

**Supporting Statement for the Information Collection Requirements Contained in the State Flexibility
to Stabilize the Market Cycle I and Cycle II Grant Program**

CMS-10657/

OMB control Number: 0938-1366

A. Justification

1. Circumstances Making the Collection of Information Necessary

Grants to Support States in Providing Added Flexibility to Strengthen the Private Health Insurance
Market through Implementation of Market Reforms under Part A of Title XXVII of the Public Health
Service Act

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act and on March 30, 2010, the Health Care and Education Reconciliation Act of 2010 was also signed into law (collectively referred to as “PPACA”).

The PPACA includes a number of provisions that reform the health insurance market and provide Federal consumer protections through amendments to Title XXVII of the Public Health Service Act (PHS Act) and corresponding amendments to the Employee Retirement Income Security Act and the Internal Revenue Code. The PPACA also includes significant grant funding for States to work with the Federal government to implement the market reforms.

Section 1003 of the PPACA adds a new section 2794 to the PHS Act entitled, “Ensuring That Consumers Get Value for Their Dollars.” Specifically, section 2794(a) requires the Secretary of the Department of Health and Human Services (the Secretary) (HHS), in conjunction with the States, to establish a process for the annual review of health insurance premiums to protect consumers from unreasonable rate increases. Section 2794(c) directs the Secretary to carry out a program to award grants to States.

Congress appropriated \$250 million to be awarded in Federal fiscal years (FFYs) 2010 through 2014 for the Rate Review Grant Program. Through 2010-2014, there were four cycles of Rate Review Grants awarded. Section 2794(c)(2)(B) specifies that if there are any appropriated Rate Review Grant funds that are not fully obligated by the end of FY14, such amounts shall remain available to the Secretary for grants to States for planning and implementing the insurance market reforms and consumer protections under Part A of title XXVII of the PHS Act.

The provisions in Part A of title XXVII of the PHS Act include market-wide reforms in the group and individual private health insurance markets intended to protect consumers, increase transparency, and regulate health insurance industry practices.

On February 5, 2018, the Department of Health and Human Services (HHS) released the Notice of Funding Opportunity (NOFO) for the State Flexibility to Stabilize the Market Grant Program Cycle I. In Cycle I, HHS awarded \$8.6 million to 30 states and the District of Columbia to provide a funding source to enhance the role of States in planning and implementing several of the Federal market reforms and consumer protections

One of the goals of the State Flexibility to Stabilize the Market Cycle II Grant Program (hereafter referred to as “State Flexibility Cycle II Grants” or “State Flexibility Cycle II Grant Program”) is to enhance the States’ ability to effectively regulate their respective health insurance markets through innovative measures that support the pre-selected market reforms and consumer protections under Part A of Title XXVII of the PHS Act. The State Flexibility Cycle II Grant Program will provide a funding source to enhance the role of States in planning and implementing several of the Federal market reforms and consumer protections, which are listed below. State Flexibility Cycle II Grants will provide States with the opportunity to ensure their laws, regulations, and procedures are in line with Federal requirements. The project period and funding awarded to each recipient will be 24 months.

Funding under the State Flexibility Cycle II Grant Program is available to States for activities related to planning and implementing the following provisions of Part A of title XXVII of the PHS Act:

- I. Section 2702 – Guaranteed Availability of Coverage
- II. Section 2703 – Guaranteed Renewability of Coverage
- III. Section 2707 –Non-discrimination under Comprehensive Health Insurance Coverage (Essential Health Benefits Package)

These pre-selected market reforms were chosen due to their relative complexity and the anticipated benefits that these reforms will have on consumers and the premiums they pay. These also represent areas that can help States assess the needs of consumers and support the development of innovative measures to ensure access to affordable health coverage in their respective individual and small group markets.

All fifty States and the District of Columbia are eligible to apply for planning and/or implementing one or more of the three pre-selected market reforms and consumer protections in Part A of title XXVII of the PHS Act. Only one application per State is permitted, except in a State in which there is more than one regulating entity, each with a primary responsibility over the regulation of a portion of the private health insurance market. States must ensure that they are only seeking funding to plan and implement activities that they are not currently receiving Federal grant funding to plan and implement.

Applicants may use grant funds for a variety of planning and implementation objectives related to the pre-selected provisions under Part A of Title XXVII of the PHS Act, including, but not limited to performing market scans of their respective individual and small group markets to ensure access to affordable health care coverage, as well as developing actuarial and economic analyses in an effort to

stabilize their markets. States may also perform activities related to enhancing their policy filing review processes to ensure health insurance issuers do not include discriminatory benefit designs that discourage people with potentially high-cost medical conditions from enrolling in those plans and hiring or contracting with a clinician to review formularies.

