

## **State-based Exchange Annual Report Tool (SMART) Supporting Statement for Paperwork Reduction Act Submissions**

### **A. Background**

On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (P.L. 111-148) and on March 30, 2010, he signed the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) into law. Collectively, the two laws comprise the Affordable Care Act (ACA). The ACA creates new competitive private health insurance markets – referred to as State-based Exchanges (SBE) – that will give millions of Americans and small businesses access to affordable healthcare coverage. To best meet the needs of the individual states to provide these services, the ACA provides them with the maximum flexibility to design, implement, and operate the market within their state.

The U.S. Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) works collaboratively with SBEs. As these Exchanges move from design and implementation to operations, CMS will provide oversight and monitoring to ensure adequate operational systems. The effective and efficient oversight of Exchanges will include monitoring, reporting, and oversight of financial and other Exchange activities. These mechanisms will ensure the Exchanges are meeting the standards of the ACA and consumers receive both appropriate choices of available coverage and advance payments of the premium tax credit or cost-sharing reductions to which they are entitled.

CMS oversight of SBEs will promote transparency and ensure compliance with Exchange-related standards while preserving states' traditional roles in overseeing their insurance markets. To that end, there are numerous regulatory requirements described in the Exchange Final Rule, the Program Integrity Rule, and other regulatory guidance with which SBEs must comply. Regulatory requirements include submitting reports such as an annual financial statement, eligibility and enrollment reports, and the Small Business Health Option Program (SHOP) reports to the Internal Revenue Service (IRS) on employer participation, employer contributions, and employee enrollment. Other regulatory requirements address security and privacy safeguards, stakeholder consultations, and funding obligations for SBE operations, beginning in 2015.

In order to ensure the SBEs and State-based Exchanges using the Federal platform (SBE-FP) are complying with the full range of reporting requirements, SBEs and SBE-FPs must submit the State-based Marketplace Annual Reporting Tool (SMART) to CMS. This report will include all reporting requirements for SBEs and will be used as the vehicle for evaluating comprehensive compliance with CMS regulations and standards. This report will include attestations of SBE compliance with ACA requirements, attestations of compliance with eligibility and enrollment requirements, performance monitoring data, and the annual financial statement and external financial and programmatic audit report.

The primary burden associated with collecting and developing program integrity reports by SBEs was previously captured in Program Integrity Rule Paperwork Reduction Act (PRA) package (CMS-10516). However, to capture and streamline all SBE program

integrity requirements, CMS has consolidated the burden to collect these requirements in this submission.

## **B. Justification**

### **1. Need and Legal Basis**

The annual SMART is the primary vehicle to ensure compliance with all reporting requirements contained in the ACA. It is specifically called for in Section 1313(a)(1) of the ACA, which requires an SBE to keep an accurate accounting of all activities, receipts, and expenditures, and to submit a report annually to the Secretary concerning such accounting. Instructions governing specific facets of the activities covered by the report are contained both in the ACA and in applicable Federal Regulations.

### **2. Information Users**

CMS and other Federal agencies use the information collected from the SMART to determine if a state is maintaining a compliant, operational Exchange. It also provides a mechanism to collect innovative approaches to meeting challenges encountered by the SBEs during the preceding year, as well as to provide information to CMS regarding potential changes in priorities and approaches for the upcoming year.

### **3. Use of Information Technology**

Most systems, notices, and information collection required for the SMART is automated, and a majority of the required information is submitted electronically. CMS leverages existing IT systems for the collection of the state-specific data and aims to lessen the burden on states and minimize the need for any additional costs for the required submission by using existing IT systems. CMS staff will analyze or review the data in the same manner by which it was submitted and communicate with states, health insurance issuers, and other entities using e-mail, telephone, or other electronic means.

The SMART data collection tool is available on SERVIS and permits electronic submission of responses.

### **4. Duplication of Efforts**

CMS designed the SMART to reduce the data collection to the maximum extent possible. SBEs answer most questions by attestations and upload existing documents specified in the program integrity requirements. While it is intended as a comprehensive compliance review to ensure SBEs are fulfilling their statutory requirements, very little additional data gathering is required to complete the form.

### **5. Small Businesses**

This collection does not impact small businesses or other small entities.

### **6. Less Frequent Collection**

CMS cannot conduct this collection less frequently. The ACA requires an annual submission of the report.

