Quick Reference Handout 2.2: Planning Council/Planning Body Roles and Responsibilities

Planning Council/Planning Body Roles and Responsibilities Defined by Legislation, Policies, and Guidance[1]

This handout describes planning council/planning body (PC/PB) roles, responsibilities and requirements related to: establishment of a PC/PB, membership, duties, conflict of interest and grievance procedures, PC/PB support and operations, and relationship between the recipient and the PC/PB. For each of these topics the requirements defined by legislation are presented, followed by HRSA/HAB guidance and expectations. (Page references are from the RWHAP Part A Manual unless otherwise indicated).

Establishment of a Planning Council or Body

	Establishment of a Planning Council
LEGISLATION	CEO "shall establish an HIV health services planning council" [Section 2602(a)(2)(A)(ii)]
HRSA/HAB EXPECTATIONS	All EMAs must have planning councils that meet legislative requirements.
	Exception to Planning Council Requirement for TGAs
LEGISLATION	"The chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) [establishment of a planning council] if the official provides documentation to the Secretary that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant" [Section 2609(d)(1)(A)]
HRSA/HAB EXPECTATIONS	• Requirement for TGAs to have PCs ended at the end of Fiscal Year (FY) 2013. • However, a letter from the Director of HAB's Division of Metropolitan HIV/AIDS Programs to Part A recipients said that "All TGAs that have operating PCs are strongly encouraged by DMHAP to maintain that current structure"—"in conformity with PC legislative requirements."[2] The letter was referenced in the annual Part A Notice of Funding Opportunity (NOFO) for FY 2018. • All jurisdictions are expected to have planning bodies, according to the June 15 Integrated HIV Prevention and Care Plan Guidance from HRSA/HAB and the Centers for Disease Control and Prevention (CDC).[3] • DMHAP has encouraged TGAs with planning bodies (PBs) to make them as similar as possible to PCs in terms of member representation and reflectiveness as well as roles. • Planning bodies other than planning councils are advisory, so they make recommendations to the recipient rather than being decision makers.

Planning Council/Planning Body Membership

Representation: Membership Categories

LEGISLATION

Section 2602(b)(2): "REPRESENTATION.—The HIV health services planning council shall include representatives of—

(A) health care providers, including federally qualified health centers;
(B) community-based organizations serving affected populations and AIDS service organizations;
(C) social service providers, including providers of housing and homeless services;
(D) mental health and substance abuse providers;
(E) local public health agencies;
(F) hospital planning agencies or health care planning agencies;
(G) affected communities, including people with HIV/AIDS, members of a Federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C and historically underserved groups and subpopulations;
(H) nonelected community leaders;
(I) State government (including the State Medicaid agency and the agency administering the program under Part B);
(J) grantees under subpart II of Part C;
(K) grantees under section 2671 [Part D], or, if none are operating in the area, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the area;
(L) grantees under other Federal HIV programs, including but not limited to providers of HIV prevention services; and
(M) representatives of individuals who formerly were Federal, State, or local prisoners, were released from the custody of the penal system during the preceding 3 years, and had HIV/AIDS as of the date on which the individuals were so released."

HRSA/HAB EXPECTATIONS

- "Representation is the extent to which the planning council includes individuals from the legislatively defined categories of membership." [p 110]
- The category of grantees [now recipients][4] under Category L, other Federal HIV programs, "is to include, at a minimum, a representative from each of the following:"
  - Federally-funded HIV prevention services
  - A grantee funded under Part F's SPNS, AETC, and/or Ryan White Dental Programs.
  - Housing Opportunities for Persons With AIDS (HOPWA).
  - Other Federal programs that provide HIV/AIDS treatment such as the Veterans Health Administration. [p 110]
- "The planning council must include at least one member to separately represent each of the designated membership categories (unless no entity from that category exists in the EMA/TGA). *...Separate representation means that each planning council member can fill only one legislatively required membership category at any given time, even if qualified to fill more than one."* [p 110, Italics in original]
- There are 3 exceptions, where a single person can represent multiple categories:
  - Both substance abuse and mental health provider categories "if his/her agency provides both types of services and the person is familiar with both programs."
  - "Both the Ryan White Part B program and the State Medicaid agency if that person is in a position of responsibility for both programs."
  - "Any combination of Ryan White Part F grantees (SPNS, AETCs, and Dental Programs) and HOPWA, if the agency represented by the member receives grants from some combination of those four funding streams...and the individual is familiar with all these programs." [p 110]

