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*Older Americans Act: Funding Formulas*

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**Abstract.** The Older Americans Act (OAA) is the major vehicle for the delivery of social and nutrition services for older persons. The act's statutory funding formulas determine state allotments under Title III, Grants for State and Community Programs; Title V, the Community Service Senior Opportunities Act; Title VI, Grants for Older Native Americans; and, Title VII, Vulnerable Elder Rights Protection Activities. The OAA Amendments of 2006 (P.L.109-365) reauthorized all programs under the act through FY2011. Among other things, P.L.109-365 changed the formula allocation for most Title III programs. No changes were made to Title V, VI, or VII formulas. This report describes the OAA's process for allocating funds under current law.

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## CRS Report for Congress

# Older Americans Act: Funding Formulas

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### Summary

The Older Americans Act (OAA) is the major vehicle for the delivery of social and nutrition services for older persons. The act's statutory funding formulas determine state allotments under Title III, Grants for State and Community Programs; Title V, the Community Service Senior Opportunities Act; Title VI, Grants for Older Native Americans; and, Title VII, Vulnerable Elder Rights Protection Activities. The OAA Amendments of 2006 (P.L.109-365) reauthorized all programs under the act through FY2011. Among other things, P.L.109-365 changed the formula allocation for most Title III programs. No changes were made to Title V, VI, or VII formulas. This report describes the OAA's process for allocating funds under current law.

**Background.** Originally enacted in 1965 (P.L. 89-73), the Older Americans Act (OAA) supports a wide range of social services and programs for older persons. The OAA includes the following grant programs that provide funding to states based on statutory formulas: Title III, Grants for State and Community Programs on Aging; Title V, the Community Service Senior Opportunities Act (formerly titled the Older American Community Service Employment Act); Title VI, Grants for Older Native Americans;<sup>1</sup> and, Title VII, Vulnerable Elder Rights Protection Activities. These formula grants fund programs that assist older Americans with supportive services, nutrition, disease prevention and health promotion, family caregiver support, and community service employment, and programs that help residents of long-term care facilities to resolve complaints and prevent elder abuse, neglect, and exploitation.

On October 17, 2006, President Bush signed H.R. 6197 (P.L. 109-365), the Older Americans Act Amendments of 2006. The law reauthorizes all OAA programs for five years through FY2011. P.L. 109-365 changed the Title III formula for supportive

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<sup>1</sup> Title VI, Grants for Older Native Americans, distributes funds for supportive and nutrition services to Indian tribal organizations based on the amount each organization received in FY1991. If funds for a given year exceed the amount provided in FY1991, then the grant amount is increased to equal or approximate the amount the organization received in 1980, or an amount the Assistant Secretary considers sufficient.

services, congregate nutrition services, home-delivered nutrition services, and disease prevention and health promotion services to ensure that every state receives at least its FY2006 amount, while phasing out the provision that guarantees every state a share of any increase in total funding above FY2006. No changes were made to the other grant formulas in the act.

**Title III — Grants for State and Community Programs on Aging.** Title III authorizes grants to state and area agencies on aging in all 50 states, the District of Columbia, Puerto Rico, and the U.S. territories to act as advocates on behalf of, and to coordinate programs for, older persons (defined in the law as those aged 60 and older). The Administration on Aging (AoA), within the Department of Health and Human Services (DHHS), allocates Title III funds to state agencies on aging. The states, in turn, award funds to approximately 655 area agencies on aging, which are designated by states to operate within specified planning and service areas. (States determine the manner in which they distribute funds to area agencies on aging.)

As the OAA's largest component, spending under Title III accounted for 70% of the act's total FY2006 appropriations (\$1.24 billion out of \$1.78 billion).<sup>2</sup> States receive separate allotments of funds for the following six programs authorized under Title III: (1) supportive services and senior centers, (2) congregate nutrition services, (3) home-delivered nutrition services, (4) nutrition services incentive grants, (5) disease prevention and health promotion services, and (6) family caregiver support services.

To determine state allotments, a separate allocation is calculated for each of the six grant programs. The same formula is used to determine state allocations for supportive services and centers, congregate nutrition services, home-delivered nutrition services, and disease prevention and health promotion services. The formulas for nutrition service incentive grants and family caregiver services use different factors. The following section describes the different Title III allocation formulas.

