Act programs at the request of the designated state agency on aging, the local Area Agencies on Aging, and local service delivery providers.

* Finding II has been renumbered Finding III.

** Finding III has been renumbered Finding IV.

A&AA Response to Finding IV:*

The A&AA is in agreement with your recommendation: When the regulations related to the 1978 Amendments to the Older Americans Act are promulgated and finalized, we will be in a position to determine if ARS Section 46-183-B will have to be amended to agree with the federal regulations.

Until such time, it is a moot issue in that the 1978 Amendments to the Older Americans Act were signed into law by President Carter on October 18, 1978. The signing of this document into law immediately created significant conflicts between the existing regulations and the new law. To operate under the existing regulations with regard to this issue would be less than appropriate in terms of sound management practices at this time.


RLittler:cf

* Finding IV has been renumbered Finding II.

APPENDIX I

ARIZONA REVISED STATUTES
SECTIONS 46-183 AND
46-184 AND FEDERAL
REGULATION 1321.50(c)

§ 46-183. Advisory council on aging; members; appointment; terms; compensation; officers

A. There shall be an advisory council on aging.

B. The advisory council on aging shall be composed of fifteen members appointed by the director, subject to the approval of the governor. At least eight of the members shall be consumers or potential consumers of services provided under the Older Americans Act of 1965, as amended.¹ Members appointed to the council shall have a knowledge of, and an established basic interest in, the problems affecting older citizens and members shall be selected with due regard to geographic and other elements of representation in order that as many divergent views as possible can be represented.

C. Each member of the council shall be appointed for a term of three years. Of those persons first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a full term of three years. Vacancies occurring other than by expiration of term shall be filled in the same manner for the balance of the unexpired term.

D. A chairman, vice chairman and secretary shall be designated each calendar year from the council membership by the director, with the approval of the governor. An executive secretary to serve the council shall be designated from among the staff of the department of economic security. The department shall provide necessary staff services to the advisory council on aging. Added Laws 1972, Ch. 142, § 68.

¹ 42 U.S.C.A. § 3001 et seq.

Termination

The advisory council on aging shall terminate on July 1, 1980, unless continued. See §§ 41-2261 and 41-2263.

For effective date of Laws 1972, Ch. 142, see note following section 41-1951. Executive Order No. 77-4, dated and effective May 11, 1977, provides:

"WHEREAS, under the provisions of A.R.S. 46-183, there has been established an Advisory Council on Aging, whose duties are to advise the Department of Economic Security on all matters or problems with respect to the Administration of the State plan on Aging:

"WHEREAS, it is desirable for the Governor to have a Council who will advise him on all existing or proposed programs and practices in the governmental and private sectors that significantly affect older citizens, and who will stimulate more effective use of existing resources and available services for the aged and aging, including coordination of the activities of other State departments, and the collaboration with such departments, agencies or commissions, with county officials and voluntary

agencies and with State and local professional associations and societies for the aged and aging:

"NOW, THEREFORE, I, RAUL H. CASTRO, GOVERNOR, of the State of Arizona, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby recognize the Arizona Advisory Council on Aging to be an advisory council to the Governor in addition to the council's other duties and order and direct:

"1. The Council to work with the Governor in encouraging effective participation by older persons in the development and implementation of positive retirement and preretirement programs.

"2. Cooperate, consult, and work closely with the Governor in planning for Arizona's future to include the needs and capabilities of older persons.

"3. This order shall become effective immediately."

§ 46-184. Advisory council duties

A. The advisory council shall advise the department on all matters or problems with respect to the administration of the state plan on aging. In performing this function, the council shall not be limited to provisions of the Older Americans Act of 1965, as amended.¹

B. The council shall convene in formal meeting at the call of the chairman, but in no case less than two times each fiscal year. A quorum shall consist of no less than nine members present. Recommendations to the department by the council shall be represented by a simple majority vote of members present of a quorum in formal meeting. Minority opinions with respect to any council recommendation may be formally submitted in writing to the department through the chairman of the council. Added Laws 1972, Ch. 142, § 68.

¹ 42 U.S.C.A. § 3001 et seq.

For effective date of Laws 1972, Ch. 142, see note following section 41-1951.

Termination

The advisory council on aging shall terminate on July 1, 1980, unless continued. See §§ 41-2261 and 41-2263.

RULES AND REGULATIONS

and programs related to the purposes of the Act. To this end, the State agency will seek to develop and maintain effective working relationships with those public and private agencies having programs which affect the elderly, including the following activities:

(1) Dissemination of information on the needs of the elderly;

(2) Joint funding and programming to achieve the objectives established in the State plan to the maximum extent feasible;

(3) Development of interagency actions concerning State and area plans and objectives, and assessment of progress and problems in implementation of the plans; and

(4) Reporting of activities on aging under this program throughout the State;

(b) The State plan shall provide for the furnishing of technical assistance to public and private agencies and organizations engaged in activities relating to the needs of older persons.

(c) The State plan shall provide that the State agency shall enter into agreements with appropriate State or, until such time as area plans are submitted and approved, local public or private agencies and organizations, for joint utilization of their services and facilities in the administration of the plan and in the development of programs and activities for carrying out the purposes of the Act.

(1) The State plan shall provide that the State agency will carry out those programs and activities designed to bring about maximum possible coordination between the resources available under titles I, X and XIV, or old title XVI, or titles XIX and XX of the Social Security Act, as appropriate and the operation of the programs under this part. The State plan shall describe the activities to be undertaken by the State agency to accomplish such coordination.

(2) The State plan shall provide that the State agency, in conjunction with the designated area agencies, shall take the initiative in endeavoring to work out arrangements whereby recipients of grants or contracts for nutrition projects under § 1324 of this subchapter, mutually agree with area agencies, that such nutrition projects shall be made part of the comprehensive and coordinated service system for older persons under title III.

§ 1321.50 Administration.

(a) *Training and manpower development.*—(1) The State plan shall contain a training and manpower development plan which shall provide for the initiation of a program designed to achieve the objective of a training and staff development program concerning the implementation of the Act, for all professional staff of State and area agencies and principal staff of all service programs initiated under this part. All expenditures of Federal resources under section 301(a)(1) of the Act for training shall be consistent with this program.

(2) The State plan shall provide that personnel working on Older Americans Act programs at the State and area levels will attend such training programs that are specifically developed for such individuals by the Administration on Aging, in consultation with the State agencies, at designated training centers, and that in all title III awards, the State agency will assure that adequate funds are budgeted to pay the travel, per-diem and tuition costs of such individuals to attend such training.

(b) *Participation of Older Americans in implementation of the State plan.*—The State plan shall provide that procedures will be developed by the State agency that will assure effective participation of actual or potential consumers of services under this program in the implementation of the State plan at the State and local levels. These procedures shall provide for periodic public hearings on concerns of the elderly in the State with adequate public notice for such hearings.

(c) *Advisory committee.*—The State plan shall provide for the establishment of an advisory committee to the Governor, the State agency, and the single organizational unit on the implementation of the State plan. At least one-half of the membership of the committee shall consist of actual consumers of services under this program, including low income, and minority older persons, at least in proportion to the number of minority older persons in the State, with the remainder being broadly representative of the major public and private agencies and organization in the State who are experienced in or have demonstrated particular interest in the special needs of the elderly. This committee shall meet preferably bi-monthly, but at least quarterly.