Planning Council/Planning Body Membership

Consumer Members

LEGISLATION

- "Not less than 33 percent of the council shall be individuals who are receiving HIV-related services [under Part A], are not officers, employees, or consultants to any entity that receives amounts from such a grant, and do not represent any such entity, and reflect the demographics of the population of individuals with HIV/AIDS"
- Includes parents or caregivers of children with HIV [Section 2602(b)(5)(C)(i)]

HRSA/HAB EXPECTATIONS

HRSA/HAB emphasizes that "…planning councils can be truly effective in meeting their legislated responsibilities only if they have well-supported consumer participation and membership reflective of the local demographics of the HIV/AIDS epidemic." [p 109]

Reflectiveness

LEGISLATION

PC "shall reflect in its composition the demographics of the population of individuals with HIV/AIDS in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations" [Section 2602(b)(1)]

HRSA/HAB EXPECTATIONS

- "Reflectiveness is the extent to which the demographics of the planning council's membership look like the epidemic of HIV/AIDS in the EMA/TGA" in terms of at least the following: race/ethnicity, sex, and age. In addition:
  - Reflectiveness is required for both the whole planning council membership and the consumer membership.
  - "Reflectiveness does not mean that membership must identically mirror local HIV/AIDS demographics."
  - "PLWHA should be selected for planning council membership without regard to the individual's stage of disease." [p 111]
- HRSA/HAB monitors reflectiveness. For example, one of the annual reports to HRSA/HAB by Part A recipients typically requires a Planning Council Reflectiveness Chart with race/ethnicity, sex, and age breakdowns for the local epidemic, all PC members, and unaligned consumer members. [2017 Part A Program Terms Report, TARGET Center, http://targethiv.org/library/2017-part-program-terms-reports]

Open Nominations

LEGISLATION

"Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria." [Section 2602(b)(1)]

HRSA/HAB EXPECTATIONS

HAB/DMHAP expects that:

- "The CEO will approve and/or appoint as planning council members only individuals who have gone through the open nominations process." [p 118]
- The open nominations process will be "described and announced before the nominations process begins," will "specify clear criteria on the planning council composition being sought," will be publicized, allow people to "apply for membership or be nominated by others," and use a "standardized, plain-language application form." [p 118]

Roles and Responsibilities

Duties

LEGISLATION

"(4) DUTIES — The planning council shall—
(A) determine the size and demographics of the population of individuals with HIV/AIDS...;
(B) determine the needs of such population...;
(C) establish priorities for the allocation of funds within the eligible area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant...;
(D) develop a comprehensive plan for the organization and delivery of health and support services...;
(E) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area, and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;
(F) participate in the development of the statewide coordinated statement of need initiated by the State public health agency responsible for administering grants under part B;
(G) establish methods for obtaining input on community needs and priorities which may include public meetings..., conducting focus groups, and convening ad-hoc panels; and
(H) coordinate with Federal grantees that provide HIV-related services within the eligible area."
[Section 2602(b)(4)]

HRSA/HAB EXPECTATIONS

- Extensive guidance on key duties is provided in the Part A Manual, with separate chapters on Needs Assessment, Comprehensive Planning, Priority Setting and Resource Allocations, and the Statewide Coordinated Statement of Need [Section XI. Planning and Planning Bodies, Chapters 3-6]
- Legislatively required tasks include:
  - "Conduct an assessment of local community needs.
  - Develop a comprehensive service plan, compatible with existing State and local plans.
  - Allocate funds according to service priorities set by the planning council.
  - Participate along with other Ryan White partners in the development a Statewide Coordinated Statement of Need (SCSN) to enhance coordination among Ryan White HIV/AIDS programs in addressing key HIV/AIDS care issues.
  - Coordinate with Federal, State, and locally funded grantees providing HIV-related services.
  - Assess the efficient administration of funds." [p 80]

