



# POLICY INFORMATION NOTICE

**DOCUMENT NUMBER:** 2010-01

**DATE:** February 5, 2010

**DOCUMENT TITLE:** Confirming Public Agency Status under the Health Center Program and FQHC Look-Alike Program

**TO:** Health Center Program Grantees  
Federally Qualified Health Center Look-Alikes  
Primary Care Associations  
Primary Care Offices  
National Cooperative Agreements

The purpose of this Policy Information Notice (PIN) is to describe the documentation that will be considered by the Health Resources and Services Administration (HRSA) in confirming public agency status for organizations that self-identify as public agencies (also referred to in previous PINs as “public entities” or “public applicants”) for Health Center Program grant funding authorized under section 330 of the Public Health Service Act, as amended, and/or for Federally Qualified Health Center Look-Alike designation.

If you have any questions or require further guidance, please contact the Bureau of Primary Health Care, Office of Policy and Program Development at [OPPDGeneral@hrsa.gov](mailto:OPPDGeneral@hrsa.gov).

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Attachment

## I. PURPOSE

The purpose of this Policy Information Notice (PIN) is to describe the documentation that will be considered by the Health Resources and Services Administration (HRSA) in confirming public agency status for organizations that self-identify as public agencies (also referred to in previous PINs as “public entities” or “public applicants”) under the Health Center Program<sup>1</sup> and/or Federally Qualified Health Center (FQHC) Look-Alike Program. The health center project of the public agency is also referred to in section 330 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 254b), as a “public center.”

## II. APPLICABILITY

This PIN applies to all organizations funded or seeking funding under the Health Center Program authorized in section 330 of the PHS Act, as amended (42 U.S.C. 254b), that self-identify as a public agency, specifically:

- Community Health Centers (CHC), funded under section 330(e);
- Migrant Health Centers (MHC), funded under section 330(g);
- Health Care for the Homeless (HCH) Health Centers, funded under section 330(h); and
- Public Housing Primary Care (PHPC) Health Centers, funded under section 330(i).

In addition, this PIN applies to those self-identified public agency organizations designated or seeking designation as FQHC Look-Alikes under the authority of section 1861(aa)(4) and section 1905(l)(2)(B) of the Social Security Act.<sup>2</sup> Because FQHC Look-Alikes must meet the Health Center Program requirements, the definition for a FQHC Look-Alike designated public center is identical to the definition for a public center funded under section 330 of the PHS Act, as amended.

Throughout this PIN, “health center” refers to all HRSA Health Center Program grants awarded under section 330 of the PHS Act, as amended, and unless otherwise specified, FQHC Look-Alike designated organizations.

This PIN does **not** apply to health centers that self-identify as nonprofit private entities or those operated by federally recognized Indian tribes or tribal or Indian organizations under the Indian Self-Determination Act or urban Indian organizations under the Indian Health Care Improvement Act. This PIN also does **not** apply to organizations funded or seeking funding under the Health Center Program Planning Grants, which are funded under section 330(c) of the PHS Act, as amended.

Where provisions of this PIN conflict with requirements specified in the PIN listed below, the provisions in this PIN supersede those in this PIN:

<sup>1</sup> Sentence following Section 330(k)(3)(M) of the PHS Act, as amended.

<sup>2</sup> Under section 1861(aa)(4) and section 1905(l)(2)(B) of the Social Security Act, FQHC Look-Alikes must meet the requirements for health centers funded under section 330 of the PHS Act, as amended.

- PIN 2009-06, “Federally Qualified Health Center Look-Alike Guidelines and Application.”

### III. BACKGROUND

The Health Center Program’s authorizing statute and implementing regulations<sup>3</sup> permit a public agency or non-profit private entity to apply for a grant under the Health Center Program. The term “public agency” is not defined in section 330 of the PHS Act, as amended, or in the Health Center Program’s regulations; however, reference is made to public agencies in section 330 of the PHS Act, as amended, in the context of defining a public center as “a health center funded (or to be funded) through a grant under this section to a public agency.”<sup>4</sup>

Section 330 of the PHS Act, as amended, contains two unique provisions that apply only to public centers: 1) public centers are permitted a co-applicant structure; and 2) there are funding limitations on public centers with co-applicant structures.<sup>5</sup> HRSA is issuing this PIN to define the criteria and the process that it will use to confirm an organization’s self-identified status as a “public agency” for purposes of eligibility for a grant under the Health Center Program and/or designation under the FQHC Look-Alike Program.