(d) *Public information.*—(1) The State plan shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under this part are effectively and appropriately promulgated throughout the State.

(2) The State plan shall provide that the State agency will pursue a policy of freedom of information and that the State plan, approved title III program applications, all periodic reports made by the State agency to the Commissioner in accordance with paragraph (g) of this section, and all Federal and State policies governing the administration of the title III program in the State will be available at reasonable times and places in the offices of the State agency for review upon request by interested persons including representatives of the media.

(e) *Review and comment on applications.*—The State plan shall provide that the State agency will review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal de-

partment or agency for assistance relating to meeting the needs of older persons.

(f) *Fiscal administration.*—The State plan shall provide for such accounting systems and procedures as are needed to control and support all fiscal activities under title III in accordance with guidelines issued by the Administration on Aging. The State plan shall provide for the maintenance by the State agency and all recipients of awards under this part, of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed to lie against the allotments to the States.

(g) *Reports.*—The State plan shall provide that the State agency will make such reports to the Commissioner in such form and containing such information as may reasonably be necessary to enable him to perform his functions under title III of the Act, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 1321.51 Evaluation.

(a) The State plan shall provide that the State agency will conduct ongoing monitoring, assessment, and periodic evaluation (including the capturing and recording of information relative to changes in public and private organizations in the field of aging and changes in the lives of older persons), of activities and projects carried out under the State plan, in accordance with criteria established by the Commissioner. The operations of the area agency on aging, and the total program of each planning and service area for which an area plan is developed, and each title III project outside such areas, shall be evaluated on-site by the State agency at least annually prior to the funding anniversary of the programs. The results of these evaluations shall be in writing, and shall be submitted to the Commissioner.

(b) The State plan shall provide that the State agency will evaluate on an ongoing basis the extent to which existing public and private programs in the State meet the needs of older persons, especially those older persons who will be given priority in the implementation of the programs under this part. As part of this responsibility, the State agency shall undertake an analysis of the services and resources available for serving older persons in the State. The data resulting from this analysis shall be updated at least on an annual basis, and shall be submitted to the Commissioner.

(c) The State plan shall provide that the State agency and all recipients of awards under this part will cooperate in the carrying out of evaluations of the title III program by the Administration on Aging or those organizations having

APPENDIX II

SENIOR CITIZEN GROUP REPRESENTATION* ON THE
ARIZONA ADVISORY COUNCIL ON AGING

<u>Senior Citizen Groups</u>	Represented on the Advisory Council on Aging**	
	<u>Yes</u>	<u>No</u>
<u>National Organizations</u>		
Federal Council on Aging (FCOA)	X***	
National Retired Teachers Association (NRTA)	X	
American Association of Retired Persons (AARP)	X	
National Association of Retired Federal Employees (NARFE)		X
National Council for Senior Citizens (NCSC)	X	
National Indian Council on Aging (NICA)		X
Gray Panthers		X
National Association of State Units on Aging (NASUA)		X
National Association of Area Agencies on Aging (N4A)		X
Gerontological Society	X	
Mayors' Task Force on Aging		X
National Conference on the Black Aged		X
Urban Elderly Coalition		X
<u>State Organizations</u>		
Arizona Council for Senior Citizens	X	
Arizona Retired Teachers Association (ARTA)	X	
Arizona Association of Retired Persons (AARP)	X	
Joint State Legislative Committee (ARTA and AARP)	X	
State Chapter, National Association of Retired Federal Employees		X
Arizona Indian Council on Aging	X	
Arizona Association of Area Agencies on Aging (A4A)	X	
Arizona Nurses Association, Division of Gerontological Nursing	X	
Arizona Community Action Association, ACAA Committee on Aging		X
Senior Adult Education Committee of Arizona, Arizona Community College System		X
<u>Regional Organizations</u>		
Advisory Councils to Area Agencies	X	
Regional Joint State Legislative Committees (ARTA and AARP)	X	
State Universities, Multi-Disciplinary Gerontological Committees	X	

* Representation means a member of these groups is also a member of the Council. Official or elected representation is not necessarily implied.

** Based on Council membership as of 12/31/78

*** Ex-officio member Chairman Emeritus

Senior Citizen Groups

Represented on the
Advisory Council on
Aging

County Organizations

Yes No

County Advisory Councils and Project Councils on Older Americans Act Services	X	
County Councils for Senior Citizens	X	
County Arizona Retired Teachers Associations	X	
National Council for Senior Citizen affiliates	X	
Gray Panther Groups		X
Tribal Councils (Aging Committees or Groups)		X
Community Councils and Committees on Aging (United Way and Others)		X

City/Community Organizations

Project, Program and Nutrition Site Councils for Older Americans Act Services	X	
Individual chapters of:		
Arizona Association of Retired Persons	X	
National Association of Retired Federal Employees		X
Arizona Retired Teachers Association	X	

APPENDIX III

COMPARISON OF EXECUTIVE ORDERS ESTABLISHING
THE ARIZONA ADVISORY COUNCIL ON AGING, THE
DEVELOPMENTAL DISABILITIES PLANNING AND ADVOCACY
COUNCIL, AND THE GOVERNOR'S COUNCIL ON CHILDREN,
YOUTH AND FAMILIES

Developmental Disabilities (DD) Planning and Advocacy Council Executive Order <u>78-4</u>	Governor's Council on Children, Youth and Families Executive Order <u>78-2</u>	Arizona Advisory Council on Aging Executive Order <u>77-4</u>
1. Assist and advise Governor in all matters relating to plans and services for developmentally disabled citizens	1. Assist and advise Governor in all matters relating to services to children and their families	1. Advise Governor on all existing or proposed programs significantly affecting older persons
2. Develop and maintain information regarding the need for developmental disability services	2. Develop and maintain information regarding need for services to children and their families	*
3. Establish short and long-term goals for meeting the service needs of the developmentally disabled	3. Establish short and long-term plans and goals for meeting the need for services to children and their families	2. Coordinate, consult and work closely with Governor in planning Arizona's future to include needs and capabilities of older persons
4. Advise departments, agencies, institutions of the state on programmatic needs and coordination of program activities and to perform subsequent follow-up to establish the manner in which recommendations have been acted upon	4. Advise departments, agencies and institutions of the state on programmatic needs and coordination of program activities	3. Stimulate more effective use of existing resources and available services for the aged and aging including coordination of activities of other departments and collaboration with agencies, commissions, county officials, voluntary agencies, professional associations and societies for the aged
5. Recommend Developmental Disability priorities to Governor and other state departments	5. Recommend priorities for child and family services to Governor and DES	4. See 2. above
6. Organize community efforts on state-wide level around major developmental disability issues	6. Organize community efforts on state-wide level around major child and family issues	

* Identified as function of Advisory Council on Aging in its members' handbook.