Conflict of Interest and Grievance Procedures

Conflict of Interest: Planning Council

LEGISLATION

A planning council:

- "May not be directly involved in the administration of a grant" under Part A.
- "May not designate (or otherwise be involved in the selection of) particular entities as recipients" of Part A funds. [Section 2602(b)(5)(A)]

HRSA/HAB EXPECTATIONS

- "Planning councils are strictly prohibited from involvement in the selection of particular entities to receive Ryan White Part A funding." [p 191]
- "As part of their responsibility to determine how best to meet stated priorities, planning councils may stipulate what provider characteristics the grantee should look for in its procurement process (e.g., community-based AIDS service providers, multi-service organizations or public agencies that provide a specific service or target a specific population). They may also specify that providers should be sought in specific parts of the Eligible Metropolitan Area (EMA) or Transitional Grant Area (TGA)." [p 191]
- "While the legislation prohibits planning councils from participating or otherwise being involved in selecting particular entities for funding, they may be involved in selecting particular entities and individuals to carry out activities directly related to planning council functions and responsibilities…." [p 145]

Conflict of Interest: Individual Members

LEGISLATION

An individual planning council member who has a financial interest, is an employee, or is a member of an entity that is seeking Part A funds:

- will not "participate (directly or in an advisory capacity) in the process of selecting entities" for Part A funding. [Section 2602(b)(5)(B)]

HRSA/HAB EXPECTATIONS

- "Conflict of interest can be defined as an actual or perceived interest in an action that will result—or has the appearance of resulting—in personal, organizational, or professional gain. To illustrate, conflict of interest occurs when a planning council member has a monetary, personal, or professional interest in a planning council decision or vote. Any group making funding decisions for a Ryan White program should be free from conflicts of interest." [p 143]
- "As appropriate, the [legislative] definition [of conflict of interest] may cover both the member and a close relative, such as a spouse, domestic partner, sibling, parent, or child." [p 147]
- "Because of an individual member's relationship to the planning council, sound practice is not to have them serve on external review panels for the selection of Ryan White Part A providers." [p 144]
- "HAB/DMHAP expects planning councils to employ a variety of strategies to minimize conflict of interest and its potential adverse effects, such as keeping members self-aware of the potential for conflict of interest and using procedures that can minimize or address conflicts." Of particular importance are adoption of conflict of interest policies and procedures "and their routine and consistent application in planning council deliberations and decision making." [p 150]

Conflict of Interest and Grievance Procedures

Grievance Procedures

LEGISLATION

- A planning council "(1) shall develop procedures for addressing grievances with respect to funding under this subpart, including procedures for submitting grievances that cannot be resolved to binding arbitration.
- "Such procedures shall be described in the by-laws of the planning council and be consistent with the requirements of subsection (c)" *[which call for model grievance procedure to be provided by the Secretary of HHS and planning council grievance procedures to be reviewed by the Secretary].* [Section 2602(b)(6)]

HRSA/HAB EXPECTATIONS

- RWHAP "requires Ryan White Part A planning councils to establish procedures to address grievances related to funding. At local discretion, grievance procedures can also address other types of disputes faced by planning councils." [p 134]
- "HAB/DMHAP has developed model grievance procedures to guide local efforts in adequately addressing potential grievances.... There should be periodic local review of grievance procedures and their implementation to ensure that legislative requirements are being met and grievances are being resolved in a timely and appropriate manner. Any revisions in these grievances should be sent to the HAB/DMHAP project officer to be approved and kept on file." [p 134]

Planning Council Support and Operations

Support/Funding

LEGISLATION

Among the allowable uses of administrative funds, which are capped at 10% of the total grant, are "all activities associated with the grantee's contract award procedures, including the activities carried out by the HIV health services planning council..." [Section 2604(h)(3)(B)]

