SWORN PAPERWORK REDUCTION ACT & OMB REVIEW STATEMENT

(Burden Inflation + OMB Circular A-4 + OIRA Escalation)

Docket: CMS-2025-1891
Agency: Centers for Medicare & Medicaid Services

Submitted by:
James H. Poole
CEO, Founder & Executive Chairman
Obelisk Tech Systems Inc.
CAGE Code: 9S0L8

SECTION 1 – DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the statements herein are true and correct to the best of my knowledge and professional experience.

Submitted pursuant to:

- 44 U.S.C. §3507 (Paperwork Reduction Act)
- Executive Order 12866
- OMB Circular A-4
- 31 U.S.C. §902 (CFO Act)
- 5 U.S.C. §706 (APA)

SECTION 2 – PRA BURDEN DISCREPANCY

Preliminary operational modeling suggests CMS' burden estimate materially understates actual compliance cost.

If actual burden exceeds estimate by 300–400%, then:

- OMB clearance may be procedurally defective
- Cost-benefit modeling becomes unreliable
- RFA determinations become invalid
- Small entities face disproportionate strain

Under 44 U.S.C. §3507(d), OMB OIRA must independently review burden estimates before approval.

Material understatement of burden undermines OIRA's review function.

SECTION 3 – OMB CIRCULAR A-4 DEFICIENCIES

OMB Circular A-4 requires:

- Quantification of compliance costs
- Consideration of alternatives
- Discounted present value analysis
- Sensitivity analysis
- Distributional impact assessment

If CMS did not:

- Model automation alternatives
- Model burden inflation scenarios
- Conduct sensitivity analysis
- Compare modernization cost pathways

Then regulatory impact analysis is incomplete.

SECTION 4 – EXECUTIVE ORDER 12866 COMPLIANCE

EO 12866 mandates agencies select the least burdensome regulatory alternative.

REQUEST:

CMS confirm:

1. Whether OIRA conducted full review
2. Whether burden inflation scenarios were modeled
3. Whether automation alternatives were evaluated
4. Whether provider participation impacts were modeled
5. Whether net benefit comparison was documented

SECTION 5 – INFORMATION QUALITY ACT

Under 44 U.S.C. §3516 note, disseminated regulatory cost estimates must meet standards of objectivity and integrity.

If burden is materially understated, correction is required.

REQUEST:

CMS either:

• Revise burden estimate
OR
• Provide methodological justification consistent with OMB Information Quality Guidelines

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SECTION 6 – CFO ACT COST MODELING

Under 31 U.S.C. §902(a)(8), CMS CFO must develop reliable cost information.

If cost modeling excludes automation alternatives or uses materially flawed burden assumptions, then internal control review may be necessary.

REQUEST:

CFO confirm whether comparative cost modeling was conducted.

SECTION 7 – APA PRESERVATION

Failure to:

• Accurately estimate burden
• Model alternatives
• Coordinate with OIRA
• Apply Circular A-4 standards

May constitute arbitrary and capricious action under 5 U.S.C. §706(2)(A).

SECTION 8 – REQUESTED WRITTEN RESPONSES

CMS shall provide written responses under 5 U.S.C. §555(e) on:

1. Will burden estimates be re-submitted to OMB?
2. Did OIRA conduct independent modeling review?
3. Were automation alternatives considered?
4. Was sensitivity analysis performed?
5. Will CMS correct published estimates if found inaccurate?

SECTION 9 – SIGNATURE AND OATH

I declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the foregoing is true and correct to the best of my knowledge and professional experience.

Executed on: 02/20/2026, 2026

James H. Poole

CEO, Founder & Executive Chairman
Obelisk Tech Systems Inc.
CAGE Code: 9S0L8
Thomasville, Georgia