All applicants must submit a mandatory Letter of Intent by December 11, 2020. CMS uses this information to determine the amount of funding available to each recipient. CMS will provide applicants with information on their funding allocation prior to December 15, 2020.

Baseline funding for State Flexibility Cycle II Grants consists of a minimum of approximately \$660,000 for the length of the award. Provided sufficient funds are available after providing each State with baseline funding for a two-year project period, States may also receive supplemental awards called “Workload” funds. Workload funds are determined based on the population and number of health insurance issuers in the State. Following submission of the mandatory Letters of Intent, CMS will inform States of funding allocations, including whether baseline award amounts have increased and if there are sufficient funds available for the “Workload.” The baseline funding formula will be consistent, regardless of the activities for which a State applies for funds.

States that apply for funds are required to complete the grant application. The application for the State Flexibility Cycle II Grants is due on February 3, 2021. Grant awards were issued on September 15, 2021.

States that are awarded funds under this funding opportunity are required to provide the CMS with four quarterly progress reports (per fiscal year), one annual report, and one final report, detailing the State’s progression towards planning and/or implementing the pre-selected market reforms under Part A of Title XXVII of the PHS Act.

2. Purpose and Use of Information Collection

The data collection (quarterly, annual, and final reports) are a source of information on the State’s progress with meeting CMS expectations for the State Flexibility Cycle I and II Grant Programs. The reports describe significant advancements towards the State’s goal of planning and/or implementing the pre-selected PPACA market reform activities at the beginning from the time of approval through the completion of the grant period. The data collection is imperative to CMS being able to assess the State’s progress, barriers, and updates on measurable objectives. Without the data collection, CMS will be unable to efficiently monitor the State’s progress. It will also inhibit CMS’ ability to support and share opportunities of best practices with other States.

3. Use of Improved Information Technology and Burden Reduction

All reports (quarterly, annual, and final) will be submitted electronically by States via the Health Insurance Oversight System (HIOS)—a web-based reporting and data collection system that is already

being used by States in both the Health Insurance Enforcement and Consumer Protections Grant and the State Flexibility Grant Programs. The burden estimates provided in this statement include the time and effort that will be dedicated to uploading information in HIOS.

4. Efforts to Identify Duplication and Use of Similar Information

The information collected for the State Flexibility Grant Program is not duplicative of any information already collected.

5. Impact on Small Businesses or Other Small Entities

Small businesses and other small entities are not affected by this information collection requirement (ICR).

6. Consequences of Collecting the Information Less Frequent Collection

As these grants are multi-year awards, collection at a frequency less than the quarterly, such as annual reporting only, will put the Federal grant program at risk due to a lack of sufficient oversight.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

No special circumstance.

8. Comments in Response to the Federal Register Notice/Outside Consultation

A Notice was published in the Federal Register on 3/26/2021 (86 FR 70502). No comments were received. No outside consultation was sought.

9. Explanation of any Payment/Gift to Respondents

There will be no payments or gifts to respondents.

10. Assurance of Confidentiality Provided to Respondents

No personal health information will be collected. All information will be kept private to the extent allowed by applicable laws/regulations.

11. Justification for Sensitive Questions

No sensitive information will be collected.

12. Estimates of Annualized Burden Hours (Total Hours & Wages)

TO DERIVE AVERAGE COSTS, WE USED DATA FROM THE U.S. BUREAU OF LABOR STATISTICS' MAY 2020 NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES FOR ALL SALARY ESTIMATES ([HTTP://WWW.BLS.GOV/OES/CURRENT/OES NAT.HTM](http://www.bls.gov/oes/current/oes_nat.htm)). IN THIS REGARD, THE FOLLOWING TABLE PRESENTS THE MEAN HOURLY WAGE, THE COST OF FRINGE BENEFITS (CALCULATED AT 100 PERCENT OF SALARY), AND THE ADJUSTED HOURLY WAGE.

State Flexibility Cycle I and II Grants Activities

The State Flexibility Cycle I and II Grants provide States with the opportunity to apply for funding to ensure their laws, regulations, and procedures are in line with Federal requirements, and enhance the States' ability to effectively regulate their respective health insurance markets through innovative measures that support the pre-selected market reforms and consumer protections under Part A of Title XXVII of the PHS Act.

Once applicants are awarded grant funds, they are required to provide CMS with quarterly reports due 30 days after the quarter has ended for the entire duration of the grant. The quarterly reports allow States to update CMS with the progression towards planning and/or implementing the pre-selected PPACA market reforms. Grantees will identify significant events towards the goal in the grant progress reports, in addition to any barriers experienced and plans for rectifying any setbacks. States will also provide an updated budget, work plan and timeline with updated progress towards each objective outlined in the State's application.