HRSA/HAB EXPECTATIONS

- "The planning council needs funding to carry out its responsibilities. HAB/DMHAP refers to these funds as 'planning council support.' Planning Council Support funds are part of the 10 percent administrative funds available to the grantee for managing the Ryan White Part A program." [p 104]
- "The grantee must also ensure adequate funding for PC mandated functions within the administrative line item." [p 31]
- "The planning council must negotiate the size of the planning council support budget with the grantee and is then responsible for developing and managing that budget within the grantee's grants management structure." [p 104]
- "Planning council support funds may be used for such purposes as hiring staff, developing and carrying out needs assessments and estimating unmet need, sometimes with the help of consultants, conducting planning activities, holding meetings, and assuring PLWHA participation." [p 104]
- "While the legislation prohibits planning councils from participating or otherwise being involved in selecting particular entities for funding, they may be involved in selecting particular entities and individuals to carry out activities directly related to planning council functions and responsibilities" such as general planning council administrative duties, needs assessments, planning activities such as writing the comprehensive plan, assessment of the administrative mechanism, technical assistance, and program evaluation. [p 145]

Planning Council Support and Operations

Officers

LEGISLATION

"The council may not be chaired solely by an employee of the grantee" [Section 2602(b)(7)(A)]

HRSA/HAB EXPECTATIONS

"The planning council needs a chair or co-chairs. The legislation does not permit an employee of the Ryan White Part A grantee to serve as the chair of a planning council. An employee of the grantee may serve as a co-chair, provided the bylaws of the planning council permit or specify that arrangement. Bylaws should specify whether there is to be a chair or co-chairs and how they are selected. They may specify that the chair is to be appointed by the CEO or elected by the planning council. Often, if the chair is appointed by the CEO or is an employee of the grantee, bylaws require that the planning council elect the co-chair. Sometimes bylaws require that one co-chair be a PLWHA." [p 100]

Member Training and Materials

LEGISLATION

"The chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) [establishment of a planning council] if the official provides documentation to the Secretary that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant" [Section 2602(c)]

HRSA/HAB EXPECTATIONS

- "Members must be trained to enable them to fulfill their responsibilities, in accordance with guidance from" DMHAP. [p 80]
- "PC or planning body members must be trained regarding their legislatively mandated responsibilities and other competencies necessary for full participation in collaborative decision making."[5] [FY 2017 FOA]
- The annual Part A Notice of Funding Opportunity requires that a Letter of Assurance from the PC or Letter of Concurrence from the PB be included in the Part A application, and that letter must address "that ongoing, annual membership training occurred, including the date(s)."[6] [FY 2018 NOFO]

Planning Council Support and Operations

Public Deliberations/ Open Meetings

LEGISLATION

"(i) The meetings of the council shall be open to the public and shall be held only after adequate notice to the public.
(ii) The records, reports, transcripts, minutes, agenda, or other documents which were made available to or prepared for or by the council shall be available for public inspection and copying at a single location.
(iii) Detailed minutes of each meeting of the council shall be kept…." [Section 2602(b)(7)]

HRSA/HAB EXPECTATIONS

"To comply with legislative requirements around open meetings and public access to minutes and other planning council documents, planning councils must:

- "Ensure that meetings are open to all members of the general public and maintain a system that provides for public written notice of all council meetings."
- "Have a summary of the minutes that has been approved by the planning council and certified by the chair of the planning council available for public inspection. Both the minutes and other documents or materials made available to or prepared for the planning council should be available to the public within six weeks after the meeting date."
- "Have a publicly accessible location where minutes and other legislatively required information can be inspected and copied if requested. It is important that detailed minutes are required…. Minutes need to be able to show how the Council arrived at their funding decisions, especially if there is a grievance."
- "Make available for public inspection records of the recommendations made by committees or other subgroups to the planning council, as well as the subsequent actions taken by the planning council. A sound practice to implement this requirement is to post approved planning council and committee minutes on the planning council website."
- "Where local, county, or State regulations, ordinances, or statutes are more stringent than Ryan White requirements, follow these more stringent requirements. For example, many States and municipalities have open meeting laws that have very specific public notice or other requirements. Planning councils must adhere to these requirements, and planning council members and support staff should receive information and training about these requirements." [pp 100-101]