Developmental
Disabilities (DD)
Planning and
Advocacy
Council
Executive Order
78-4

Governor's
Council on
Children,
Youth and
Families
Executive Order
78-2

Arizona
Advisory
Council on
Aging
Executive Order
77-4

- | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. Facilitate establishment of local advisory committees for Developmental Disability in areas or districts where requested | 7. Facilitate establishment of local advisory councils for child and family services in areas or districts where requested | |
| 8. Make available timely information to all local advisory committees to allow them to take advantage of appropriate services, funding and public meetings | 8. Make available timely information to all local advisory councils to allow such councils to take advantage of appropriate services, funding and public meetings | |
| 9. Actively facilitate coordination of federal, state and local programs and policies concerning services to the developmentally disabled | 9. Facilitate the coordination of federal, state and local policies and programs concerning services to children and their families | 5. From 3. above, coordination of activities of other departments and collaboration with agencies, commissions, county officials, voluntary agencies, professional associations and societies for the aged |
| 10. Serve as an information point in facilitating the developmentally disabled in obtaining needed services provided in state | 10. Serve as an information point for children and their families to assist them in obtaining needed services provided by this state | * |
| 11. Prepare and submit a report each January to the Governor on activities of Council | 11. Prepare and submit a report each January to the Governor and DES on activities of Council | |
| 12. Direct development of the approved state plan** | | 6. Advise DES on all matters or problems with respect to administration of the state plan on aging |
| 13. Monitor and evaluate implementation of state plan | | 7. See 6. above |

* Identified as function of Advisory Council on Aging in its members' handbook.

** Required in Section 133 of PL 94-103.

Developmental
Disabilities (DD)
Planning and
Advocacy
Council
Executive Order
78-4

Governor's
Council on
Children,
Youth and
Families
Executive Order
78-2

Arizona
Advisory
Council on
Aging
Executive Order
77-4

14. Submit revision of state plan, through the Governor, to the Secretary of State

15. To the extent feasible, review and comment on all state plans in Arizona which relate to programs affecting persons with developmental disabilities

8. From 6. above, advise DES on all matters or problems with respect to administration of the state plan on aging

9. Work with Governor in encouraging effective participation by older persons in developing and implementing positive retirement and pre-retirement programs

Toward A
National Policy
On Aging

Proceedings of the
1971 WHITE HOUSE CONFERENCE ON AGING
November 28—December 2
Washington, D. C.

Volume II

Conference Findings
and Recommendations
from the Sections and
Special Concerns Sessions

SECTION ON GOVERNMENT AND NONGOVERNMENT ORGANIZATION

INTRODUCTION



A total of 221 Delegates was named to the Section on Government and Nongovernment Organization. Information available from their nomination forms indicate that some 21 percent were retired, and 11 percent were members of one of the minority groups.

The majority of Delegates represented organizations whose activities involve the aging directly, if not exclusively. Governmental units on aging at the State and local levels were heavily represented, as were higher level departments, chief executive officers, and legislative bodies with broad responsibilities for local and State programs in aging. Other prominent participants in the Section's work included leaders of national, State, and community voluntary organizations, many of them from aged membership groups. Serving also as Delegates were business and labor officials, educators, lawyers, and physicians.

In formulating a total of 12 policy recommendations, the Delegates to the Section on Government and Nongovernment Organization were guided by the preferences expressed by State and local White House Conferences on Aging, and by the earlier Older American Forms. Discussion centered on the paramount problems of developing and sustaining strong and effective organization for and by the aging. Lacking this support structure, policies to meet the needs of the Na-

tion's older people have little chance of adoption, much less implementation. The following set of recommendations are directed toward building the organizational base for action, now and over the coming decade.

SECTION REPORT

Co-chairman Timothy W. Costello opened the Section meeting. He introduced the officials of the Section and invited Co-chairman Fred W. Cottrell to provide the Section Delegates with background and orientation for their work of the ensuing three days.

Co-Chairman's Statement

In this Section we concentrate on means by which older people can secure what they need. We particularly deal with the kinds of organization that are required, as contrasted with such things as changes in the values of individual older people. At times it seems as if we are faced with the same dilemma that confronted a mountaineer who was asked the way to a place on a neighboring mountain; after several false starts at giving the information, he finally said, "Mister, you can't get there from here."

The multiplicity of organizations, the differences between the constituencies they were set up to serve, the differences in priority among values assigned by different sets of clients, the relative power older people have in determining what will

be done in different parts of government, and in different nongovernmental agencies, make a single rational or logical plan seem unattainable. Perhaps the best we can do is to arrange things so that more of the things that older people want can be secured in an order that reflects their own priorities than has been possible in the past.

The effort to do this required that we find out something about their needs and their priorities, and the way existing organizations work. As a writer of the workbook used in this Section, I had to sample what was going on in all the States, at the national level, in county and local governments, and among at least the leading nongovernmental organizations. I was helped by the fact that since the 1961 Conference we have, through research and demonstration, been learning more and more about the programs and there are now many more knowledgeable people than in any previous times. Later, as Chairman of the Technical Committee, I was also made aware of the fact that both older people and experts are far from being in agreement as to what is wanted, what is being done, how well it is being done, and what changes in organization should be made. It is no wonder then that you may find it hard to discover clear lines to be recommended on the basis of adequate evidence that one rather than another cause will serve all older people better.

In preparing for the Conference, we were trying to cite for you the evidence that led one group to support one kind of organization and that which would cause another to take a different track. We wanted to focus your attention on a limited number of issues so that we would be able to get some action, rather than make so many statements that nobody who was trying to help older people could find out what they most wanted. Because we limited the topics we presented to you, some people suspected that by pointing to these proposals we were also trying to prevent discussion of, or resolutions on, a number of other topics of greater interest to them. This is not so. In the subsections it will be possible for any of you to propose new topics. Dr. Costello has discussed the rules under which we will operate. I am sure you will agree that they give ample opportunity to anyone who wishes to pro-

pose new policies, and if supported in your subsection and at Section levels, these will go into the Section report.

The most important thing to remember is that if too many of our proposals conflict with one another, or are contradictory to those which will be coming out of other Sections, we are not likely to be persuasive. What we must do is try to find the greatest common ground on which we can all stand. This may mean that a position held to be of very great significance by a particular minority will not be supported by enough roles to get into the Section report. Those who lose on this issue can take satisfaction in the gains they make on others.

Organization is a difficult subject to deal with. Those who think of it in terms of structure put great emphasis on locating an agency that deals with their concerns high up in the hierarchy of authority. Another point of view holds that it is political "clout" that gives power to any agency. So if somebody in office doesn't have a strong political support in our society at large he can't get much done, no matter where he is located on a chart, or what title he is given. Some of the matters you will have to decide on relate to these two somewhat different ideas about what makes an organization work.

Most of the organizations that deal with the problems of older people were developed to deal with problems that the aging share with other age groups. So, for example, health organizations are built up around the means to prevent or cure disease. Similarly, much public housing was developed for low income people, without reference to whether they are young or old. Organizations were not created so that one agency would deal with the health of older people, housing for older people, transportation for older people, and all other concerns of older people. The structure of government in Washington became what it is under the influence of these "functional" organizations. Here we must decide whether to devise means to increase emphasis on the needs of older people in each of these organizations, or try to create a special structure to coordinate work for the aging independently of the existing departments, divisions or offices.

While we are doing this in our Section, it will undoubtedly be true that other Sections of the Conference, dealing with substantive needs, will also be recommending changes that they think represent the best ways to solve the problems they are dealing with. So if you decide on one approach, you are likely to be supported by those who want "functional" autonomy, and will be opposed by these groups if you try to control all services for the aging in a single department. The conflict will show up not only in the reports of the White House Conference, but also at hearings before the Congress and in State and local government. These are the kinds of considerations we were trying to get you to think about.