### IV. DETERMINING PUBLIC AGENCY STATUS

Many organizations serve public interests by providing health care and other essential services to the underserved in their communities; however, not all can be classified as public agencies eligible for health center projects with public center status under Section 330 of the PHS Act, as amended, or with FQHC Look-Alike Program designation. Documentation demonstrating one of the following will be used by HRSA to assess whether an organization will qualify as a “public agency” for purposes of section 330 of the PHS Act, as amended, or for FQHC Look-Alike designation:

1. The organization is a State or a political subdivision of a State with one or more sovereign powers, and thus is a government entity that is not taxed by the Internal Revenue Service (IRS). Evidence to support this would include an “Affirm Instrumentality Letter” (4076C) from the IRS or a letter of authority from the Federal, State, or local government granting the entity one or more sovereign powers. An IRS “Affirm Instrumentality Letter” can be obtained from the IRS for eligible government entities by calling 1-877-829-5500.
2. The organization is an instrumentality of government, such as those exempt under Internal Revenue Code section 115, and the entity has obtained a “letter ruling” (i.e., a positive written determination by the IRS of this status) by following the procedures specified in Revenue Procedure 2009-1 or its successor, as applicable. Evidence to support this would include a determination letter issued by the IRS, evidence of a past positive letter ruling by the IRS, or other documentation

<sup>3</sup> Section 330 of the PHS Act, as amended and 42 C.F.R. 51c.103, and 42 C.F.R. Part 56.

<sup>4</sup> Sentence following Section 330(k)(3)(M) of the PHS Act, as amended.

<sup>5</sup> Section 330(r)(2)(A) of the PHS Act, as amended.

demonstrating that the organization is an instrumentality of government, such as documentation of the law that created the organization or documentation showing that the State or a political subdivision of the State controls the organization. Organizations may obtain more information on IRS letter rulings by calling 1-877-829-5500.

**OR**

3. The organization is a subdivision, municipality, or instrumentality of a United States (U.S.) affiliated sovereign State that is formally associated with the U.S. Evidence to support this includes formal documentation from the sovereign State's taxing authority equivalent to the IRS or authority granting the entity one or more governmental powers.

More guidance regarding the applicable sections of the IRS Code and IRS documentation is available from the IRS Federal, State & Local Governments (FSLG) Office at <http://www.irs.gov/govt/fslg/index.html>. In addition, the IRS published an article on instrumentalities as part of its Exempt Organizations Continuing Professional Education (CPE) Technical Instruction Program for Fiscal Year 1990, which may provide more information on this topic. This article can be found at <http://www.irs.gov/pub/irs-tege/eotopice90.pdf>.

**V. REVIEW PROCESS**

When applying for a grant under section 330 of the PHS Act, as amended, or for FQHC Look-Alike designation, applicants must self-identify as a non-profit or public agency. The documentation described above in Section IV will be used by HRSA to confirm that an organization applying for a Section 330 (e), (g), (h), and/or (i) grant and/or FQHC Look-Alike designation meets the eligibility criteria to be funded/designated as a public center. Existing public centers will be asked to confirm their public agency status by producing the documentation outlined in Section IV in their next Service Area Competition (SAC) application. Upon review, as necessary for unique circumstances, HRSA may request additional documentation to verify public agency status. Public centers are encouraged to research their qualifications as public centers under this PIN's criteria prior to their next SAC application.

Once this PIN becomes effective, and an organization that is currently self-designated as a public agency finds that it does not qualify for this status under the PIN's criteria, HRSA will provide this organization with an opportunity to develop and implement a plan to come into compliance. HRSA will work with affected health centers to address their issue(s) on a case-by-case basis.