

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**COLORADO DID NOT  
CORRECTLY EXPEND  
ESTABLISHMENT GRANT FUNDS  
FOR ESTABLISHING A HEALTH  
INSURANCE MARKETPLACE**

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# *Office of Inspector General*

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## EXECUTIVE SUMMARY

*Colorado did not expend Federal establishment grant funds totaling \$9.7 million that were awarded for the development and implementation of a health insurance exchange in accordance with Federal requirements.*

### WHY WE DID THIS REVIEW

The Patient Protection and Affordable Care Act (ACA) established health insurance exchanges (commonly referred to as “marketplaces”) to allow individuals and small businesses to shop for health insurance in all 50 States and the District of Columbia. The ACA provided grants to States for planning, establishing, and the early operation of marketplaces.

Connect for Health Colorado (Colorado marketplace) is a quasi-governmental agency that administers the State’s establishment grants and is responsible for complying with applicable requirements.

This review is part of a series of reviews of establishment grants for State marketplaces across the Nation. We selected the individual State marketplaces to cover States in different parts of the country. Our nationwide audit of State marketplace establishment grants is part of a larger body of ACA work, which also includes audits of State marketplaces’ internal controls over determining individuals’ eligibility for enrollment in health insurance plans offered through the marketplaces. We are still conducting audit work on several aspects of the Colorado marketplace’s operations and will report on them separately.

Our objective was to determine whether the Colorado marketplace expended Federal establishment grant funds awarded for establishing a health insurance marketplace in accordance with Federal requirements.

### BACKGROUND

Within the Department of Health and Human Services’ Centers for Medicare & Medicaid Services (CMS), the Center for Consumer Information and Insurance Oversight (CCIIO) is responsible for implementing many of the requirements of the ACA, including overseeing the implementation of provisions related to the marketplaces and the private health insurance plans offered through the marketplaces, known as qualified health plans (QHPs). Marketplaces perform many functions, including helping States to coordinate eligibility for enrollment in other State-based public health care programs, such as Medicaid and the Children’s Health Insurance Program.

CCIIO’s Establishment Grant Funding Opportunity Announcements and the Colorado marketplace’s Notice of Grant Awards terms and conditions require the Colorado marketplace to expend establishment grant funds consistent with Federal cost principles.

Colorado chose to establish and operate its own State-based marketplace. The Colorado marketplace provides eligibility determination and enrollment services for QHPs using an

automated system maintained by the Colorado Department of Health Care Policy & Financing (HCPF), which administers the Medicaid program in Colorado. HCPF developed and maintains the Shared Eligibility System to, among other things, determine whether enrollees qualify for Medicaid or the Colorado marketplace.

As of December 31, 2014, CCIIO had awarded the Colorado marketplace three establishment grants and a post-award amendment to the third of the three grants, which together totaled \$183.7 million. Under the initial terms of the three establishment grant awards, the Colorado marketplace was to expend these establishment grant funds by December 31, 2014. In November 2014, CMS approved the Colorado marketplace's request for a No-Cost Extension (NCE) that would allow the marketplace to expend the remaining grant funds on design, development, and implementation activities through December 31, 2015.

## **WHAT WE FOUND**

The Colorado marketplace did not expend \$9,678,635 of Federal establishment grant funds in accordance with Federal requirements. Specifically, the Colorado marketplace:

- did not adequately document \$4,398,333 in costs that it charged to the establishment grants;
- charged the establishment grants \$4,504,799 for unallowable hardware and software operational support and maintenance contract costs whose periods of benefit occurred after December 31, 2014;
- improperly transferred costs totaling \$312,449 from one establishment grant to another without demonstrating that these cost transfers were performed to correct bookkeeping or clerical errors;
- did not efficiently and effectively administer establishment grant funds totaling \$463,054 consisting of improperly awarded executive and employee bonuses, overpayments to subgrantees, unallowable promotional giveaway items, excessive and unreasonable tips, vendor rebates that were received but not credited to the establishment grants, and unallowable social activities;
- drew down establishment grant funds that it did not immediately use;
- entered into contracts with consultants and other contractors that did not conform to Federal and State requirements and the Colorado marketplace's own policies on contract administration, including approval procedures and required contract information; and
- engaged in a number of procedures and practices that, contrary to Federal requirements and cost principles and, in some cases, to the Colorado marketplace's own policies, (1) required the use of personal credit cards to purchase equipment, supplies, and services for the marketplace, (2) permitted self-approval of purchases on behalf of the previous executive staff, (3) permitted incomplete and inadequate disclosure of possible conflicts

of interest, (4) did not properly document inventory of equipment, and (5) allowed the use of establishment grant funds to purchase equipment for a previous Chief Executive Officer (CEO) who kept it for personal use when the CEO left the organization.

