

In paragraph (e), we indicate where to submit an application. All initial applications and supplemental applications must be submitted to:

Centers for Medicare & Medicaid Services, Acquisition and Grants Group, Mail Stop C2-21-15, 7500 Security Boulevard, Baltimore, MD 21244-1850, Attn: Nicole Nicholson.

We added § 148.318, which describes how we will review grant applications. Paragraph (a) indicates that this grant program is not listed by the Secretary under 45 CFR 100.3, and therefore the grant program is not subject to review by States under 45 CFR part 100, which implements Executive Order 12372, "Intergovernmental Review of Federal Programs."

Paragraph (b) states that a team consisting of staff from CMS and the Department of Health and Human Services will review all applications. The team will meet as necessary on an ongoing basis as applications are received.

Paragraph (c) describes the eligibility criteria. To be eligible for a grant, a State must submit sufficient documentation to demonstrate that its high risk pool meets the eligibility requirements described in § 148.310. A State must include sufficient documentation of the losses incurred in the operation of the qualified high risk pool in the period for when it is applying. Paragraph (d) indicates that if the review team determines that a State meets the eligibility requirements described in § 148.310, the review team will use the following additional criteria in reviewing the applications:

(1) *Documentation of expenses incurred during operation of the qualified high risk pool.* The losses and expenses incurred in the operation of a State's pool are sufficiently documented.

(2) *Funding mechanism.* The State has outlined funding sources, such as assessments and State general revenues, which can cover the projected costs and are reasonably designed to ensure continued funding of losses a State incurs in connection with the operation of the qualified high risk pool after fiscal year 2004.

We added § 148.320, which describes our grant award process. Paragraph (a) provides that we will notify each State applicant in writing of CMS' decision on its application. If we award a grant to the State applicant, the award letter will contain the following terms and conditions:

(i) All funds awarded to the grantee under this program must be used exclusively for the operation of a qualified high risk pool that meets the

eligibility requirements for this program.

(ii) The grantee must keep sufficient records of the grant expenditures for audit purposes (see 45 CFR part 92).

(iii) The grantee may be required to submit quarterly progress and financial reports under 45 CFR 92.

Paragraph (b) specifies that an applicant that receives a grant award must submit a letter of acceptance to CMS' Acquisition and Grants Group within 30 days of the date of the award agreeing to the terms and conditions of the award letter.

### III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substance of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. In this instance, we find that notice-and-comment is contrary to the public interest because it is beneficial to the eligible States and to the uninsured population in the eligible States that funding for qualified high risk pool is available as quickly as possible. The sooner the funds become available for States to fund losses incurred in the operation of the qualified high risk pools, the sooner that the pools can expand their eligibility to provide coverage to more uninsured individuals.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day public comment period.

### IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

### V. Collection of Information Requirements

Under the Paperwork Reduction Act (PRA) of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the section that contains information collection requirements.

#### *Sections 148.316 Grant Application Instructions*

This section requires an applicant to submit the application in writing and states what it must contain.

#### *Sections 148.320 Grant Awards*

Paragraph (b) of this section requires an applicant that is granted an award to send CMS a letter of acceptance.

These two information collection requirements together have been estimated to take 40 hours per applicant/grantee to fulfill, for a total of 800 hours per year, based on a maximum of 20 applicants. This burden has been approved by the Office of Management and Budget under approval number 0938-0887 through June 2003.

#### *Section 148.320 Grant Awards*

Paragraph (a)(2)(iii) of this section states that the grantee may be required to submit quarterly progress and financial reports under pursuant to part 92 of this title.

The burden associated with requirement is the time it will take the grantee to complete the reports, if requested. At a maximum, a grantee would have to complete 8 reports; however, we anticipate that the grantees will need to file only semi-annually, thus completing only four reports. We estimate that a progress report will take 30 minutes to complete and a financial