In addition, each grantee must provide CMS with an annual report. This report provides a yearly summary of the progress made towards planning and/or implementing one or more of the three preselected PPACA market reforms. Finally, CMS requires a final report at the end of the grant period. This report provides a cumulative summary of the progress made towards toward planning and/or implementing the pre-selected PPACA market reforms.

THE STATE FLEXIBILITY CYCLE I GRANT PROCESS

12A. Estimated Annualized Burden Hours

Forms (If necessary)	Type of Respondent	Number of Respondents	Number of Responses per Respondent	Estimated Burden hours per Response	Total Estimated Burden Hours
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Quarterly Report	State Government	5	4	12	240
Annual Report	State Government	5	1	20	100
Final Report	State Government	5	1	20	100
Total		5	5 per year per grantee (4 quarterly reports, 1 annual report, and 1 final report at the end of the grant period¹)	68	340

12B. Cost Estimate for All Respondents completing all Reporting Requirements, including the quarterly, annual report, and one final report (Annualized).

Type of respondent	Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Wage per Hour	Burden Costs Total Annualized Response	Burden Costs Per Annualized Response
Medical and Health Services Manager (Occupation	5	5	6.8	\$114.24	\$19,420.80	\$3,884.16

1 The final report will be submitted in lieu of the annual report in the last year of the grant

Code: 11-9111)						
Executive Secretaries & Executive Administrative Assistants (Occupation Code: 43-6011)	5	5	6.8	\$62.72	\$10,662.40	\$2,132.48
Total			13.6		\$30,083.20	\$6,016.64

The wage per hour is taken from the [Bureau of Labor Statistics](#) for (1) Medical and Health Service Manager; (1) Executive Secretaries & Executive Administrative Assistants.

The State Flexibility Cycle I Grant's total burden hours for reporting are estimate to be **13.6 per response**. The total cost associated with that estimate is **\$6,016.64 per response**.

THE STATE FLEXIBILITY CYCLE II GRANT PROCESS

12C. Estimated Annualized Burden Hours

Forms (If necessary)	Type of Respondent	Number of Respondents	Number of Responses per Respondent	Estimated Burden hours per Response	Total Estimated Burden Hours
Quarterly Report	State Government	29	4	12	1,392
Annual Report	State Government	29	1	20	580
Final Report	State Government	29	1	20	580
Total		29	5 per year per grantee (4 quarterly reports, 1 annual	68	1,972

			report, and 1 final report at the end of the grant period)		

12D. Cost Estimate for All Respondents completing all Reporting Requirements, including the quarterly, annual report, and one final report (Annualized).

Type of respondent	Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Wage per Hour	Burden Costs Total Annualized Response	Burden Costs Per Annualized Response
Medical and Health Services Manager (Occupation Code: 11-9111)	29	5	6.8	\$114.24	\$112,640.64	\$3,884.16
Executive Secretaries & Executive Administrative Assistants (Occupation Code: 43-6011)	29	5	6.8	\$62.72	\$61,841.92	\$2,132.48
Total			13.6		\$174,482.56	\$6,016.64

The wage per hour is taken from the [Bureau of Labor Statistics](#) for (1) Medical and Health Service Manager; (1) Executive Secretaries & Executive Administrative Assistants.

The State Flexibility Cycle II Grant's total burden hours for reporting are estimate to be **13.6 per response**. The total cost associated with that estimate is **\$6,016.64 per response**.

13. Estimates of other Total Annual Cost Burden to Respondents or Record Keepers /Capital Costs

There are no additional record keeping/capital costs.

14. Annualized Cost to Federal Government

Total government program staffing costs include two GS-12 and two GS-13 with a break down as follows to intake and review quarterly and final reports for an estimated 29 awardees.

GS-13: Full-time (Salary with local cost adjustment: \$103,690)	Annual cost: \$103,690
GS-13: Full-time (Salary with local cost adjustment: \$103,690)	Annual cost: \$103,690
GS-12: Full-time (Salary with local cost adjustment: \$87,198)	Annual cost: \$87,198
GS-12: Full-time (Salary with local cost adjustment: \$87,198)	Annual cost: \$87,198
Total:	\$381,776

The wage is taken from the [2021 OPM Washington, DC GS scale](#) for (2) GS-13 and (2) GS-12.

15. Explanation for Program Changes or Adjustments

The reporting requirements have changed due to the conclusion of several grants in Cycle I and the initiation of Cycle II. The number of Cycle I respondents was updated to reflect that only 5 states will remain active in Cycle I. Due to the initiation of Cycle II a new Notice of Funding Opportunity is being released. As a result of Cycle II requirements, burden has increased from 2,108 hours to 2,312 hours.

16. Plans for Tabulation and Publication and Project Time Schedule

The results from the information collection will not be published.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

The expiration date and OMB control number are displayed on the first page of each (top right corner) instrument.