These findings were caused by a lack of adequate stewardship of Federal funds. Specifically, the Colorado marketplace had not developed, finalized, and implemented policies and procedures to ensure that it expended and accounted for establishment grant funds in accordance with Federal, State, and Colorado marketplace requirements.

## **WHAT WE RECOMMEND**

We recommend that the Colorado marketplace:

- refund to the Federal Government \$9,678,635 and
- develop, finalize, and implement policies and procedures to ensure that it expends Federal grant funds in accordance with Federal, State, and Colorado marketplace requirements.

## **AUDITEE COMMENTS AND OUR RESPONSE**

In written comments on our draft report, the Colorado marketplace concurred with our second recommendation, described procedures that it said it had in place, and added that it did not currently have any Federal awards. The Colorado marketplace did not concur with our first recommendation and disagreed with our finding that the \$4,398,333 in costs that we questioned were inadequately documented. Concerning the \$4,504,799 in prepaid support and maintenance costs that we questioned, the Colorado marketplace stated that it had “identified the prepaid support and maintenance costs benefitting the period subsequent to December 31, 2014 and credited the amounts back against future payment requests of federal funds.” In addition, the marketplace said that it is in the process of correcting the accounting for the \$312,449 in cost transfers that we questioned.

The Colorado marketplace also disagreed with our finding concerning \$463,054 of costs that we described as not efficiently or effectively administered. The marketplace stated that it had not exceeded approved and budgeted Federal funding levels for assistance network subgrantees and that it had identified and credited back unallowable costs related to promotional giveaway items “against a future payment request of federal funds.” The marketplace added that the costs of social activities were allowable under Federal regulations at 2 CFR part 225, App. B, section 13(a) (Office of Management and Budget Circular A-87, *Cost Principles for State, Local, and Tribal Governments*).

After reviewing the Colorado marketplace’s comments, we maintain that all of our findings and recommendations remain valid. We disagree that the documentation of the \$4,398,333 in costs that we reviewed during our fieldwork was adequate; moreover, the Colorado marketplace provided no new documentation for us to consider. In the absence of adequate documentation, the Colorado marketplace was not able to demonstrate how these questioned costs benefitted the

Federal grant awards. Regarding the costs of social activities, the allowability of costs for such activities is governed by a different provision of Federal regulations than the one that the Colorado marketplace cited. The relevant provision makes clear that these costs cannot be charged to the establishment grants.

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## INTRODUCTION

### WHY WE DID THIS REVIEW

The Patient Protection and Affordable Care Act (ACA)<sup>1</sup> established health insurance exchanges (commonly referred to as “marketplaces”) to allow individuals and small businesses to shop for health insurance in all 50 States and the District of Columbia. The ACA provided grants<sup>2</sup> to States for planning, establishing, and the early operation of marketplaces.

Connect for Health Colorado (Colorado marketplace) is a quasi-governmental agency that administers the State’s establishment grants and is responsible for complying with applicable requirements.

This review is part of a series of reviews of establishment grants for State marketplaces across the Nation. We selected the individual State marketplaces to cover States in different parts of the country. Our nationwide audit of State marketplace establishment grants is part of a larger body of ACA work, which also includes audits of State marketplaces’ internal controls over determining individuals’ eligibility for enrollment in health insurance plans offered through the marketplaces. We are still conducting audit work on several aspects of the Colorado marketplace’s operations and will report on them separately. See “Affordable Care Act Reviews” on the OIG Web site for a list of related OIG reports on marketplace operations.<sup>3</sup>

### OBJECTIVE

Our objective was to determine whether the Colorado marketplace expended Federal establishment grant funds awarded for establishing a health insurance marketplace in accordance with Federal requirements.

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<sup>1</sup> P.L. No. 111-148 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, P.L. No. 111-152 (Mar. 30, 2010), collectively referred to as “ACA.”

<sup>2</sup> Under section 1311(a) of the ACA, the Centers for Medicare & Medicaid Services (CMS) provided several different funding opportunities available to States, including Early Innovator Cooperative Agreements, Planning and Establishment Grants, and Establishment Cooperative Agreements. See Appendix A for more detailed information about the types of grants and cooperative agreements available to States related to the establishment of a marketplace.

<sup>3</sup> <http://oig.hhs.gov/reports-and-publications/aca/>.

