

Sound Practices for Addressing Some Important Aspects of the Relationship between the RWHAP Part A Recipient and Planning Council¹

	Issue	Sound Practice: Based on Legislation, HRSA/HAB Guidance, and RWHAP Part A Experience
1	Membership Recruitment	<ul style="list-style-type: none"> ▪ CEO appoints members to the Planning Council (in San Diego, the HIV Planning Group or HPG) ▪ All members should be required to go through the planning council's open nominations process ▪ Recipient (in San Diego, the HIV, STD, and Hepatitis Branch or HSHB within Public Health Services, Health & Human Services Agency) may be represented on the planning council (PC) as a voting member ▪ Recipient is not involved in member recruitment unless asked by the PC to assist with state or other hard-to-fill seats, or with keeping the PC informed about progress on recommended appointments and encouraging timely vetting and appointments by the CEO ▪ Separation between the recipient and PC member recruitment and selection helps demonstrate that the PC is an independent body, collaborating with the recipient but not responsible to it ▪ Bylaws should limit the number of members serving at the same time who are from any single entity, including the recipient agency
2	Selection and Supervision of PC Support Staff	<ul style="list-style-type: none"> ▪ Method of staff selection should be mutually agreed upon and reflected in the Memorandum of Understanding (MOU) between the PC and recipient – HRSA/HAB encourages all Part A programs to establish and maintain up-to-date MOUs ▪ Since the PC, not the recipient, directs the work of PC Support staff, the PC should be involved in selection of the PC Support Manager ▪ If PC Support staff are employed by the recipient agency, the process should allow for PC input regarding the position description and involvement in selection of the PC Support Manager; often the PC Chair or a Co-Chair sits on the selection panel; sometimes finalists are interviewed by the PC officers or Steering Committee ▪ If the PC support function is contracted, the PC should be involved in the contracting process (See next section) ▪ Staff may report administratively to the recipient or to some other unit of government, but measures must be taken to ensure that the PC, not the recipient, directs the work of the PC support staff, and that PC support work is reported to the PC Chair, a committee, or the full PC
3	Selection and Supervision of PC Contractors or Consultants	<ul style="list-style-type: none"> ▪ While the PC must not be involved in selection of subrecipients/service providers, it should be involved in selecting particular entities and individuals to carry out activities directly related to PC functioning and responsibilities, such as planning council support staff/contractors or consultants ▪ The PC must use an open, public process to contract for such services – preferably a competitive RFP process under the direction of the recipient ▪ The PC must prevent real and perceived conflicts of interests in these contracting decisions ▪ If PC support is subcontracted, the PC should be involved in development of the scope of work, determination of expected staff positions and position descriptions, and qualifications, for inclusion in the Request for Proposals ▪ The PC should be involved in decision making, often through having PC members sit on the review panel; sometimes qualified finalists following initial review are interviewed by the Steering Committee or another appropriate