**Allocation for Supportive Services and Centers, Congregate Nutrition and Home-Delivered Nutrition Services, and Disease Prevention and Health Promotion.** State allotments are based on a population formula factor that is defined as each state's relative share of the total U.S. population aged 60 years and older. For the purposes of this calculation, the U.S. population aged 60 and older includes all states, the District of Columbia, Puerto Rico, and the U.S. territories. Population data are from annual population estimates published by the U.S. Census; the reference date for estimates is July 1. There is a two-year time lag between the reference year of the population estimates and the respective appropriation year. For example, in FY2006, state allotments based on the population aged 60 and older were calculated using 2004 estimates.

For the purpose of determining state allotments, the law requires that allotments meet two criteria. The first criterion is that states (including the District of Columbia and

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<sup>2</sup> For further information, see CRS Report RL31336, *Older Americans Act: Programs, Funding, and 2006 Reauthorization (P.L. 109-365)*, by Carol O'Shaughnessy and Angela Napili.

Puerto Rico) receive a minimum amount of funds, which is defined as half of 1% of the total grant appropriation for the respective fiscal year.<sup>3</sup>

The second criterion is the “hold harmless” provision. Prior to the 2006 reauthorization, if funding exceeded the FY2000 amount, states received no less than their FY2000 allotment plus 20% of the percentage increase above the FY2000 program appropriation for each of the four programs. The latter provision is often referred to as the “guaranteed growth” provision. If funding for a given year was equal to or less than FY2000, states received an allotment in proportion to their respective FY2000 allotments.

*OAA Amendments of 2000.* The way in which the AoA distributed Title III funds to states was a concern for Congress in the 2000 reauthorization.<sup>4</sup> A 1994 General Accounting Office (now the Government Accountability Office, or GAO) report found that the method AoA used did not distribute funds using the most recent population data.<sup>5</sup> Instead, AoA allotted funds to states, first according to an amount equal to their FY1987 “hold harmless” allocations, with the remainder of the appropriations allotted to states based on their relative share of the population aged 60 and over, according to the most recently available estimates of state population. This negatively affected states with faster-growing older populations, since the majority of funds were being distributed according to population estimates that did not reflect the most recent trends. The GAO report recommended that AoA revise its methodology for distributing funds to states.

In response to these concerns, the 2000 reauthorization resulted in the following changes to the law: (1) Congress clarified the law to ensure that, first, funds were allotted to states based on the most recent population data;<sup>6</sup> (2) Congress created an FY2000 “hold harmless” requirement, thereby ensuring that no state would receive less than it received in FY2000; and (3) Congress created the “guaranteed growth” provision, ensuring that all states would receive a share of any appropriations increase over the FY2000 level.

*OAA Amendments of 2006.* The Title III funding formula became a major point of contention for the 109<sup>th</sup> Congress during the 2006 reauthorization debate. Congress revisited the FY2000 “hold harmless” requirement and “guaranteed growth” provision. These issues divided Members from states with relatively faster-growing elderly populations from lawmakers representing states with relatively slower growth in their older populations. High-growth states argued that the “hold-harmless” provisions in current law provided protections to states whose populations were not increasing as fast as others, resulting in an inequitable distribution of funds that disadvantage high-growth states.

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<sup>3</sup> Guam and the U.S. Virgin Islands are allotted no less than one-quarter of 1% of the total grant appropriation, and American Samoa and the Commonwealth of the Northern Mariana Islands are allotted no less than one-sixteenth of 1% of the total grant appropriation.

<sup>4</sup> For further information, see CRS Report RL30055, *Older Americans Act: 106<sup>th</sup> Congress Legislation*, by Carol O’Shaughnessy.

<sup>5</sup> U.S. General Accounting Office (now the Government Accountability Office). *Older Americans Act: Title III Funds Not Distributed According to Statute*, GAO/HEHS-94-37, January 1994.

<sup>6</sup> After unsuccessful attempts to reauthorize the OAA by the 104<sup>th</sup> and 105<sup>th</sup> Congresses, the 106<sup>th</sup> Congress approved the Older Americans Act Amendments of 2000 (H.R. 782, P.L. 106-501, signed Nov. 13, 2000). The Title III funding formula was a controversial issue during the six years of congressional debate on reauthorization.

