## Ryan White HIV/AIDS Program

## Part A

## Guide to Recipient Self-Assessment

## and Recipient Self-Assessment Tool



# How to use the Recipient Self-Assessment Tool to identify non-compliance issues.

### Overview

This step-by-step guide is designed to facilitate using the Recipient Self-Assessment Tool to identify issues of noncompliance with statutory and programmatic requirements, that may be occurring within the recipient agency’s operations system. The ability to successfully conduct a Recipient Compliance Self-Assessment is important because non-compliance issues have consequences that recipients should avoid, including the increased risk of payment disallowances that require the recipient to return funding to the federal government from jurisdictional funds. All recipients and subrecipients must comply with grant requirements and follow regulatory standards. Below are the relevant authorities applicable to Ryan White HIV/AIDS Program (RWHAP) Part A recipients.

* RWHAP Legislation: <https://ryanwhite.hrsa.gov/about/legislation>.
* The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, 45 CFR 75. <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-75>
* HHS Grants Policy Statement (GPS): <https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>
* Notices of Funding Opportunity (NOFO): <https://www.hrsa.gov/grants/fundingopportunities/default.aspx>
* Notices of Award (NoA): *Recipients should reference their current NOA.*
* HRSA HAB Policy Clarification notices (PCNs), Policy Notices, and Program Letters: <https://ryanwhite.hrsa.gov/grants/manage/recipient-resources>.
* RWHAP Manuals and Reports, including the RWHAP Part A Manual: <https://ryanwhite.hrsa.gov/grants/manage/recipient-resources>.
* RWHAP technical assistance documents, including the RWHAP Parts A and B National Monitoring Standards (NMS): <https://ryanwhite.hrsa.gov/grants/manage/recipient-resources>.

Effectively assessing the jurisdiction’s organizational system requires advanced planning.

1. Planning

Assemble an Assessment Resolution Team (ART). Teams are more productive and effective in making decisions. From each identified system involved in the noncompliance issue, select an individual with decision-making authority for the system to serve on the ART. Decision-making authority on the ART is important as noncompliance issues and possible resolutions are discussed and decided, as well as later when resolutions are communicated to jurisdiction executives and staff. If the jurisdiction outsources any system tasks to a fiduciary, the fiduciary staff who perform those tasks should also be part of the ART.

1. Methodology

Using a step-by-step approach, the ART will identify the non-compliance issue(s), and all the organizational systems that play a part in non-compliance, assess those systems to identify barriers, draw conclusions about the assessed data, and discuss possible solutions that can be implemented.

1. Identify the noncompliance issue(s).

The first step to resolving noncompliance issues is to acknowledge a problem and identify the source. To assist with determining possible noncompliance issues within an agency, following is a list of the most common causes of non-compliance.

The agency has a history of lengthy, complicated, and/or inefficient administrative/programmatic processes that act as barriers to compliance with federal and RWHAP Part A programmatic requirements.

* Staff lacks knowledge of the different federal funding methods.
* HRSA adds or changes one or more of the grant terms and requirements.
* The jurisdiction cannot comply with the changing grant terms and requirements.
* The recipient had a federal monitoring site visit where legislative and programmatic findings were identified.
* The recipient does not comply with the timely submission of fiscal reports, including the Federal Financial Report (FFR), Payment Management System (PMS), and expenditure report.
* The recipient is not paying subrecipients on time.

EXAMPLE: Starting from FY 2023 budget period, HRSA has reduced the timeline for submitting the Federal Financial Report (FFR) from 150 days to 90 days—

(May 28 or 29, depending on the year).

1. Identify the systems that interact with one another to complete the closing of the budget period.

Identify all the systems that interact with one another, and their components depend on one another for the financial closing of the budget period and the timely submission of the RWHAP Part A year-end financial reports. The submission of the FFR must be reconciled with the Payment Management System.

EXAMPLE: Identified Systems

Procurement—Budgeting—Contracting—Invoicing—Accounting—Reporting

1. Compliance requirements applicable to the fiscal organizational system

Recipients must have a clear understanding of the key legislative requirements and programmatic expectations, and effective decision-making is necessary in systems such as procurement, contracting, budgeting, accounting, invoicing, payment, and reporting when implementing the RWHAP Part A grant.

# Federal requirements that must be considered when assessing a recipient’s organizational system for non-compliance.

1. Procurement Requirements applicable to a pass-through entity

***Procurement Goal:*** To select a procurement process for the provision of RWHAP Part A services that is appropriate for a recipient and adhere to these parameters: all RWHAP Part A services shall only be provided to individuals with HIV, the RWHAP Part A required services are articulated in the RWHAP legislation and defined in [Policy Clarification Notice (PCN) 16-02.](https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf)  The procurement and purchasing process to be used should be simple and appropriate for a subaward and that accounts for the need to provide emergency services to a specific population.