### **7. Special Circumstances**

No special circumstances apply.

### 8. Federal Register/Outside Consultation

As required by the Paperwork Reduction Act of 1995, CMS published a 60-day Federal Register Notice (FRN) to provide interested parties the opportunity to comment on the collections of information required by the SMART. No outside consultation was sought. FRN appeared on November 26, 2018, on page 60428-60429 (2 pages) of the Federal Register. No comments were received in response to the 60-day comment period.

The 30-day Notice published February XX,2019 (XX FR XXXXX).

### 9. Payments/Gifts to Respondents

There will be no payments or gifts to respondents.

### 10. Confidentiality

To the extent of the applicable law and CMS policies, we will maintain respondent privacy with respect to the information collected.

### 11. Sensitive Questions

The data collection does not incorporate any questions that would be considered sensitive in nature.

### 12. Burden Estimates (Hours & Wages)

There are currently 17 states operating Exchange formats requiring submission of the SMART. Five of these states operate an SBE-FP model and are not subject to the SMART eligibility and enrollment standard. As a result, the 17 total respondents were divided into two groups, 12 SBEs and five SBE-FPs. This accounts for the difference in total estimated burden hours between the two Exchange models.

CMS used the May 2017 Bureau of Labor Statistics' most wage estimates available on the Bureau of Labor Statistics (BLS) website at the following link: ([https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)) as the basis for standard mean hourly wages to calculate the burden costs. This mean hourly wage is adjusted by a factor of 100 percent to include fringe benefits.

### Estimated Annualized Burden Table

Forms	Type of Respondent	Number of Respondents	Responses per Respondent	Estimated Burden Hours per Response	Total Estimated Burden Hours
Annual Regulatory Report	SBE	12	1	205	2460

Annual Regulatory Report	SBE-FP	5	1	191	955
<b>Total</b>					<b>3,415</b>

### Hours and Costs Tables

The following sections outline the requirements associated with each SMART section, as well as the hours and costs required to complete each section.

#### I. Eligibility and Enrollment

All SBEs, with the exception of SBE-FPs, are required to report on eligibility and enrollment activities (including verifications and inconsistencies), as well as maintain current and updated versions of the required policies and procedures related to redeterminations and reconciliation with issuers. The burden associated with this requirement includes a health policy analyst taking 4 hours (at \$89.84 an hour) to support the writing, a senior level manager taking 8 hours (at \$118.70 an hour) to conduct most of the writing, and a senior level manager taking 2 hours (at \$118.70 an hour) to oversee and approve the updates to the policies and procedures. We estimate this requirement will take 14 total hours at a cost of \$1,546 for each SBE. Therefore, for the 12 SBEs, we estimate an aggregate burden of 168 hours at a cost of \$18,556.32.

Type of Respondent	Number of Respondents	Responses per Respondent	Average Burden Hours	Wage per Hour (incl 100% benefits fringe)	Burden Costs
Senior-level Manager	12	1	2	\$118.70	\$2,848.80
Senior-level Manager	12	1	8	\$118.70	\$11,395.20
Health Policy Analyst	12	1	4	\$89.84	\$4,312.32
<b>Total</b>			<b>14</b>		<b>\$18,556.32</b>

#### II. Financial and Programmatic Audit

All SBEs, including SBE-FPs, are required to keep accurate accounting of Exchange receipts and expenditures and prepare and submit a financial statement according to generally accepted accounting principles (GAAP), as well as conduct and submit an independent external financial and programmatic audit.

a. Accurate accounting of Exchange receipts and expenditures

Section 155.1200(a)(1) through (3) requires SBEs to follow GAAP and to monitor and report to CMS all Exchange-related activities. This includes keeping an accurate accounting of all Exchange receipts and expenditures. SBEs electronically maintain the information as a result of normal business practices; therefore, the burden does not include the time and effort needed to maintain the Exchange-related activity information. The burden associated with this requirement includes a computer programmer taking 8 hours (at \$84.16 an hour) to modify the system to maintain and monitor the information required under §155.1200(a)(1) through (3), an analyst taking 8 hours (at \$95.60 an hour) to pull the necessary data under §155.1200(a)(1) through (3) in the SBE accounting system, and a senior manager taking 2 hours (at \$118.70 an hour) to oversee the development and transmission of the reported data. We estimate this requirement will take 18 total hours at a cost of \$1,675.48 for each SBE. Therefore, for the 17 SBEs, we estimate an aggregate burden of 306 hours at a cost of \$28,483.16.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
Computer Programmer	17	1	8	\$84.16	\$11,445.76
Analyst	17	1	8	\$95.60	\$13,001.60
Senior Manager	17	1	2	\$118.70	\$4,035.80
<b>Total</b>			<b>18</b>		<b>\$28,483.16</b>