## **BACKGROUND**

### **Patient Protection and Affordable Care Act**

Within the Department of Health and Human Services' (HHS) CMS, the Center for Consumer Information and Insurance Oversight (CCIIO)<sup>4</sup> is responsible for implementing many of the requirements of the ACA, including overseeing the implementation of provisions related to the marketplaces and the private health insurance plans offered through the marketplaces. These plans are known as qualified health plans (QHPs).

A marketplace performs many functions, such as certifying QHPs; determining eligibility for premium tax credits and cost-sharing reductions; responding to consumer requests for assistance; and providing a Web site and written materials that individuals can use to assess their eligibility, evaluate health insurance coverage options, and enroll in selected QHPs (ACA § 1311(d)(4)). Additionally, a marketplace helps a State to coordinate eligibility for and enrollment in other State-based public health care programs, such as Medicaid and the Children's Health Insurance Program (CHIP).

### **Federal Requirements and Funding Assistance Related to Health Insurance Marketplace Programs**

CCIIO's Establishment Grant Funding Opportunity Announcements and the Colorado marketplace's Notice of Grant Awards (NGA) terms and conditions require the Colorado marketplace to expend establishment grant funds consistent with Federal cost principles.

The ACA provides for funding assistance<sup>5</sup> to a State for the planning and establishment of a marketplace that incorporates eligibility determination and enrollment functions for all consumers of participating programs, such as Medicaid and private health insurance offered through a marketplace (ACA § 1311).

CMS allows establishment grant funds to be used for activities that do not relate to the operational costs of the marketplace after January 1, 2015. Specifically, through No-Cost Extensions (NCEs), CMS has extended the project period beyond December 31, 2014, for some existing establishment grants that it awarded to State-based marketplaces between August 2011 and December 2014. These NCEs allow State-based marketplaces to complete the design,

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<sup>4</sup> To implement and oversee the ACA's marketplace and private health insurance requirements, HHS established the Office of Consumer Information and Insurance Oversight (OCIIO) in April 2010 as part of the HHS Office of the Secretary. In January 2011, OCIIO was transferred to CMS under a new center named CCIIO (76 Fed. Reg. 4703 (Jan. 26, 2011)). In this report, we use "CCIIO" to refer to both OCIIO and CCIIO.

<sup>5</sup> Projects and programs are carried out under a variety of types of grants, including the use of a specific type of grant known as a cooperative agreement. When a Federal agency expects to be substantially involved in carrying out the project or program, it awards a cooperative agreement (*HHS Grants Policy Statement*, p. ii).

development, and implementation activities of a marketplace but explicitly prohibit the State-based marketplaces from using these funds for operational purposes.<sup>6</sup>

See Appendix A for details on the Federal assistance available to States to establish marketplaces.

## **The Colorado Marketplace**

### *Establishment of the Colorado Marketplace*

The Colorado General Assembly passed legislation in May 2011 creating the Colorado marketplace (originally called the Colorado Health Benefit Exchange (COHBE)) as a “non-profit, unincorporated public entity” that is an “instrumentality of the state” but is not a State agency.<sup>7</sup> This legislation includes a provision for the appointment and duties of a Board of Directors (Board) of the marketplace.

The Colorado marketplace provides eligibility determination and enrollment services for QHPs using the Shared Eligibility System (SES), an automated system developed and maintained by the Colorado Department of Health Care Policy & Financing (HCPF), which administers the Medicaid program in Colorado. The SES thus supports the business functions of the Colorado marketplace, including application and enrollment, plan management, and consumer assistance; among other things, it determines whether enrollees qualify for Medicaid or a QHP.<sup>8</sup>

As of December 31, 2014, CCIIO had awarded the Colorado marketplace three establishment grants and a post-award amendment to the third of the three grants, which together totaled \$183.7 million.<sup>9</sup> Under the initial terms of the three establishment grant awards, the Colorado marketplace was to expend these establishment grant funds by December 31, 2014.

In November 2014, CMS approved the Colorado marketplace’s request for an NCE that would allow the marketplace to expend the remaining grant funds on design, development, and implementation activities through December 31, 2015. In December 2014, CMS provided additional funding to the Colorado marketplace in the form of the post-award amendment to the third of the three grants, which the marketplace could also expend through December 31, 2015.

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<sup>6</sup> CMS, *FAQs on the Use of 1311 Funds and No-Cost Extensions* (issued Mar. 2014).

<sup>7</sup> Colorado Senate Bill 11-200, signed June 1, 2011.

<sup>8</sup> The SES did not become operational until Colorado’s second enrollment period (November 1, 2014, through February 28, 2015).