In the first White House Conference we were divided over the degree to which older people should demand that there should be a strong advocate of their interests within government itself. Everything that I learned from studies for the workbook, from reactions of the Technical Committees and from Community and State Conferences, supported almost unanimously the idea that the time has come for Government to support leadership and advocacy of the interests of the aging. This is a position you may wish to support or to question. But the decision as to how strongly government is to advocate the elderly's concerns will have a bearing on all of the subsequent decisions that you make.

There is a general issue facing the country as to whether we are to continue to centralize decision-making in Washington, with a consequent increase in the power of the central government to distribute the wealth and other resources of the Nation. One aspect of this is the way service for older people is to be provided. Shall there be an increase in the power and functions of, say, the Social Security system, which is run almost without reference to State or local government or nongovernmental agencies? Or, on the other hand, should there be "devolution" with many more resources being placed in the hands of organizations that can immediately get feedback which shows them which are and which are not successful programs?

In the research I did, I found very widespread

approval of Title III programs which are run by State agencies, though there was a great deal of complaint, too. You will again need to recognize that many other Sections of the Conference will be making recommendations on this issue, and in the post-Conference era you will have to take their support or antagonism to your position into account.

Perhaps I have said enough about the complexity of the problems we face. It has been the genius of the American system that it has overcome almost impossible odds. In spite of the lack of a map or blueprint, I am sure that you will help find a way to get from where we are to where we want to go.

Preamble

The 1971 White House Conference on Aging has been divided into 14 Sections, 95 Subsections, and several Special Concerns Sessions, all considering a staggering array of problems and needs of our Nation's older population. Whatever their decisions, recommendations, and/or proposals, they ultimately must become the concern and responsibility of the Section on Government and Nongovernment Organization, if they are to be implemented.

This Section recognizes that the problems of the aging are statewide and nationwide; they require multiple solutions; they must first have local identification; they cannot and will not be met successfully without the involvement of all government and nongovernment agencies concerned with the aging; they demand a cooperative, correlated approach which extends needed services to all older persons; and they must be underwritten beyond speeches, proposals and laws, by commitments of manpower and sufficient funds.

Further, this Section recognizes that both governmental and nongovernmental agencies must act as advocates for the elderly and be held accountable both for what they do and for what they do not do, to advance the interest of older people.

Whatever organizational patterns are established and/or modified must now include focal

points of authority and responsibility at each level of government.

Finally, this Section introduces its own proposals with the recognition that society has grown so increasingly complex and interdependent no individual person and no individual agency can provide for the needs of people through independent efforts. The time has come to develop, support, and enhance an improved and strengthened moving organizational force which will lead to strong reforms and action whereby every older person in our land shall be privileged to live out his life in decency and with a sense of personal worth.

Recommendations

RECOMMENDATION I

Advocacy by Public and Voluntary Agencies

Public agencies should be empowered, and voluntary agencies encouraged, to undertake and/or pursue more vigorously the advocacy of older people's interests, drawing more fully upon direct communication with, and participation by, the elderly and/or their organizations and the general public.

RECOMMENDATION II

Government Organization for Aging

At all levels of government, a central office on aging should be established in the Office of the Chief Executive, with responsibility for coordinating all programs and activities dealing with the aging, fostering coordination between governmental and nongovernmental programs directly and indirectly engaged in the provision of services, and for planning, monitoring and evaluating services and programs. Each operating department should establish the post of Assistant Secretary for Aging with responsibility for maximizing the department's impact in relation to the needs of the older person. A coordinating council should be established in each central office of aging to be chaired by the director of the office, and should include the several department assistants on aging. At the Federal level, this central office should be implemented with the authority and funding

levels and full-time staff needed to formulate and administer policy, and should be assisted by an advisory council, and should be required to make an accurate and comprehensive annual report on its progress in resolving problems and meeting goals. This White House level office should have enough prestige and resources to assure that it will encourage the development of parallel units at the State and community levels.

RECOMMENDATION III

Intergovernmental Relationships

Relationships between agencies in aging and other public agencies should be characterized by mutual adjustments and cooperation at all governmental levels and by durable joint agreements of responsibility for research, comprehensive planning, and provision of services and facilities, and should be based on and directly responsive to older Americans' opinions and desires at the grass roots levels.

RECOMMENDATION IV

Governmental Funding and Standard Setting

Governmental responsibility, particularly for providing funds and establishing standards, must be emphasized if the necessary facilities and services are to be made available to older people. The delivery of services should make maximum use of voluntary and private organizations which can meet the standards established by government in consultation with consumers and the providers of service.

RECOMMENDATION V

Coordination and Support Policies

Overall agency activities in aging should be planned and organized to provide coordination and support in both vertical and horizontal dimensions. Local agencies should participate in the formulation of State plans; State agencies should participate in the formulation of comprehensive plans and national policies. Such interrelatedness should include governmental and nongovernmental organizations, private and voluntary agencies, and representatives of the elderly.

RECOMMENDATION VI

Private and Voluntary Efforts

Government at all levels should encourage and foster the participation of private enterprise and voluntary organizations, including those whose membership is drawn from among the elderly. Such efforts to meet the needs of older people should include: pilot research and demonstration projects, direct service programs, self-help programs, informational, educational and referral services, planning and training programs.

RECOMMENDATION VII

Entitlement to Services

Basic facilities and services should be provided as rights to which all older people are entitled and the opportunity to share these facilities and services ought to be available to all older people, while the adversely circumstanced must be entitled to special consideration.

RECOMMENDATION VIII

Rights of Older People

All efforts to meet the needs of older people, whether by governmental or private and voluntary agencies, should be consistent with: (a) the First Amendment freedoms of association and expression; (b) the right to participate in government-sponsored programs free from religious, racial, ethnic and age discrimination; and (c) protection of one's person and property, particularly in institutional settings.

RECOMMENDATION IX

Accountability for Policies on Aging

The integration of governmental activities in the field of aging should be improved by the Federal agencies, showing greater appreciation of the fact that the principle of accountability applies from the Federal to the State level, as well as from the States to the Federal administration. Federal accountability to the States should provide sufficient lead time when Federal policy and administrative changes are to be announced, as well as prior consultation regarding changes in appropriations. Federal agencies also should improve their com-

munication with State units on aging to provide advance clearance of direct Federal grants to individuals, organizations and agencies.

RECOMMENDATION X

U.S. House of Representatives

Special Committee on Aging

A special committee on the aging should be established in the United States House of Representatives, functioning in a comparable role to that of the United States Senate Special Committee on Aging.

RECOMMENDATION XI

Reordering National Priorities

National priorities must be reordered so as to allocate a greater share of our Nation's resources to meet the needs of its older citizens.

RECOMMENDATION XII

Post-Conference Action

Means should be found for a continuing "Conference" on the aging to aid in the follow-up of the recommendations of this White House Conference on Aging, which also would extend beyond the announced follow-up year of 1972 and even until the next White House Conference on Aging.