b. Development and submission of financial statement

Section 155.1200(b)(1) requires SBEs prepare and submit to CMS, and publicly post a financial statement annually, in accordance with GAAP. The burden associated with this reporting requirement is the time and effort needed to develop and submit the financial statement to CMS. SBEs will electronically submit the information. The burden associated with this requirement includes a computer programmer taking 40 hours (at \$84.16 an hour) to design the financial statement

report, an analyst taking 8 hours (at \$95.60 an hour) pulling the necessary data and inputting it into the financial statement report, and a senior manager taking 2 hours (at \$118.70 an hour) overseeing the development and transmission of the reported data. We estimate a burden of 50 total hours for each SBE at a cost of \$4,368.60. Therefore, the aggregate burden for the 17 SBEs is 850 hours at a cost of \$74,266.20.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
Computer Programmer	17	1	40	\$84.16	\$57,228.80
Analyst	17	1	8	\$95.60	\$13,001.60
Senior Manager	17	1	2	\$118.70	\$4,035.80
<b>Total</b>			<b>50</b>		<b>\$74,266.20</b>

c. Post results of financial audit to Exchange website

Section 155.1200(b)(4) requires SBEs to make public a summary of the results of the external financial audit. The burden associated with this requirement is the time and effort for a computer programmer taking 1 hour (at \$84.16 an hour) to design the summary and for an analyst to take 1 hour (at \$95.60 an hour) to pull data into the summary and prepare for public display. For this requirement we estimate a burden of 2 hours for each SBE at a cost of \$179.76. Therefore, the aggregate burden for the 17 SBEs is estimated at 34 hours at a cost of \$3,055.92.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
Computer Programmer	17	1	1	\$84.16	\$1,430.72

Analyst	17	1	1	\$95.60	\$1,625.20
<b>Total</b>			<b>2</b>		<b>\$3,055.92</b>

d. Compile data and prepare summary of financial and programmatic audit report(s) and submit to CMS

Section 155.1200(c) (1) through (3) directs SBEs to engage an independent audit/review organization to perform an external financial and programmatic audit. SBEs provide the results of the audit and identify any material weakness or significant deficiency and intended corrective action in a public summary. The burden associated with this third party disclosure requirement includes the burden for an analyst level employee taking 3 hours (at \$95.60 an hour) to pull data into a report, the time and effort necessary for a health policy analyst taking 2 hours (at \$89.84 an hour) to prepare the report of the audit results, and the time for senior management taking 1 hour (at \$118.70 an hour) to review and submit to CMS. We estimate a burden of 6 hours at a cost of \$585.18 for each SBE. Therefore, the aggregate burden for the 17 SBEs is 108 hours at a cost of \$9,948.06.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
Analyst	17	1	3	\$95.60	\$4,875.60
Health Policy Analyst	17	1	2	\$89.84	\$3,054.56
Senior Manager	17	1	1	\$118.70	\$2,017.90
<b>Total</b>			<b>6</b>		<b>\$9,948.06</b>

### III. Program Integrity

All SBEs, including SBE-FPs, are required to attest to several program integrity requirements, including maintenance of records and development and maintenance of policies and procedures related to oversight and monitoring, fraud, waste, and abuse, and non-discrimination.

e. Maintenance of records

As stated in §155.1210(a), SBEs and their contractors, subcontractors, and agents must maintain for 10 years, books, records, documents, and other evidence of accounting procedures and practices. Section 155.1210(b) specifies that the records include information concerning management and operation of the SBE's financial and other record keeping systems. The records must also include financial statements, including cash flow statements, and accounts receivable and matters pertaining to the costs of operation. The burden associated with this record keeping requirement includes the time and effort necessary for a network administrator taking 16 hours (at \$83.02 an hour) to modify the State systems to maintain the information required under §155.1210(b), for a health policy analyst taking 8 hours (at \$89.84 an hour) to enter the data under §155.1210(b) into the SBE record retention system, and for senior management taking 2 hours (at \$118.70 an hour) to oversee record collection and retention. We estimate that it will take 26 hours at a cost of \$2,284.44 for each SBE. Therefore, the aggregate burden for the 17 SBEs is 442 hours at a cost of \$38,835.48.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
Network Administrator	17	1	16	\$83.02	\$22,581.44
Health Policy Analyst	17	1	8	\$89.84	\$12,218.24
Senior Manager	17	1	2	\$118.70	\$4,035.80
<b>Total</b>			<b>26</b>		<b>\$38,835.48</b>

f. Develop and maintain the required policies and procedures related to program integrity