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		<p>committee, which makes the final decision about who should be hired from among applicants that meet local contracting requirements</p> <ul style="list-style-type: none"> ▪ PC support staff typically work with the Chair or the appropriate committee to direct and oversee the work of consultants ▪ If PC support staff report administratively to a contracted entity, measures must be taken to ensure that the PC directs the work of the PC support staff, and that PC support work is reported to the PC Chair, a committee, or the full PC ▪ An advantage of contracting PC support is that the recipient can arrange to have other PC consultants or subcontractors hired through the PC support contract, which helps to avoid procurement delays; the PC is involved in the process as it would be if the recipient did the contracting
4	PC Support Budget	<ul style="list-style-type: none"> ▪ PC support is part of the recipient's 10% administrative budget ▪ The PC and recipient must negotiate the size of the planning council support budget (amount or percentage of administrative funds) ▪ If PC support is contracted, negotiation should occur annually prior to submission of the Part A application, so the PC support budget is submitted with the application ▪ Process should include determining what if any special PC expenses are projected for the year beyond ongoing planning tasks – e.g., a PLWH survey or other needs assessment activity, development of the Integrated Plan, any necessary travel for PC members to HRSA/HAB conferences or training ▪ The PC is responsible for developing and managing that budget with the help of PC Support staff; this may require the PC to make difficult decisions about priorities in use of PC funds ▪ With the help of PC Support staff, the PC is responsible for developing a budget that will enable it to meet its legislative responsibilities ▪ If PC support is contracted out, contractor is responsible for fiscal management and reporting of expenditures to the PC; if PC Support staff are employed by the recipient agency, recipient provides fiscal management and reporting – in either situation, the PC should monitor expenditures and decide on any needed PC budget modifications ▪ Budget and expenditures must meet HRSA/HAB and recipient fiscal requirements ▪ The Clinical Quality Management (CQM) budget is separate from administrative budget; PC activities such as development of service standards are administrative costs and must not be charged to CQM
5	Data for Decision Making	<ul style="list-style-type: none"> ▪ The PC obtains data for use in PSRA and other decision making through the needs assessment and through data shared by the recipient ▪ Recipient (or state surveillance staff) generally provide an updated epidemiologic report each year (providing data used by the PC and included in the application); surveillance may also provide an estimate of unmet need and an estimate of the number of PLWH unaware of their status in the EMA or TGA ▪ The PC takes the lead on needs assessment, which generally involves obtaining data from PLWH, including consumers, on their service needs, barriers, and gaps; data on PLWH who are out of care; and information about provider services, capacity, and capability ▪ A Resource Inventory of RWHAP Part A-funded and other providers in the service area should be available and regularly updated; it is usually developed by the planning council and may be converted into a Resource Guide by the recipient; sound practice is to specify responsibilities in the MOU and to have a regularly updated Resource Guide available online on either the recipient or PC website, with a link from the other site so it is easy to find ▪ The PC should receive HIV care continuum data for all PLWH in the service area, for all RWHAP clients, and by subpopulation – usually provided by the recipient, often with data from state surveillance staff ▪ Sound practice is for the MOU to specify what needs assessment or other PC-generated data will be provided to the recipient, for use in the application or for

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		<p>other purposes, on what schedule, and in what format – often done through an MOU chart showing type of data, schedule for sharing, and responsibility for analysis</p> <ul style="list-style-type: none"> ▪ Recipient should provide the PC with data on at least the following, overall and by service category: service utilization, client characteristics, service costs per client and sometimes per unit of service, CQM data, and performance measure/outcomes data ▪ Sound practice is for the MOU to specify what data will be provided by the recipient on what schedule, and which data the PC will receive in user-friendly formats versus access as “raw data” so it can do the necessary analysis – often done through an MOU chart as described above; detailed agreement on formats and access to data systems can be done separately each year, with the process referenced in the MOU ▪ If the PC is expected to do the analysis and presentation of data, funds for this effort should be included in its annual budget; if the recipient does the analysis, funds will be primarily in its own budget ▪ A process is needed for the PC to request additional or special data from the recipient based on emerging issues or needs, usually through the recipient staff member assigned to the relevant committee; the process should allow the recipient to assess the timing and costs related to meeting that request and reach agreement with the PC on meeting, or modifying, the request ▪ Data collection and analysis as part of CQM are paid for through CQM funds; all other data collection and analysis must be covered through administrative costs
6	Sharing of Official Information	<ul style="list-style-type: none"> ▪ The PC depends on the recipient for sharing of official information from external sources such as HRSA/HAB or other RWHAP Parts <ul style="list-style-type: none"> – From HRSA/HAB, information such as Notice of Award, Conditions of Award, Policy Clarification Notices (PCNs), Letters, updates to Performance Measures or National Monitoring Standards, as well as new guidance that may be provided in writing or orally from the Project Officer – Information from other RWHAP Parts such as changes in the state AIDS Drug Assistance Program (ADAP) from Part B, or changes in services from other RWHAP recipients ▪ Use the Executive Committee as a conduit of information alongside the PC Support staff ▪ MOU should include an indication of timing and process for sharing of such information, including clarity on any confidential information that will not be shared (e.g., administrative budget detail with recipient staff salaries) ▪ Particular attention is needed to deciding on how information from the Project Officer will be shared (e.g., through the recipient’s monthly report at PC meetings), to ensure that needed information is shared on a timely basis, and misinterpretation due to use of indirect or informal sources is avoided
7	Recipient Staff Participation in PC Committees	<ul style="list-style-type: none"> ▪ Sound practice is to have a recipient staff representative participate in most <i>planning</i> committees unless the PC indicates that such involvement is not needed, to provide technical expertise and serve as a communications link between the recipient and PC; the representative may be asked to provide information or recommendations to the committee related to its planning work ▪ Recipient staff normally are not assigned to Membership or other <i>governance</i> committees since the recipient is not involved in the PC’s membership process or operations ▪ Recipient staff often are not assigned to the Consumer Committee – although they may be asked to attend a particular meeting where their expertise is needed ▪ Usually the recipient participates in Executive/Steering Committee meetings ▪ PC Support staff handle committee logistics and minutes; these are not recipient staff functions ▪ Except if a recipient representative is a PC member, recipient staff are not considered committee members and do not vote