APPENDIX V
SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

State	Council Location				Comments
	To An Umbrella Agency	To An Independent Agency	To A Commission	Other	
Alabama					
Alaska			X		Council is at the chief executive level.
Arkansas	X			X	Council also serves as Governor's Advisory Council on Aging.
ARIZONA	X				
California		X			
Colorado	X				
Connecticut		X			
Delaware	X				
Florida	X				
Georgia				X	Council also serves as Governor's Advisory Council on Aging.
Hawaii		X			Identified as an independent council on aging.
Idaho		X			Council identified as a policy advisory council.
Illinois				X	Identified as an independent council on aging.
Indiana			X		
Iowa			X		Identified as an institute on aging rather than a council.
Kansas					
Kentucky	X				
Louisiana	X				
Maine	X				
Maryland					
Massachusetts					Council also has a strong role into policy recommendations.
Michigan	X				Massachusetts has two advisory councils on aging.
Minnesota				X	Michigan has both a commission and an advisory council.
Mississippi					Minnesota Board on Aging is designated agency on aging.
Missouri				X	Mississippi has both a council and an advisory committee.
Montana	X				Council is independent Governor's Council on Aging.
Nebraska					
Nevada	X			X	Nebraska has both a commission and an advisory panel.
New Hampshire					
New Jersey	X				
New Mexico	X				
New York					
North Carolina	X				
North Dakota					
Ohio			X		Ohio has a commission and two advisory councils.
Oklahoma	X				
Oregon	X				
Pennsylvania			X		
Rhode Island					
South Carolina			X		South Carolina has a commission and an advisory council.
South Dakota	X				
Tennessee			X		
Texas					
Utah	X			X	Texas has a Governor's Committee for policy-making and a council.
Vermont					Utah has a policy board and an advisory council.
Virginia				X	Vermont has an Office on Aging with an advisory council.
Washington	X				Identified as independent agency under Secretary of Human Resources.
West Virginia			X		West Virginia has an advisory council and a commission.
Wisconsin	X				
Wyoming				X	Identified as an independent council to the Governor.
Totals	<u>20</u>	<u>12</u>	<u>10</u>	<u>8</u>	

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

State	Purpose		Resolution or		Method of Communication		Comments
	Advisory Only	Advisory and Policy-Making	Memorandum	Informal Communication			
Alabama		X	X	X			An annual report is issued on council activities.
Alaska	X		X	X			
Arkansas	X		X	X			
ARIZONA	X		X	X			Written recommendations have been published.
California	X		X	X			Annual report on activities/findings/recommendations is issued.
Colorado	X		X	X			
Connecticut	X		X	X			Also used are special study committees.
Delaware	X		X	X			Annual report on accomplishments/recommendations is issued.
Florida	X		X	X			
Georgia	X		X	X			
Hawaii	X		X	X			
Idaho	X		X	X			
Illinois	X		X	X			
Indiana	X		X	X			
Iowa		X	X	X			Also used are committee recommendations and reports.
Kansas	X		X	X			
Kentucky	X		X	X			Also used are meetings with division director.
Louisiana	X		X	X			
Maine	X		X	X			Annual report is issued.
Maryland	X		X	X			Presentations are made to the Governor.
Massachusetts	X		X	X			
Michigan	X		X	X			Written reports are used.
Minnesota		X	X	X			Inter-agency agreements are used.
Mississippi		X	X	X			
Missouri	X		X	X			
Montana	X		X	X			
Nebraska	X		X	X			
Nevada	X		X	X			
New Hampshire	X		X	X			
New Jersey	X		X	X			
New Mexico	X		X	X			
New York	X		X	X			
North Carolina	X		X	X			
North Dakota	X		X	X			
Ohio	X		X	X			
Oklahoma	X		X	X			
Oregon	X		X	X			
Pennsylvania	X		X	X			
Rhode Island	X		X	X			
South Carolina	X		X	X			
South Dakota	X		X	X			Council schedules items for Commission agenda.
Tennessee	X		X	X			
Texas	X		X	X			Council meets and reports to Commission.
Utah	X		X	X			Biennial report on activities is issued.
Vermont	X		X	X			
Virginia	X		X	X			
Washington	X		X	X			
West Virginia	X		X	X			
Wisconsin	X		X	X			
Wyoming	X		X	X			
Totals	<u>44</u>	<u>6</u>	<u>40</u>	<u>26</u>			

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL
Advisory Duties

State	Respond to Requests	Advise on State Plan	Request Information	Initiate Action	Develop Legislation	Client Advocacy	Comments
Alabama	X	X	X	X	X	X	Other duty is to coordinate all state services to aging.
Alaska	X	X	X	X	X	X	
Arkansas	X	X	X	X	X	X	
ARIZONA	X	X	X	X	X	X	Sponsored Governor's conference on aging.
California	X	X	X	X	X	X	Council holds hearings on aging issues.
Colorado	X	X	X	X	X	X	
Connecticut	X	X	X	X	X	X	
Delaware	X	X	X	X	X	X	
Florida	X	X	X	X	X	X	
Georgia	X	X	X	X	X	X	
Hawaii	X	X	X	X	X	X	Council advises on all matters related to aging.
Idaho	X	X	X	X	X	X	
Illinois	X	X	X	X	X	X	
Indiana	X	X	X	X	X	X	Council reviews committees' and program staff's proposals.
Iowa	X	X	X	X	X	X	
Kansas	X	X	X	X	X	X	
Kentucky	X	X	X	X	X	X	
Louisiana	X	X	X	X	X	X	
Maine	X	X	X	X	X	X	Council operates nursing home ombudsman program
Maryland	X	X	X	X	X	X	
Massachusetts	X	X	X	X	X	X	Council also reviews grants.
Michigan	X	X	X	X	X	X	
Minnesota	X	X	X	X	X	X	
Mississippi	X	X	X	X	X	X	
Missouri	X	X	X	X	X	X	
Montana	X	X	X	X	X	X	
Nebraska	X	X	X	X	X	X	
Nevada	X	X	X	X	X	X	
New Hampshire	X	X	X	X	X	X	
New Jersey	X	X	X	X	X	X	
New Mexico	X	X	X	X	X	X	
New York	X	X	X	X	X	X	Council chairs public hearings.
North Carolina	X	X	X	X	X	X	
North Dakota	X	X	X	X	X	X	Council reviews training and manpower plan.
Ohio	X	X	X	X	X	X	Council developed legislative coalition and holds hearings.
Oklahoma	X	X	X	X	X	X	
Oregon	X	X	X	X	X	X	
Pennsylvania	X	X	X	X	X	X	
Rhode Island	X	X	X	X	X	X	
South Carolina	X	X	X	X	X	X	
South Dakota	X	X	X	X	X	X	Council reviews grant requests.
Tennessee	X	X	X	X	X	X	
Texas	X	X	X	X	X	X	
Utah	X	X	X	X	X	X	
Vermont	X	X	X	X	X	X	Participates in manpower training plan and area agency assessment.
Virginia	X	X	X	X	X	X	
Washington	X	X	X	X	X	X	
West Virginia	X	X	X	X	X	X	Participates in pre-retirement program.
Wisconsin	X	X	X	X	X	X	
Wyoming	X	X	X	X	X	X	Sponsored first Governor's Conference on Aging
Totals	38	45	40	29	37	38	