The 2006 reauthorization ultimately resulted in changes to the law as follows: (1) Congress changed the formula to ensure that, provided sufficient funds, every state receives at least its FY2006 amount (creating a new fiscal year “hold harmless” amount); and (2) Congress phased out the guaranteed growth provision, reducing the share of any increase in appropriations by 5 percentage points annually beginning in FY2008. Over the next four years, the guaranteed growth provisions will be

- 20% of the percentage increase in appropriations from FY2006 to FY2007;
- 15% of the percentage increase in appropriations from FY2006 to FY2008;
- 10% of the percentage increase in appropriations from FY2006 to FY2009; and
- 5% of the percentage increase in appropriations from FY2006 to FY2010.

In FY2011, the formula will not include the guaranteed growth provision; thus the formula will be as follows: (1) states will receive an allotment based on their population formula factor; (2) states will receive a minimum grant amount of at least half of 1%; and (3) states will receive no less than their FY2006 allotments.

**Allocation for Nutrition Services Incentive Grants.** Funds for nutrition services incentive grants are allotted to states based on a formula that takes into account the number of meals served by each state’s nutrition program in the prior year.

**Allocation for Family Caregiver Support Program.** Funds for the family caregiver support program are allotted to states based on each state’s relative share of the population aged 70 years and older. States receive a minimum grant amount, which is defined as half of 1% of the total grant appropriation for the respective fiscal year.<sup>7</sup> There is no hold harmless or guaranteed growth provision in the state formula allocation for this grant program.

**Title V — Community Service Senior Opportunities Act.** Title V authorizes the older American community service employment program. Administered by the Department of Labor (DOL), Title V is OAA’s second largest program and is the only federally subsidized employment program for low-income older persons (defined in the law as those age 55 and older). Its FY2006 funding of \$432.3 million represents almost one-quarter of the act’s total funding.<sup>8</sup>

DOL allocates Title V funds for grants to state agencies in all 50 states, the District of Columbia, Puerto Rico, and the U.S. territories, and to national organizations. To determine grant allotments for each state, a separate allocation is calculated for each grant type. The total Title V state allotment is the sum of its respective state agency grantee allotment and national organization grantee allotment.

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<sup>7</sup> Guam and the U.S. Virgin Islands are allotted no less than one-quarter of 1% of the total grant appropriation, and American Samoa and the Commonwealth of the Northern Mariana Islands are allotted no less than one-sixteenth of 1% of the total grant appropriation.

<sup>8</sup> For further information, see CRS Report RL31336, *The Older Americans Act: Programs, Funding, and 2006 Reauthorization (P.L. 109-365)*, by Carol O’Shaughnessy and Angela Napili.

The Title V funding formula has been a long-standing issue for Congress.<sup>9</sup> During the 2006 reauthorization, the original House bill (H.R. 5293) included a provision to update the “hold harmless” year in the Title V formula from FY2000 to FY2006; however, the Senate bill (S. 3570) did not include this provision. The compromise bill (H.R. 6197) enacted into law made no changes to the Title V formula. The following describes the Title V formula allocation.<sup>10</sup>

Before allocation of funds to states, DOL is required to reserve funds as follows:

- up to 1.5% of the total appropriation for Section 502(e) demonstration projects, pilot projects, and evaluation projects;
- 0.75% of the total appropriation for Guam, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and
- “such amount as may be necessary” for national grants to public or private organizations serving eligible Indians and Pacific Island and Asian Americans.

After these reservations, the remaining funds are divided into two amounts, one for all state agency grantees and the other for all national organization grantees. The allocation for these amounts is dependent on program funding. If funds for a given year are equal to their FY2000 level, then amounts set aside for all state agency and all national organization grantees are in proportion to their respective FY2000 levels. If funds for a given year are less than their FY2000 levels, then total amounts for the state and national grantees are reduced proportionately. If funds for a given year exceed the FY2000 level, up to \$35 million of the excess is to be distributed as follows: 75% of the excess is to be provided for all state agency grantees and 25% of the excess is to be provided to all national organization grantees. Any funding amount over \$35 million that remains is to be distributed 50/50 to all state agency and national organization grantees, respectively.<sup>11</sup>