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		<ul style="list-style-type: none"> ▪ Ideally, the same recipient staff member attends a particular planning committee on a regular basis, and assignments are jointly determined by the recipient and PC – although there may be situations where the someone with special expertise may need to be present based on the committee's specific meeting agenda ▪ Recipient expertise is important in supporting the efficient and successful completion of shared planning tasks such as needs assessment and integrated/comprehensive planning, and in facilitating regular communications between the recipient and PC committees ▪ The MOU should indicate mutual expectations for recipient staff participation in and technical support for PC committees and how assignments are to be made
8	Resource Allocation	<ul style="list-style-type: none"> ▪ As part of the annual Priority Setting and Resource Allocation (PSRA) process, the PC is responsible for allocating funds to allowable service categories and ensuring that federal requirements are met – like allocating at least 75% of funds to core medical-related services unless the program has a waiver from HRSA/HAB ▪ Most PCs use several different funding-level scenarios during PSRA; HRSA/HAB recommends flat funding, increased funding, and decreased funding, although recent RWHAP Part A Notices of Funding Opportunity (NOFOs) have specified the maximum amount of funds an EMA or TGA may request, and the difference between funds requested and funds received may be smaller than in past years ▪ The PC has no involvement in decision making about use of administrative funds other than funds for PC support, or about CQM funds; CQM is a recipient responsibility, and CQM funds may not be used to carry out administrative tasks such as development or updating of service standards ▪ Once the final Notice of Award (NoA) is received, the PC will usually need to refine service allocations based on actual RWHAP Part A and MAI funds received
9	Reallocation of Funds During the Program Year	<ul style="list-style-type: none"> ▪ Recipient can move funds among providers within the same service category; PC has no involvement ▪ The PC must approve any reallocation of funds across service categories ▪ Ideally, when the PC makes its annual allocations as part of PSRA, it documents service needs that could not be met due to funding limitations, and identifies how additional funds might be used if they become available – e.g., to expand Oral Health services, provide funds to expand evening or weekend hours for medical care, or increase funding for Psychosocial Support Services – and these needs can sometimes be met through reallocation later in the year ▪ A process for reallocation, with timing, should be agreed on between the recipient and PC – to include reviewing expenditures by service category along with utilization and cost data, identifying the need for reallocation, reviewing identified service needs from the allocation process, receiving recipient recommendations for reallocation, and approving reallocations across service categories ▪ The program also needs an agreed-upon rapid reallocations process for use in the last quarter of the program year that enables the recipient to obligate all service funds by the end of the year and avoid penalties for unobligated Part A formula funding
10	Carryover Funds	<ul style="list-style-type: none"> ▪ A Part A program that ends the year with more than 5 percent of its formula funds unobligated is subject to funding penalties²; programs often have some unobligated formula funds ▪ To use unobligated formula funds the following program year, the recipient must submit a waiver/carryover request including an estimated Unobligated Balance (UOB) 60 days before the end of the funding year (end of December), and report the actual amount of unobligated funds on a Federal Financial Report (FFR) no later than July 30 following the end of the funding year³

² See Policy Clarification Notice (PCN)12-02, at <https://hab.hrsa.gov/sites/default/files/hab/Global/habpartauobpolicypdf.pdf>.

³ See PCN 12-02 and the *RWHAP Part A Manual*, pp 35-36.