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

State	Recipient of Advice				Comments
	Umbrella Agency Director	Governor	Commission Director	Agency on Aging Director	
Alabama		X	X		Another recipient of advice is the legislature. Other recipients are the legislature, press and federal government.
Alaska		X		X	
Arkansas	X	X	X	X	Other recipients are the legislature and other state agencies. Other recipients are the legislature and area agencies on aging. Other recipients include the legislature and aging division director.
ARIZONA	X	X			
California		X		X	Other recipient is the aging division director. Other recipient is aging services director. Other recipients are director of aging section, other state agencies.
Colorado		X			
Connecticut			X		Other recipients are commission director and committees. Other recipient is legislature. Other recipient is aging division director. Recipient of advice is head of bureau on aging services. Other recipient is legislature.
Delaware	X	X		X	
Florida	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Georgia	X	X			
Hawaii		X		X	Other recipients are legislature and state agencies. Other recipient is aging division director.
Idaho		X		X	
Illinois		X		X	Other recipients are commission director and committees. Other recipient is legislature. Other recipient is aging division director. Recipient of advice is head of bureau on aging services. Other recipient is legislature.
Indiana		X		X	
Iowa		X	X		Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Kansas		X		X	
Kentucky	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Louisiana	X	X			
Maine	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Maryland	X	X			
Massachusetts	X		X	X	Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Michigan			X	X	
Minnesota		X		X	Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Mississippi		X		X	
Missouri		X		X	Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Montana		X			
Nebraska	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Nevada	X	X			
New Hampshire		X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
New Jersey		X			
New Mexico	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
New York	X	X			
North Carolina	X	X		X	Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
North Dakota	X	X		X	
Ohio		X	X		Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Oklahoma		X			
Oregon	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Pennsylvania		X			
Rhode Island		X		X	Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
South Carolina		X			
South Dakota		X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Tennessee		X			
Texas		X	X		Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Utah		X		X	
Vermont	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Virginia	X	X			
Washington	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
West Virginia	X	X			
Wisconsin	X	X			Other recipients are legislature and state agencies. Recipient of advice is director of aging services.
Wyoming	X	X			
Totals	<u>17</u>	<u>36</u>	<u>16</u>	<u>18</u>	

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

State	Policy Making Duties			Comments
	Develop State Plan	Allocate Resources	Direct Staff	
Alabama	X	X		Additional policy-making duty is the coordination of all services to aged.
Alaska				
Arkansas				Council advises on all matters including policy-making.
ARIZONA				
California				
Colorado				
Connecticut				
Delaware				
Florida				
Georgia				
Hawaii				
Idaho				
Illinois				Council reviews and comments on all proposed policy.
Indiana				
Iowa		X		Council proposes and testifies on state legislation.
Kansas				
Kentucky				
Louisiana				
Maine			X	
Maryland	X	X		
Massachusetts				
Michigan	X	X		
Minnesota		X		
Mississippi		X		
Missouri				
Montana	X	X		
Nebraska		X		
Nevada				
New Hampshire	X	X		
New Jersey				
New Mexico				
New York				
North Carolina				
North Dakota				
Ohio				
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South Carolina				
South Dakota				
Tennessee				
Texas				
Utah				
Vermont				
Virginia				
Washington				
West Virginia				
Wisconsin				
Wyoming				
Totals	<u>5</u>	<u>7</u>	<u>5</u>	
				<u>42</u>

Council provides advice on all aspects, including policy.

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

State	Meeting Frequency			Comments
	Monthly	Bi-Monthly	Quarterly	
Alabama				
Alaska				
Arkansas			X	Council meets every other month.
ARIZONA			X	Council meets every four months.
California	X			
Colorado	X			
Connecticut	X			
Delaware	X			
Florida	X			
Georgia	X			
Hawaii	X			
Idaho			X	
Illinois		X		
Indiana	X			
Iowa		X		
Kansas			X	Executive Committee meets in months when Council does not. Council meets monthly during legislative session and quarterly otherwise.
Kentucky	X			
Louisiana	X			
Maine	X			
Maryland	X			
Massachusetts			X	Subcommittees meet between monthly meetings.
Michigan			X	
Minnesota	X			
Mississippi	X			
Missouri			X	
Montana			X	
Nebraska			X	
Nevada		X		
New Hampshire	X			
New Jersey				
New Mexico			X	Council meets ten times a year.
New York			X	
North Carolina		X		
North Dakota			X	
Ohio		X		
Oklahoma			X	Council also meets with Title III nutrition council.
Oregon	X			
Pennsylvania			X	Council now meets monthly. After 7/1/79 will meet bi-monthly.
Rhode Island	X			
South Carolina			X	
South Dakota		X		
Tennessee			X	
Texas			X	
Utah	X			Council also meets upon call during plan development.
Vermont	X			
Virginia		X		Special meetings also are called to review issues of concern.
Washington				
West Virginia	X			Council also meets once a year with the Commission.
Wisconsin	X			Council also meets upon call.
Wyoming	X			
Totals	<u>18</u>	<u>8</u>	<u>19</u>	<u>5</u>

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL,

Fiscal Year Expenditures

State	1975-76	1976-77	1977-78	Comments
Alabama		NOT AVAILABLE		
Alaska	\$15,000	\$20,000	\$25,000	
Arkansas	N/A	1,500	1,500	Expenditure amount does not include staff costs.
ARIZONA	6,064	6,129	31,123	
California		NOT AVAILABLE		
Colorado	N/A	1,250	1,250	
Connecticut	1,528	746	222	
Delaware	-0-	-0-	-0-	
Florida	N/A	N/A	5,569	Council members completely volunteer their services.
Georgia	N/A	N/A	50,000	
Hawaii	2,347	2,327	2,680	Expenditure amount does not include staff costs.
Idaho	7,989	8,642	7,396	Expenditure amount does not include staff costs.
Illinois		NOT AVAILABLE		
Indiana	789	2,375	8,644	Expenditure amount does not include staff costs.
Iowa	3,374	6,286	5,443	
Kansas	N/A	N/A	2,006	Expenditure amount does not include staff costs.
Kentucky	44,160	44,160	44,160	
Louisiana	N/A	N/A	2,064	Expenditure amount does not include staff costs.
Maine		NOT AVAILABLE		
Maryland	1,000	1,000	1,000	Staff costs not included. FY 1979 budget is \$50,000.
Massachusetts		NOT AVAILABLE		
Michigan	N/A	N/A	5,000	
Minnesota		NOT AVAILABLE		
Mississippi		NOT AVAILABLE		
Missouri	N/A	N/A	34,329	Agency staff are assigned to certain areas. Expenditure amount does not include staff.
Montana	5,000	5,000	5,000	
Nebraska		NOT AVAILABLE		
Nevada	4,000	5,350	7,680	Expenditure amount does not include staff costs.
New Hampshire		NOT AVAILABLE		
New Jersey	N/A	N/A	420	Expenditure amount does not include staff costs.
New Mexico		NOT AVAILABLE		
New York		NOT AVAILABLE		
North Carolina	10,707	10,322	8,426	Expenditure amount does not include staff costs.
North Dakota	5,000	5,000	5,000	Expenditure amount does not include full cost of staff.
Ohio		NOT AVAILABLE		
Oklahoma	-0-	-0-	-0-	
Oregon	15,000	15,000	15,000	Expenditure amount does not include staff costs.
Pennsylvania	N/A	N/A	251,000	
Rhode Island	50	200	1,000	Expenditure amount does not include staff costs.
South Carolina	5,000	5,000	4,672	Expenditure amount does not include staff costs.
South Dakota	N/A	7,987	7,775	Expenditure amount does not include staff costs.
Tennessee	N/A	N/A	5,021	Expenditure amount does not include staff costs.
Texas		NOT AVAILABLE		
Utah	-0-	1,000	2,200	Expenditure amount does not include staff costs.
Vermont		NOT AVAILABLE		
Virginia		NOT AVAILABLE		
Washington	N/A	7,300	9,900	Expenditure amount does not include staff costs.
West Virginia	4,500	4,500	4,500	
Wisconsin	N/A	N/A	3,000	Expenditure amount does not include staff costs.
Wyoming	6,000	6,000	6,000	Expenditure amount does not include staff costs.

