

complaint while allowing Respondent to engage in legitimate joint conduct.

Paragraph II.A prohibits Respondent from entering into or facilitating agreements between or among medical practices: (1) To negotiate, to fix, or to establish any fee, stipend, or any other term of reimbursement for the provision of anesthesia services; (2) to deal, to refuse to deal, or to threaten to refuse to deal with any payor of anesthesia services; or (3) to reduce, or to threaten to reduce, the quantity of anesthesia services provided to any purchaser of anesthesia services. A "medical practice" is defined as a bona fide, integrated business entity in which physicians practice medicine together as partners, shareholders, owners, members, or employees, or in which only one physician practices medicine.

Paragraph II.B prohibits Respondent from attempting to engage in any action prohibited by Paragraph II.A. Paragraph II.C prohibits Respondent from encouraging, pressuring, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A and II.B.

Paragraph II contains a proviso that allows Respondent to engage in conduct that is reasonably necessary to the formation or operation of a "qualified risk-sharing joint arrangement" or a "qualified clinically-integrated joint arrangement." To be a "qualified risk-sharing joint arrangement," an arrangement must satisfy two conditions. First, all participating providers must share substantial financial risk through the arrangement and thereby create incentives for the participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. To be a "qualified clinically-integrated joint arrangement," an arrangement must satisfy two conditions. First, all participants must join in active and ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of interdependence and cooperation among providers to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. Both definitions reflect the analyses contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care.

Paragraphs III through V of the proposed order are reporting and compliance provisions. Paragraph VI is a provision "sunsetting" the order after 20 years.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary, Assistant Secretary for Planning and Evaluation; Notice of Funding Availability for Policy and Research Grants (State Innovation Grants)

**AGENCY:** The Office of the Assistant Secretary for Planning and Evaluation (ASPE), HHS.

**ACTION:** Notice of grant competition.

**SUMMARY:** The Office of the Assistant Secretary for Planning and Evaluation announces its intention to conduct a grant competition for ASPE State Innovation Demonstration Grants. This competition is limited to current recipients of FY 2002 ASPE State Innovation Planning Grants.

*The Catalog of Federal Domestic Assistance Number:* The CFDA number is 93.239.

*Closing Date:* The closing date for submitting applications under this announcement is August 18, 2003. Please email Brenda Benesch at [Brenda.Benesch@hhs.gov](mailto:Brenda.Benesch@hhs.gov) by July 8, 2003 to inform the government of your intent to submit an application. Please include the proposed title of the project and the name of the agency submitting the application. Providing notice of intent to submit is not a requirement for submitting an application. However, a notice of intent to submit will help the federal government in planning for the review process.

*Mailing Address:* Applications should be submitted *to be determined*.

You will receive email confirmation to notify you that your application was received within 14 days of the closing date. If you do not receive confirmation within 14 days of the closing date, please contact *to be determined* at the address above.

The printed **Federal Register** notice is the only official program announcement.

**FOR FURTHER INFORMATION CONTACT:** Administrative questions should be directed *to be determined* at the address or phone number listed above.

Administrative questions will be accepted and responded to up to ten working days prior to closing date of receipt of applications. Technical questions should be directed to Brenda Benesch, either by telephone (202-260-0382), fax (202-690-6562), e-mail ([Brenda.Benesch@hhs.gov](mailto:Brenda.Benesch@hhs.gov)) or in writing at the following address, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 450G, Hubert H. Humphrey Building, Washington, DC 20201. If you send your question(s) in writing, please call to confirm receipt. Technical questions will be accepted and responded to up to ten working days prior to the closing date of receipt of applications.

*Application Materials:* Application materials are included in this package and are also available from the ASPE World Wide Web site: <http://aspe.hhs.gov/funding.htm> or by calling *to be determined*.

**SUPPLEMENTARY INFORMATION:** This program announcement consists of five parts: Part I: Background—Legislative authority, Background information, Purpose, Technical assistance and process evaluation; Part II: Project and Applicant Eligibility—Eligible applicants, Available funds, Budget and project period, and Matching requirements; Part III: The Review Process—Intergovernmental review, Initial screening, and Competitive review and evaluation criteria; Part IV: The Application—Application development, Application submission, Disposition of applications, and Components of a complete application; Part V: Questions and Answers.

### Part I. Background

#### A. Legislative Authority

This announcement is authorized by section 1110 of the Social Security Act (42 U.S.C. 1310) and section 310 of the Public Health Service Act and awards will be made from funds appropriated under the Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7).

#### B. Background Information

In FY 2002 ASPE awarded state innovation demonstration grants to five states and planning grants to ten states to help them implement or develop innovative approaches for providing health and human services more efficiently. Planning grants were awarded for up to a 17-month project period. The following planning grants were awarded:

- Alaska Department of Health and Social Sciences— "Planning for