Public Disclosure of Member Status

LEGISLATION

"The requirement for public deliberations "does not apply to any disclosure of information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy, including any disclosure of medical information or personnel matters." [Section 2602(b)(7)]

HRSA/HAB EXPECTATIONS

- The legislation does not address public disclosure of HIV status by consumer members.
- HRSA/HAB requires that at least two PC/PB members with HIV publicly disclose their status. Some PC/PBs "have additional disclosure requirements." [p 118]
- The planning council must "take appropriate steps to guard against disclosure of personal information that would constitute an invasion of privacy. For example, minutes should not indicate the HIV status of planning council members unless they are publicly disclosed, and should never provide medical or health status information about a member." [p 101]

Relationship between the Recipient and Planning Council/Planning Body

CEO Responsibility for Planning Council/Planning Body

LEGISLATION

"To be eligible for assistance under [Part A], the chief elected official…shall establish or designate an HIV health services planning council." [Section 2602(b)(1)]

HRSA/HAB EXPECTATIONS

"The CEO must establish a planning council and, once the planning council is established, appoint members through the planning council's nominations process. For the TGAs funded after 2006, the CEO has the option of establishing a planning council or a process for securing community input.… CEOs must enable planning councils to carry out their legislatively mandated responsibilities.…" [p 80]

Recipient Compliance with Priorities and Allocations Set by the Planning Council/Planning Body

LEGISLATION

"The Secretary…may not make any grant…to an eligible area unless the application submitted by such area… demonstrates that the grants made…to the area for the preceding fiscal year (if any) were expended in accordance with the priorities…that were established…by the planning council serving the area."
[Section 2603(d)]

HRSA/HAB EXPECTATIONS

- "The planning body must provide the grantee or administrative agent with the results of the priority setting and resource allocation process, both to include in the Ryan White Part A application and as a basis for the selection of providers (the procurement process)." [p 219]
- The letter of assurance provided by the planning council or the letter of concurrence provided by the planning body for submission with the Part A application must indicate "How the 2017 project period Formula, Supplemental, and MAI funds awarded to the EMA/TGA are being expended according to the priorities established by the PC or PB." [FY 2018 NOFO][7]

References

1 Revised from a similar document, "Quick Legislative Reference for Planning Council Support Staff," included in the Compendium for Planning Council Support Staff, available at https://nextlevel.careacttarget.org/planning-chatt/quick-legislative-reference-planning-council-support-staff.

2 Letter to Part A Grantees on TGA Planning Councils Moving Forward, December 4, 2013; available at https://hab.hrsa.gov/sites/default/files/hab/Global/transitionalgrantareasplanningcouncilsmovingforward.pdf. In addition, Notice of Funding Opportunity Number HRSA-18-066, Part A Competing Continuation for FY 2018 references the letter, and a footnote on p 40 uses the same language; see https://careacttarget.org/sites/default/files/supporting-files/NOFO_HRSA-18-066.pdf.

3 Integrated HIV Prevention and Care Plan Guidance, including the Statewide Coordinated Statement of Need, CY 2017- 2021, p 4. Available at https://hab.hrsa.gov/sites/default/files/hab/Global/hivpreventionplan062015.pdf.

4 Some RWHAP terms changed in 2016 when the Uniform Guidance (45 CFR 75) became effective. For example, the grantee became the recipient, and funded service providers became subrecipients. Since the Part A Manual was last updated in 2013, it uses the earlier terminology. Direct quotations have not been changed.

5 Funding Opportunity Announcement HRSA-17-030, Part A Continuing Continuation for FY 2017, p 22; available at file:///C:/Users/Emily/Downloads/HRSA-17-030%20HAB%20Part%20A%20final.pdf.

6 Notice of Funding Opportunity Number HRSA-18-066, p 15.

7 Notice of Funding Opportunity Number HRSA-18-066, p 15.

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