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

Staff Support to Councils

Alabama	No staff are regularly assigned to support the Council activities.
Alaska	No staff are regularly assigned to support Council activities.
Arkansas	Professional and clerical staff are regularly assigned part-time to the Council.
ARIZONA	Staff assigned has generally been limited to part-time clerical and incidental professional support.
California	Two professional and three clerical are assigned to assist the Council.
Colorado	No staff are regularly assigned to the Council.
Connecticut	No staff are regularly assigned to the Council.
Delaware	Part-time secretarial support is provided to the Council.
Florida	No staff are regularly assigned to the Council.
Georgia	One professional staff person is assigned to the Council.
Hawaii	Staff are regularly assigned to the Council for assistance and support.
Idaho	Seven professionals and one clerical staff member are assigned part-time to the Council.
Illinois	One professional and one clerical staff member are supplemented by part-time assistance of other staff.
Indiana	Eight professional staff work part-time with specific committees of the Council.
Iowa	No staff are assigned to regularly assist the Council.
Kansas	Staff support to the Council is provided on an "as needed" basis.
Kentucky	One professional and one clerical staff member are assigned to Council activities.
Louisiana	Professional part-time staff are assigned to the Council.
Maine	Three professional and two clerical are assigned to assist/support the Council.
Maryland	Council is provided staff as necessary.
Massachusetts	Professional staff are assigned part-time to the Council.
Michigan	No staff are regularly assigned to the Council.
Minnesota	Staff are regularly assigned to assist the Aging Board.
Mississippi	Staff are regularly assigned to support the Council.
Missouri	Agency staff are assigned to work in certain Council areas on a part-time basis.
Montana	No staff are regularly assigned to the Council.
Nebraska	Staff are regularly assigned to the Council.
Nevada	Staff assistance is provided when requested.
New Hampshire	Staff are regularly assigned to Council activities.
New Jersey	Council uses staff within the Bureau on Aging.
New Mexico	Staff are regularly assigned to Council, but amount of staff varies with need.
New York	One professional staff person is assigned part-time to the Council.
North Carolina	Two professional and one clerical staff are assigned part-time to the Council.
North Dakota	Two professional and two clerical staff are assigned full-time to the Council.
Ohio	One clerical staff member is assigned part-time to the Council.
Oklahoma	No staff are regularly assigned to the Council.
Oregon	One professional staff member and other support staff are assigned part-time to the Council.
Pennsylvania	Two professional and two clerical staff are assigned to the Council.
Rhode Island	One full-time professional staff member is assigned full-time to the Council.
South Carolina	Professional and clerical staff are assigned part-time to the Council.
South Dakota	Staff are provided by Office on Aging as needed.
Tennessee	Three professional and one clerical staff are regularly assigned part-time to the Council.
Texas	No staff are regularly assigned to Council activities.
Utah	One professional and one clerical staff are assigned part-time to the Council.
Vermont	No staff are regularly assigned to the Council.
Virginia	Clerical staff are assigned part-time. Director of Office on Aging serves as Secretary to the Board.
Washington	Professional and clerical staff are assigned part-time to the Council.
West Virginia	No staff are regularly assigned to support Council activities.
Wisconsin	Professional staff are assigned part-time to the Council.
Wyoming	Staff are identified to work with the Council committees on specific areas.

SURVEY OF STATE ADVISORY
COUNCILS ON AGING
BY THE OFFICE OF THE AUDITOR GENERAL

	Established Council Budget		Number of Council Members
	<u>Yes</u>	<u>No</u>	
	Alabama		X
Alaska		X	9
Arkansas		X	35
ARIZONA		X	15
California	X		25
Colorado	X		13
Connecticut		X	21
Delaware		X	9
Florida		X	15
Georgia	X		20
Hawaii		X	28
Idaho		X	17
Illinois		X	31
Indiana		X	90
Iowa	X		7
Kansas		X	15
Kentucky		X	11
Louisiana		X	15
Maine	X		15
Maryland		X	13
Massachusetts		X	25
Michigan		X	36
Minnesota	X		25
Mississippi	X		21
Missouri	X		27
Montana		X	26
Nebraska	X		12
Nevada		X	9
New Hampshire	X		11
New Jersey	X		11
New Mexico	X		9
New York		X	21
North Carolina		X	30
North Dakota	X		10
Ohio		X	14
Oklahoma		X	15
Oregon	X		17
Pennsylvania	X		31
Rhode Island		X	20
South Carolina		X	17
South Dakota		X	15
Tennessee		X	20
Texas		X	17
Utah	X		20
Vermont		X	15
Virginia		X	17
Washington	X		15
West Virginia		X	8
Wisconsin	X		40
Wyoming		X	17
Totals	<u>18</u>	<u>32</u>	

APPENDIX VI

DEPARTMENT OF LAW
OFFICE OF THE

Attorney General

STATE CAPITOL
Phoenix, Arizona 85007
March 6, 1979

Robert K. Corbin
XXXXXXXXXXXXXXXXXX
ATTORNEY GENERAL



Ms. Coni Good, Supervisor
Performance Audit Division
Arizona Auditor General's Office
Suite 600, 112 North Central Avenue
Phoenix, Arizona 85004

Dear Coni:

This letter is in response to your letter to me dated March 1, 1979, in which you purportedly described the role of this office in the review of contracts entered into by the State Department of Economic Security.

At the outset, it should be pointed out that, with one exception, there is no legal requirement for any State agency to submit contracts to this office for our review; rather, aside from the one exception, the State agencies submit contracts for our review on a voluntary basis. The only exception is for those contracts which constitute intergovernmental agreements covered by A.R.S. §§11-951 et seq.

The standard for our review of intergovernmental agreements is set forth in A.R.S. §11-952.D which provides that this office shall determine whether the agreement is in proper form and is within the powers and authority granted under Arizona law to the agency. Our standard for review of other types of contracts is the same. If it appears from the face of a contract or as a result of independent information which we may have that the contract was entered into in violation of the conflict of interest or bidding laws, then we do not approve it. We do not, however, make any independent investigation to determine whether such laws are complied with unless somebody brings a possible violation to our attention.

If you have any questions concerning the foregoing, please let me know. Thank you.

Sincerely yours,

BOB CORBIN
Attorney General

A handwritten signature in dark ink, appearing to read "Alan S. Kamin", written over a horizontal line.

ALAN S. KAMIN
Assistant Attorney General

ASK/hf

MEMO

March 12, 1979

TO: Douglas R. Norton, Auditor General
FROM: Arizona Legislative Council
RE: Request for Research and Statutory Interpretation (0-79-1)

This is in response to a request made on your behalf on March 2, 1979 by Gerald A. Silva.