### 45CFR 75.327 General standards.

The recipient must determine the type of procuring instruments used but shall be appropriate for the particular procurement and for promoting the program’s or project’s best interest.

### 45 CFR 75.333 Pass through entity review.

The non-Federal entity must make available upon request, for the HHS awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates.

The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

The non-Federal entity is exempt from the pre-procurement review in [paragraph (b)](#bookmark108) of this section if the HHS awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

### 45 CFR 75.351 Subrecipient vs Contractors Determination.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with HHS awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations about whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The HHS awarding agency may supply and require recipients to comply with additional guidance to support these determinations, provided such guidance does not conflict with this section.

*Subrecipients*. A sub-award is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 75.2 Subaward. Characteristics that support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

* Determines who is eligible to receive what Federal assistance,
* Has its performance measured in relation to whether objectives of a Federal program were met; Has responsibility for programmatic decision making.
* Is responsible for adherence to applicable Federal program requirements specified in the Federal award.
* In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

*Contractors*. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §75.2 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor.

* Provides the goods and services within normal business operations; Provides similar goods or services to many different purchasers; Normally operates in a competitive environment.
* Provides goods or services that are ancillary to the operation of the Federal program; and
* Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Use of judgment in making the determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

1. Budgeting Requirements applicable to pass through

***Budgeting Goal:*** The subrecipients’ budgets must reflect the uses of grant funding as required by the legislation. The RWHAP legislation requires the funding of core medical, support and administration services; thus the recipient and subrecipients budgets must be by required categories: recipient administration (10% for recipient administration funds (limitation 10% of the award); recipient quality (limitation 5% of the award or $3,000,000, whatever is less) subrecipient aggregate administration (limitation 10% in the aggregate) and for core medical services funded (limitation 75 percent of Ryan White HIV/AIDS program funds spent on core medical services) unless a waiver has been awarded.

### 75.308 Budget and program plans – revisions.

The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. It may include either the Federal and non-Federal share (see § 75.2 Federal share) or only the Federal share, depending upon HHS awarding agency requirements. It must be related to performance for program evaluation purposes whenever appropriate.

Recipients are required to report deviations from budget or project scope or objective and request prior approvals from HHS awarding agencies for budget and program plan revisions, in accordance with this section.

For non-construction Federal awards, recipients must request prior approvals from HHS awarding agencies for one or more of the following program or budget-related reasons:

Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

### Section 2604, RWHAP Part A legislation, —Uses of Funds of title XXVI of the Public Health Service Act, 42 U.S.C. 300ff-11-300ff-20. ——

(a) Requirements- The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(4)(C), by the HIV health services planning council that serves such eligible area;

(2) funds provided under section 2601 will be expended only for—

* 1. core medical services described in subsection (c);
  2. support services described in subsection (d); and
  3. administrative expenses described in subsection (h); and

(3) the use of such funds will comply with the requirements of this section

### SEC. 2604; Administration-Recipient.

ADMINISTRATIVE ACTIVITIES- For purposes of paragraph (1), amounts may be used for administrative activities that include—

(A) Routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the development of a clinical quality management program as described in paragraph (5), the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

(B) All activities associated with the grantee's contract award procedures, including the activities carried out by the HIV health services planning council as established under section 2602(b), the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation, or onsite visits, reporting on contracts, and funding reallocation activities.

### Sec. 2604 h 5 Clinical Quality Management.

(i) IN GENERAL- From amounts received under a grant awarded under this subpart for a fiscal year, the chief elected official of an eligible area may use for activities associated with the clinical quality management program required in subparagraph (A) not to exceed the lesser of--

(I) Five percent of amounts received under the grant; or (II) 3,000,000

1. Legal Agreements Requirements applicable to a pass-through

***Legal Agreement Goal***: To have the legal agreement executed within 45 days of the start of the budget period. To select a legal agreement for the awarding of federal dollars for the provision of RWHAP Part A services, which language emphasizes the relation to the federal dollars by stating all the requirements the subrecipient must comply (stated above). In addition, the site visit monitoring process should be outlined. The agreement should provide the information required in 45 CFR 75.203 (below).

### 45 CFR 75.201 Use of grant agreements.

The HHS awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or contract) in accordance with the Federal Grant and Cooperative Agreement Act ([31 U.S.C. 6301-08](https://www.govinfo.gov/link/uscode/31/6301-08)).