SBEs are required to develop and maintain current and updated versions of the required policies and procedures related to program integrity (e.g., the oversight and monitoring plan, fraud, waste, and abuse, and non-discrimination). The burden associated with this requirement includes an analyst (at \$95.60 an hour) and a health policy analyst (at \$89.84 an hour) each taking 4 hours to support the writing, a senior level manager taking 8



hours (at \$118.70 an hour) to conduct most of the writing, and a senior level manager taking 2 hours (at \$118.70 an hour) to oversee and approve the updates to the policies and procedures. We estimate this requirement will take 18 total hours at a cost of \$1,928.76 for each SBE. Therefore, for the 17 SBEs we estimate an aggregate burden of 306 hours at a cost of \$32,788.92.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
Senior-level Manager	17	1	2	\$118.70	\$4,035.80
Senior-level Manager	17	1	8	\$118.70	\$16,143.20
Health Policy Analyst	17	1	4	\$89.84	\$6,109.12
Analyst	17	1	4	\$95.60	\$6,500.80
<b>Total</b>			<b>18</b>		<b>\$32,788.92</b>

g. Compile and post financial information to Exchange website

Section 155.205(b)(2) requires SBEs to publish on its website average licensing costs, regulatory fees, administrative costs, and any other additional fees required, along with any monies lost to fraud, waste, and abuse. The burden associated with this requirement is the time and effort for a computer programmer taking 1 hour (at \$84.16 an hour) to design the summary and for an analyst to take 1 hour (at \$95.60 an hour) to pull data into the summary and prepare for public display. For this requirement we estimate a burden of 2 hours for the SBE at a cost of \$179.76 each. Therefore, the aggregate burden for the 17 SBEs, is estimated at 34 hours at a cost of \$3,055.92.

<b>Type of Respondent</b>	<b>Number of Respondents</b>	<b>Responses per Respondent</b>	<b>Average Burden Hours</b>	<b>Wage per Hour (incl 100% benefits fringe)</b>	<b>Burden Costs</b>
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Computer Programmer	17	1	1	\$84.16	\$1,430.72
Analyst	17	1	1	\$95.60	\$1,625.20
<b>Total</b>			<b>2</b>		<b>\$3,055.92</b>

#### IV. Prepare and Submit SMART

All SBEs, and SBE-FPs, must submit or attest to the submission of all SMART requirements, by completing and submitting the SMART Tool itself.

Type of Respondent	Number of Respondents	Responses per Respondent	Average Burden Hours	Wage per Hour (incl 100% benefits fringe)	Burden Costs
Agency head to Approve Report	17	1	2	\$122.06	\$4,150
Senior-level manager to oversee report	17	1	9	\$117.40	\$17,962
Senior-level manager to conduct most writing	17	1	17	\$117.40	\$33,929
Mid-level policy analyst to support writing	17	1	25	\$78.20	\$33,235
Mid-level financial analyst to support writing	17	1	14	\$93.88	\$22,343
Administrative assistant	17	1	2	\$38.78	\$1,319
<b>Total</b>			<b>69</b>		<b>\$112,938</b>

#### 13. Capital Costs

There are no capital costs associated with this collection.

#### 14. Cost to Federal Government

There are no costs to the Federal Government.

## **15. Changes to Burden**

This revision incorporates relevant SMART program integrity requirements previously reflected within the Information Collection Request (ICR) *Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014; Final Rule II* (OMB Control No: 0938-1277) into a single, consolidated, ICR for the SMART. As a result, the total burden hours increase by 2,242 hours.

## **16. Publication/Tabulation Dates**

The results of this collection will not be published.

## **17. Expiration Date**

The OMB control number and expiration date will display on the first page (top right-hand corner) of each instrument.