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		<ul style="list-style-type: none"> ▪ The PC must approve the plan for use of carryover funds when the carryover request is submitted, and may review the plan again once the actual amount is received
11	Program and Fiscal Monitoring	<ul style="list-style-type: none"> ▪ The recipient is responsible for program and fiscal monitoring of subrecipients providing Part A services ▪ The PC should regularly receive aggregate summary information about monitoring findings by or across service categories, but should not have access to individual subrecipient information (if a service category has only one provider, then the PC should receive those data, but without the name of the subrecipient) ▪ Sound practice is not to discuss subrecipients/funded service providers by name at PC meetings, to avoid any perception of inappropriate PC involvement in procurement or contract administration
12	Roles and Challenges for Funded Part A Providers Who are PC Members	<ul style="list-style-type: none"> ▪ PC membership requirements make it extremely likely that some members will be staff of RWHAP Part A subrecipients, although membership categories are based on types of program service expertise, not RWHAP funding ▪ PC Conflict of Interest (COI) policies and procedures should provide clear guidance on how members who work for funded providers should declare their conflicts of interest, when their expertise as service providers is needed and appropriate, and when they should not participate in discussions or decision making due to COI concerns ▪ Sound practice is for PC members with a conflict of interest not to participate in resource allocation or reallocation discussions or decisions related to services for which they have a COI – COI is a particular concern when it involves decisions related to funding, which are subject to grievances if a planning council's policies and processes are not followed ▪ PC members who are also staff of Part A subrecipients must work hard to keep the two roles separate and should not discuss their organizations during PC meetings unless there is a specific activity requiring such input that is not related to PSRA (e.g., a roundtable on PLWH dental care needs) ▪ A Part A subrecipient should support actions by the PC that best serve PLWH in the jurisdiction ▪ The Part A recipient should never attempt to influence the decisions of a PC member who is also a subrecipient, and a subrecipient should never use its membership status to try to influence recipient decisions
13	Preparation of the RWHAP Part A Application	<ul style="list-style-type: none"> ▪ The recipient has primary responsibility for preparing the application ▪ The PC is responsible for providing a list of service priorities, a set of resource allocations, and any directives on how best to meet service needs, for inclusion in the application ▪ The PC usually provides needs assessment data and a description of the priority setting and resource allocation (PSRA) process, as well as other information related to the planning process and PC tasks that may be called for in the NOFO ▪ PC Support staff should assist only with those aspects of the application that involve information from or about the PC ▪ The annual assessment of the efficiency of the administrative mechanism (AAM) is usually completed in time to be included or summarized in the application if the NOFO requests this, along with the recipient's response if the AAM identifies areas in which action is needed ▪ The application must include a letter of assurance signed by the PC Chair or Co-Chairs; one of its purposes is to state whether the recipient followed PC priorities and allocations in use of service funds, and recent NOFOs have required that letter also to include other information, such as how PSRA decisions were made and what ongoing annual PC training was provided – this letter should be prepared by the PC leadership and PC Support staff and reviewed and approved by the full PC or the Steering Committee ▪ The PC's proposed budget for the following program year should be included in the application

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		<ul style="list-style-type: none"> ▪ Sound practice is for the PC to have an opportunity to review the draft application without salary or other confidential data, ensure that the parts related to the PC are complete and accurate, and make recommendations for strengthening the application; this review should happen early enough in the process that any needed changes can be made – ideally, a process should be developed, jointly approved, and referenced in the MOU between the recipient and PC
14	Addressing Problems and Managing Conflict	<ul style="list-style-type: none"> ▪ Some disagreements between the recipient and PC are inevitable and not unhealthy, but need to be addressed through an agreed-upon and mutually respectful process ▪ Standard Operating Procedures for both recipient and PC, and an MOU that clearly outlines roles and boundaries, can be extremely helpful in managing conflict ▪ The first step in addressing such issues is to ensure that all PC members and staff and all recipient staff have a clear and shared understanding of their respective roles, responsibilities, relationship, and boundaries – with reference to PC Bylaws and policies and procedures, and/or national documents such as the <i>Part A Manual</i>, <i>Planning Council Primer</i>, updated <i>Training Guide</i>, PCNs, and other HRSA/HAB guidance documents, or consultation with the Project Officer if these documents do not provide an answer ▪ The recipient and PC should agree on how to handle what either entity considers an inappropriate statement or action, based on division of roles and identified boundaries ▪ If the situation occurs during a PC or committee meeting, sound practice is for each entity to take responsibility for immediately addressing inappropriate statements or actions by their own staff or members (e.g., the recipient representative for recipient staff, the Chair for the PC), so the other entity is not put in the position of raising the issue – there is “self-enforcement” ▪ There should be prior agreement, in writing, on how the perceived problem or inappropriate action will be handled if this self-enforcement does not occur, so that it can be handled without undue disruption of a meeting but in a way that identifies and stops the inappropriate behavior ▪ One practical approach for addressing behavior during meetings is use of a Code of Conduct for a Respectful Relationship; it can be accompanied by written procedures for implementation and enforcement, used in training PC members and staff and recipient staff, and posted and referenced at meetings ▪ Some PCs have a Code of Conduct that also applies to members of the public who attend PC or committee meetings ▪ A PC should have policies and procedures for enforcement of its Code of Conduct, with clear responsibilities and penalties for violations