Fixed Amount Awards. In addition to the options described in [paragraph (a)](#bookmark23) of this section, HHS awarding agencies, or pass-through entities as permitted in § 75.353, may use fixed amount awards (see § 75.2 Fixed amount awards) to which the following conditions apply.

### 75.203 Notices of funding opportunities.

For competitive grants and cooperative agreements, the HHS awarding agency must announce specific funding opportunities by providing the following information in a public notice:

Summary Information in Notices of Funding Opportunities. The HHS awarding agency must display the following information posted on the OMB-designated government-wide Web site for finding and applying for Federal financial assistance, in a location preceding the full text of the announcement:

HHS Awarding Agency Name; Funding Opportunity Title;

Announcement Type (whether the funding opportunity is the initial announcement of this funding opportunity or a modification of a previously announced opportunity);

Funding Opportunity Number (required, if applicable). If the HHS awarding agency has assigned or will assign a number to the funding opportunity announcement, this number must be provided.

### 2603 (B) Distribution Factor—Formula Grant.

For purposes of subparagraph (A)(ii), the term ‘‘distribution factor’’ means an amount equal to the *living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention)* in the eligible area involved, as determined under subparagraph (C).

### 2603 (B) Distribution Factor—Supplemental Grant

(a) GRANTS BASED ON RELATIVE NEED OF AREA

(1) IN GENERAL. In carrying out section 2601(a), the Secretary shall make a grant for each eligible area for which an application under section 2605(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

(2) EXPEDITED DISTRIBUTION. Not later than 60 days after an appropriation becomes available to carry out this subpart for a fiscal year, the Secretary shall, except in the case of waivers granted under section 2605(c), disburse 66 2/3 percent of the amount made available under section 2610(b) for carrying out this subpart for such fiscal year through grants to eligible areas under section 2601(a), in accordance with paragraphs (3) and (4).

(3) AMOUNT OF GRANT.

(A) IN GENERAL. Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

1. an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and
2. the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas;
3. which product shall then, as applicable, be increased under paragraph (4).
4. INVOICING REQUIREMENTS

***Invoicing Goal***: The payment of invoices within 30 days of receipt of the invoice/bill /request for payment.

### 45 CFR 75.305 Payment.

1. For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or issuance or redemption of checks, warrants, or payment by other means. See also § 75.302(b)(6). Except as noted elsewhere in this part, HHS awarding agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.
2. The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.
3. Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the HHS awarding agency sets a specific condition per §75.207, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the HHS awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the HHS awarding agency or pass-through entity reasonably believes the request to be improper.
4. If the non-Federal entity cannot meet the criteria for advance payments and the HHS awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the HHS awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the HHS awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the HHS awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

## Subpart E Cost Principles—Definition—Application

### 75.403 Allocable.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to **be allowable** under Federal awards:

Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity.

Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

Not be included as a cost or used to meet cost sharing or matching requirements of any other federally- financed program in either the current or a prior period. See also [§ 75.306(b)](#bookmark60).

Be adequately documented. See also §§ 75.300 through 75.309.

### 75.404 Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally funded. In determining the reasonableness of a given cost, consideration must be given to:

Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.

The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws, and regulations; and terms and conditions of the Federal award.

Market prices for comparable goods or services for the geographic area.

Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.

Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

### 75.405 Allocable costs.

A cost is allocable to a particular Federal award or other cost objectives if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received.

This standard is met if the cost:

Is incurred specifically for the Federal award;

Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and

Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.

1. Financial Management Requirements—Accounting

***Financial Management Goal***: To account for the RWHAP Part A revenues and expenditures with sufficient detail to permit the preparation of the federal report by funding source Formula, Minority AIDS Initiative (MAI) and Supplemental; by budget categories, salaries Fringes Equipment Supplies Consultant Contractors and Others and by core medical, support, administrative and clinical quality management.

### 75.302 Financial management and standards for financial management systems.

Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non- Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 75.450.

The financial management system of each non-Federal entity must provide for the following (see also §§ 75.361, 75.362, 75.363, 75.364, and 75.365):

Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the HHS awarding agency, and name of the pass-through entity, if any.

Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 75.341 and 75.342. If an HHS awarding agency requires reporting on an accrual basis from a recipient that maintains its records other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation at hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.

Records that adequately identify the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.

Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 75.303.

Comparison of expenditures with budget amounts for each Federal award.