Once the national totals for state agency and national organization grantees have been determined, the same formula is used to determine the state agency allotment and the national organization allotment for each state. Each allotment is distributed to states based on a formula factor that takes into account (1) a state’s relative share of the total U.S. population 55 years and older (includes the District of Columbia and Puerto Rico), and (2) the relative state per capita income. The formula factor is the number of persons aged 55 and older in the state multiplied by the inverse of the state’s per capita income index. The inverse per capita income index cannot be less than 33 and 1/3% or greater than 75%; the index for the District of Columbia and Puerto Rico is 75%. Population data are from the annual population estimates published by the U.S. Census; the reference date for estimates is July 1. Per capita income data are from the Bureau of Economic Analysis

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<sup>9</sup> For further information on the legislative history of the Title V funding formula, see CRS Report RL30055, *Older Americans Act: 2000 Reauthorization Legislation*, by Carol V. O’Shaughnessy.

<sup>10</sup> Current law requires that funds be distributed at their FY2000 level of activities, defined as the FY2000 number of enrollee positions multiplied by the cost per enrollee position. To convert funds to enrollee positions, funds are divided by the DOL-determined cost per enrollee position (CCP). For FY2006, Congress appropriated \$432,311,220 to Title V and the CPP was \$7,153. This converted to a total of 60,438 enrollee positions, rounded to the nearest position.

<sup>11</sup> Appropriations for FY2004 through FY2006 have not exceeded the FY2000 level.

(BEA) within the U.S. Department of Commerce (DOC). There is a two-year time lag between the data (reference year of the population estimates and per capita income) and the respective appropriation year.

For the purpose of determining state allotments to state agency and national organization grantees, the law requires that allotments meet two criteria. The first criterion is that states (including the District of Columbia and Puerto Rico) are to receive at least a minimum grant allotment, which is defined as half of 1% of the respective grant amount for the given fiscal year. The second criterion is the “hold harmless” provision. If grant amounts for a given year are equal to, or less than, their FY2000 level, states are to receive an allotment in proportion to their respective FY2000 levels. If grant amounts exceed their FY2000 levels, states are to receive no less than their FY2000 level plus a “guaranteed growth” of at least 30% of the percentage increase above the FY2000 level.

**Title VII — Vulnerable Elder Rights Protection Activities.** Title VII authorizes the long-term care ombudsman program and elder abuse, neglect, and exploitation prevention programs. Most Title VII funding is directed at the long-term care ombudsman program, the purpose of which is to investigate and resolve complaints of residents of nursing facilities and other long-term care facilities. Of the \$20.1 million appropriated for FY2006, almost three-quarters was for ombudsman activities.

Funds for the ombudsman and elder abuse prevention activities are allotted to states based on each state’s relative share of the population aged 60 years and older. For the purpose of determining state allotments, the law requires that states (including the District of Columbia and Puerto Rico) receive a minimum amount of funds, which is defined as half of 1% of the total grant appropriation for the respective fiscal year.<sup>12</sup> State allotments must also meet a FY2000 “hold harmless” provision. State agencies on aging may award funds for these activities to a variety of organizations for administration, including other state agencies, area agencies on aging, county governments, nonprofit service providers, or volunteer organizations.

**Issues for Congress.** During Senate floor debate over the OAA Amendments of 2006 in the 109<sup>th</sup> Congress, Senator Enzi, then Chairman of the Health, Education, Labor, and Pensions (HELP) Committee, called for the 110<sup>th</sup> Congress to hold hearings to review funding formulas for federal programs under the committee’s jurisdiction. Former Chairman Enzi asked the committee to examine how these formulas are developed in order to determine fair and equitable methods for distribution of funds, stating that the committee should “focus its attention on how funds must follow the people and the need.” Former Chairman Enzi also proposed that the HELP Committee begin its reauthorization of the Older Americans Act no later than three years after the passage of the OAA Amendments of 2006.<sup>13</sup>

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<sup>12</sup> Guam and the U.S. Virgin Islands are allotted no less than one-quarter of 1% of the total grant appropriation, and American Samoa and the Commonwealth of the Northern Mariana Islands are allotted no less than one-sixteenth of 1% of the total grant appropriation.

<sup>13</sup> Sen. Enzi, “Older Americans Act Amendments of 2006,” remarks in the Senate, Congressional Record, daily editions, September 29, 2006, p. S10770.