QUESTIONS PRESENTED:

1. Does the Bureau Chief on Aging of the Department of Economic Security (DES) have authority to establish an advisory council and appoint members?
2. Are the members of an advisory council that was established by a departmental official eligible for per diem and reimbursement of travel expenses?

I. DEPARTMENT OF ECONOMIC SECURITY SECTION ON AGING: POWERS AND DUTIES

The department of economic security section on aging was established by Laws 1972, chapter 142, section 68. Applicable statutory law is contained in Title 46, chapter 1, article 7, Arizona Revised Statutes.

The section is required by statute to:

1. Cooperate with the federal commissioner on aging and provide information on aging to the federal department of health, education and welfare.
2. Assist the department of economic security in preparing a state plan for the administration of the state program on aging.
3. Serve as a clearinghouse for information related to state problems of aging, gather and disseminate information and conduct hearings, conferences and special studies.
4. Develop plans, conduct and arrange for research and demonstration programs.
5. Provide consultation concerning local community programs and develop, coordinate and assist public and private organizations which serve the aging.

6. Prepare, publish and disseminate educational materials dealing with aging, stimulate public awareness of aging problems by public education and encourage the governor and the legislature to develop programs to deal with aging problems.

7. Stimulate more effective use of existing resources and available services for the aged and aging including the coordination of activities of state departments and collaboration with other officials, agencies and associations.

An advisory council on aging is also provided for, with membership appointed by the department director, subject to the approval of the governor (Arizona Revised Statutes section 46-183). The only function of this advisory council prescribed by statute is to advise the department on all matters or problems concerning the administration of the state plan on aging (Arizona Revised Statutes section 46-184). Executive Order No. 77-4 designates this advisory council as the advisory council to the governor on the problems of aging.

There is no statutory authority for a bureau chief of the section on aging to establish or appoint an advisory council.

II. POWER OF DEPARTMENT DIRECTOR TO ESTABLISH AND APPOINT SPECIAL PURPOSE COUNCILS

The director of the department of economic security has authority to establish "any special purpose councils as are required by state or federal law, rules or regulations or determined to be essential to the public's interest." (Arizona Revised Statutes section 41-1981, subsection E).

Before appointing members of such councils the director must consult with the economic security council and receive the approval of the governor.

Members of special purpose councils may not receive compensation but are eligible to receive travel and subsistence expenses as provided by law for other state officers and employees.

In your request you stated that the bureau chief of the Bureau on Aging, established the Indian Advisory Council on Aging in 1977. In order for the Indian Advisory Council on Aging to be a validly constituted special council, there must exist:

1. A finding that it was required by state or federal law or regulations or a specific finding by the director that it was in the public interest.
2. A record of the director's consultation with the economic security council.
3. A record of the governor's approval.

If these requirements had been met, members of the council would seem to have been properly appointed to public office under the authority of the departmental director.

However, the power to appoint is inherent to certain executive positions. For example, persons employed in the office of the governor could properly be assigned the function of developing lists and screening qualifications of potential appointees, but the power to make certain appointments unquestionably rests with the actual incumbent of the office of the governor. Since the director of a department has in this instance been given statutory authority to make certain appointments, the exercise of the function cannot properly be delegated. Moreover, in the instant situation a review of federal and state law and regulations indicated no requirement for a council so the director's appointment of a council could legally be based only on the director's determination that such an advisory council was essential to the public interest. Thus we must conclude that a bureau chief cannot properly exercise the authority to make a determination of public interest and appoint an advisory council whose membership would become eligible for the subsistence and travel expense reimbursement authorized by law for state officers and employees under the authority granted to the departmental director under Arizona Revised Statutes, section 41-1981. Additionally, we are unable to find any other authority by which a departmental bureau chief could validly establish positions as public officers for such advisory council members.

III. PUBLIC OFFICERS

Per diem subsistence and the reimbursement of travel expenses are payable by the state to its public officers and employees under Title 38, chapter 4, article 2, Arizona Revised Statutes. "Officer" or "public officer" is defined for the purposes of Title 38, Arizona Revised Statutes, as the "incumbent of any office, member of any board or commission, or his deputy or assistant exercising the powers and duties of the officer, other than clerks or mere employees of the officer." (Arizona Revised Statutes section 38-101, paragraph 3). "Office", "board" or "commission" means "any office, board or commission of the state or any political subdivision thereof, the salary or compensation of the incumbent or members of which is paid from a fund raised by taxation or by public revenue." (Arizona Revised Statutes section 38-101, paragraph 1).

The Arizona Supreme Court stated in Tomaris v. State, 71 Ariz. 147 (1950) three requisites for a position to be a public office:

- 1) The specific position must be created by law.
- 2) There must be certain definite duties imposed by law on the incumbent.
- 3) The duties must involve some portion of the sovereign power.

Specifically, the Indian Advisory Council on Aging appears to meet none of these requirements. Hence, Arizona case law indicates that members of boards created by a department bureau chief are not "public officers" who are eligible to receive subsistence payments and reimbursement for travel expenses.

IV. CONCLUSIONS

A review of pertinent statutes and case law reveals no authority for a department of economic security bureau chief to establish an advisory council and appoint members. However, the statutes do provide this authority for the director of the department. The authority to determine that an advisory council is essential to the public interest and to provide for and appoint members to such a council does not appear to be delegable.

Support for the conclusion that members of this advisory council are not eligible for reimbursement for travel and subsistence expenses as public officers comes from the apparent failure to meet the standards established by the Arizona Supreme Court in the Tomaris case.

If the correct statutory procedures had been followed by the department director to establish the Indian Advisory Council on Aging as a special purpose council under statutory authority with the proper assignment of definite duties in the exercise of some sovereign power, members of the council would appear to have been eligible to receive reimbursement of travel and subsistence expenses. In this case, since the Indian Advisory Council on Aging was appointed by a bureau chief who lacked authority to make such appointments, the members of the council would not appear to be eligible to receive payment of per diem subsistence or reimbursement of travel expenses.

Please contact this office if you have further questions.

cc: Gerald A. Silva
Performance Audit Manager



APPENDIX VIII

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGIONAL OFFICE
50 UNITED NATIONS PLAZA
SAN FRANCISCO, CALIFORNIA 94102

April 10, 1979

OFFICE OF
HUMAN DEVELOPMENT
SERVICES
OHDS/AoA/IX

Coni Good, Supervisor
Performance Audit Division
State of Arizona
Office of the Auditor General
112 North Central Avenue, Suite 600
Phoenix, Arizona 85004

Dear Ms. Good:

Please excuse the delay in responding to your letter of February 28th addressed to Mr. Correa of my staff. Travel assignments away from the office have prevented me from responding before this time.

I am in agreement with the contents of your letter with the exception of your statement in #5 of your letter: "The passage of amendments to the Older Americans Act has caused the issues of representation to be most."* Despite the fact that the law no longer specifically requires a State Agency Advisory Council with a stipulated consumer and minority representation; it is possible that the new regulations will contain such a provision. Moreover, the present regulations which stipulates consumer and minority representation are still in effect, and remain in effect until such time as new regulations are issued.

Please feel free to contact me or my staff if you have any further questions.

Sincerely,

John F. McCarthy
John F. McCarthy
Regional Program Director
AoA Regional Office

* Should be "moot".