1. Fiscal Reporting Requirements

***Goal***: To submit the three RWHAP Part A Fiscal Reports timely. 1) Federal Financial Reports (FFR)*due 90 days after the close of the budget year, typically either May 28th or May 29th, depending on if it is a leap year.*; 2) Payment Management System report – Quarterly and 3) Expenditure Report

### 75.342 Reporting program performance.

The non-Federal entity must submit performance reports at the interval required by the HHS awarding agency or pass-through entity to inform improvements in program outcomes and productivity best. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the HHS awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple-year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the HHS awarding agency may extend the due date for any performance report.

### 75.341 Financial reporting.

Unless otherwise approved by OMB, the HHS awarding agency may solicit only the standard, OMB-approved government-wide data elements for collection of financial information (at the time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

1. Other common requirements that must be met.

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, 45 CFR section

### 75.342 Monitoring

Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function, or activity. See also § 75.352.

### 75.2 Program Income – Definition

Program income means gross income earned by the non-Federal entity that is directly generated by a **supported activity** **or earned as a result of the Federal award** during the period of performance except as provided on 45 CFR §75.307(f). Program income includes but is not limited to income from fees for services performed, the use or rental of [sic.] real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them.

### 75.320 Equipment

### Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions.

Use. The equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.

Not encumber the property without approval of the HHS awarding agency or pass-through entity. Use and dispose of the property in accordance with [paragraphs (b)](#bookmark87), [(c)](#bookmark88), and [(e)](#bookmark90) of this section.

A state must use, manage, and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures.

### Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.

A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

Adequate maintenance procedures must be developed to keep the property in good condition.

If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

### Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by an HHS awarding agency, except as otherwise provided in Federal statutes, regulations, or HHS awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the HHS awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with HHS awarding agency disposition instructions:

### 75.323 Property trust relationship. Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The HHS awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use, and disposition conditions apply to the property.

### RWHAP Part A legislation, title XXVI of the Public Health Service Act, 42 U.S.C. 300ff-11, et seq.

### Section 2605 (6) Payor Last Resort

The State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(ii) by an entity that provides health services on a prepaid basis (except for a program administered by or providing the services of the Indian Health Service); and [NB: section 204(c)(3) probably should have been added to (i)]

### Section 2603 (c) 3 Unobligated Balances

All **supplemental** funds must be spent by the end of the budget period – any unobligated supplemental balance is canceled and returned to HRSA.

Carryover of **formula** funds is allowed only with “a waiver of cancellation request” signed by the CEO and sent 60 days before the end of the budget period.

Penalties occur if unobligated **formula** funds total >2% of the formula grant amount.

**MAI** funds may be carried over without penalty.

### Section 2605 (e) Cap on Charges

In the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

In the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

In the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved. The annual aggregate of charges imposed for such services [during the calendar year] without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

### 2605 (e) Imposition of Charges

In the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

in the case of individuals with an income greater than 100 percent of the official poverty line, the provider— (i) will impose a charge on each such individual for the provision of such services; and (ii) will impose the charge according to a schedule of charges that is made available to the public;

### Section 2604 Maintenance of Effort

(1)(A) “that funds received under a grant awarded under this subpart will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services as described in section 2604(b)(1);

(B) "that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services as described in section 2604(b)(1) at a level that is equal to the level of such expenditures by such political subdivisions for the preceding fiscal year; and

C) "that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B)."

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PROCUREMENT** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
| Select a procurement process for soliciting fiduciary services appropriate for a pass-through entity that passes federal dollars to subrecipient providers of core medical, support, and administrative services to individuals diagnosed with HIV/AIDS. | Fiduciary Request For Proposals (RFP) | Is the process for soliciting services performed by the funded agency/recipient or a fiduciary/lead agency?  Is the time from solicitation to awarding funding to the fiduciary less than 60 days? | Click or tap here to enter text. | Click or tap here to enter text. |
| Select a procurement process for awarding federal dollars for providing Ryan White HIV/AIDS Program — Part A services appropriate for a subrecipient that provides core medical, support, and administrative services to individuals with HIV. | The jurisdiction’s Policies and Procedures for creating, distributing, and evaluating a Request for Proposals.  Copy of the process for requesting Ryan White Part A core medical, support, and administrative services. | Which procurement processes are currently used for subrecipients?  What is the length of time from solicitation to award of funding?  How often are services rebid/recompeted?  Is sole source procurement used? If so, how frequently and for what services?  Are there services provided by the recipient organization (health department)?  If so, is the procurement process for the recipient different from other applicant agencies in the EMA/TGA? | Click or tap here to enter text. | Click or tap here to enter text. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **BUDGETING** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
| The budgets of subrecipients must reflect the use of grant funding as required by the RWHAP legislation. | Compare budgets vs. expenses.  Review the calculation of the total administrative expenses across all subrecipients to ensure that the aggregate administrative costs do not exceed 10%. | Do the RWHAP Part A budget and expense reports track expenses with sufficient detail to allow identification of administrative, quality, core medical, and support services expenses?  What budgeting practices have been undertaken to reduce unobligated balances? | Click or tap here to enter text. | Click or tap here to enter text. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **CONTRACTING** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
| To have the fiduciary lead agency’s contract executed 120 days before the end of the budget period.  To have the legal agreement for subrecipients executed within 45 days of the start of the budget period. | A copy of the fiduciary/lead agency contract  Copies of subrecipients’ contracts  Contracting timeline | Is the fiduciary contract executed with enough time for all subrecipients to have fully executed contracts in place 45 days after the start of the budget period?  Is the start of the fiduciary contracting process dependent on the receipt of the Notice of Grant Award from HRSA?  Does the fiduciary scope of work prevent the fiduciary from using their own *(not the recipient’s)* RFP, contracting, invoicing and disbursement process to distribute RWHAP funding for core medical and support services?  Is the late contracting of subrecipients delaying the payment of invoices? | Click or tap here to enter text. | Click or tap here to enter text. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **CONTRACTING (continued)** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
|  |  |  |  |  |
|  |  | Does the scope of work include:   * Services for which funding is provided? * Client eligibility requirements? * Compliance with payer of last resort? * A line-item budget and/or payment rate per service * Compliance w/RWHAP legislation, Federal regulations, Policy Clarification Notices, and monitoring site visits?   Is language from HRSA HAB Assurances and Certifications included in the subrecipient contracts? |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **INVOICING/DISBURSEMENT** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
| Payment of invoices within 30 days of receipt of the invoice/bill/reimbursement request. | Invoicing timeline  One month of invoices with the date received and the date paid indicated | Does the recipient or fiduciary provide an invoice template by service category to subrecipients?  Does the recipient or fiduciary have an electronic payable portal to submit invoices? Is it manual?  Is the recipient or fiduciary adequately staffed to review invoices for inaccuracies?  Does the reviewer compare each line item or fee to check for inaccuracies and ensure compliance with the federal cost principles of allowability, allocability, and reasonableness?  Does the jurisdiction’s payable department perform a high-level review and approve invoices for payment? | Click or tap here to enter text. | Click or tap here to enter text. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **FINANCIAL MANAGEMENT—ACCOUNTING** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
| To account for the RWHAP Part A revenues and expenditures with sufficient detail to permit the preparation of the federal report by funding source Formula, MAI, and Supplemental; by budget categories, Salaries, Fringes Equipment Supplies Consultants, Contractors, and Other, and by core medical, support, administrative and quality management services. | Financial policies and procedures  Chart of Accounting Codes for Revenue and Expenses for RWHAP Part A transactions | Describe the accounting system used to track RWHAP Part A expenses.  Is the jurisdiction timely *(as required by GAAP)* with monthly closings? Or is the jurisdiction behind with monthly closings?  Are subrecipients submitting closing invoices for the month of February by the 15th of the following month?  What is the earliest the jurisdiction can close the RWHAP Part A budget period?  Electronic – application name?  Do reports provide information in a way that supports the tracking of the limitation cap requirements, 10% admin, 5% CQM, 10% aggregate administration?  Can unit cost payments be traced to financial reports? | Click or tap here to enter text. | Click or tap here to enter text. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **FINANCIAL MANAGEMENT—ACCOUNTING (continued)** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
|  |  | Does treatment of RWHAP Part A transactions allow for allocation and tracking of expenses by RWHAP cost categories (core medical, support, administration quality management services)?  Is the subrecipient’s internal accounting system (spreadsheet) periodically reconciled with the subrecipient organization’s general ledger? |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **REPORTING** | | | | |
| **GOAL** | **DOCUMENT(S)** | **QUESTIONS**  ***(use documents and interviews)*** | **BARRIERS TO COMPLIANCE** | **SUGGESTION(S)** |
| To submit the three (3) RWHAP Fiscal Reports timely.   1. Federal Financial Reports (FFR)—due 90 days after the close of the budget year, *typically either May 28th or May 29th, depending on if it is a leap year.* 2. Payment Management Report—Quarterly; and 3. Expenditure Reports | Check report submission dates | In the past three years, has the FFR ever been returned by HRSA?  If yes, ask why.  Can you submit the FFR within 90 days after the close of the budget year?  If not, in FY2023 the FFR was due by May 29th.  In FY2024, the FFR is due by May 29th. | Click or tap here to enter text. | Click or tap here to enter text. |