<sup>9</sup> CCIIO had awarded a planning grant to the Executive Office of the State of Colorado which, with a subsequent supplemental grant award, totaled \$1.2 million. The Colorado marketplace had not been established at the time of these planning-grant awards; accordingly, because our objective was limited to reviewing expenditures by the Colorado marketplace, we did not review the \$1.2 million.

See Appendix B for details about grants awarded for planning, establishing, and early operation of the Colorado marketplace as of December 31, 2014.

### *Federal Cost Principles Applicable to the Colorado Marketplace*

Colorado marketplace officials describe the entity as a nonprofit organization. If that were the case, the Colorado marketplace would be bound by the *Cost Principles for Non-Profit Organizations* (Office of Management and Budget (OMB) Circular No. A-122).<sup>10</sup> We assert, however, that the Colorado marketplace is in fact an instrumentality of the State and is therefore bound by the *Cost Principles for State, Local, and Tribal Governments* (OMB Circular No. A-87).<sup>11</sup> The terms and conditions of CMS's NGA for the grant awarded on July 9, 2013 (the Level Two Establishment Grant<sup>12</sup>), specified that only the cost principles for State, local, and tribal governments were applicable to the Colorado marketplace.<sup>13, 14</sup> Where findings later in this report cite to the State, local, and tribal governments cost principles (2 CFR part 225), in almost every case the Non-Profit Cost Principles (2 CFR part 230, that is, OMB Circular A-122) contains identical or similar language.

### *Colorado Marketplace Executive Staff*

The executive staff of the Colorado marketplace underwent significant turnover during the period covered by this review. Specifically, the original Chief Executive Officer (CEO), Chief Financial Officer (CFO), and Chief Operating Officer (COO) all left the Colorado marketplace within 4 months of our July 2014 initial site visit.

Regarding the CEO position:

- The original CEO served from December 2011 to August 2014.
- An interim CEO served from August 2014 to August 2015.
- A new CEO was appointed in April 2015 and still held this position as of December 2016.

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<sup>10</sup> This was relocated to 2 CFR part 230 and made applicable by 45 CFR part 74.

<sup>11</sup> This was relocated to 2 CFR part 225 and made applicable by 45 CFR part 92.

<sup>12</sup> See Appendix A for details on the Federal assistance available to States to establish marketplaces.

<sup>13</sup> The NGA for the Level Two Establishment Grant specified that only 45 CFR part 92 applies. Part 92 makes OMB Circular A-87, which is relocated to 2 CFR part 225, applicable to State and local governments.

<sup>14</sup> The terms and conditions of CMS's NGAs for the first and second Level One Establishment Grants to the Colorado marketplace (awarded on February 22 and September 27, 2012, respectively) stated that the marketplace was subject to the requirements of either 2 CFR part 230 or 2 CFR part 225 (made applicable by 45 CFR part 74 or 45 CFR part 92, respectively). See Appendixes A and B.

Regarding the CFO position:

- The original CFO served from August 2012 to October 2014.<sup>15</sup>
- An interim CFO served from February to September 2015.
- A new CFO was appointed in July 2015 and still held this position as of December 2016.

The COO served from August 2012 to November 2014. After the COO's departure, the position was not filled until a new COO was hired in June 2016. The new COO still held that position as of December 2016.

### **Colorado State Auditor Report**

The Colorado Office of the State Auditor conducted a limited performance audit of the Colorado marketplace and published its report on October 27, 2014.<sup>16</sup> This audit questioned costs involving payments for some services and goods that were unallowable, unreasonable, or unnecessary; payments to some vendors that were not properly documented; and some payments to vendors that lacked necessary supervisor approval. The audit also questioned costs involving deficiencies in the manner in which the Colorado marketplace administered some of its contracts.<sup>17</sup> For these findings, the Colorado Office of the State Auditor pointed out that the Colorado marketplace did not always act in compliance with Federal requirements and with the marketplace's own policies and procedures.

### **HOW WE CONDUCTED THIS REVIEW**

We reviewed the NGAs associated with \$183.7 million that CCIIO awarded to the Colorado marketplace—three establishment grants and a post-award amendment to the third of the three grants—during Federal fiscal years (FYs) 2012 through 2015 (October 1, 2011, through September 30, 2015). We reviewed the Colorado marketplace's revenue and expenditure general

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<sup>15</sup> The CFO position remained vacant between the original CFO's departure and the appointment of an interim CFO in February 2015.

<sup>16</sup> The report may be found at [http://www.leg.state.co.us/OSA/coauditor1.nsf/All/E9DB8A339C4CC71A87257D95005AD66E/\\$FILE/1348P%20Colorado%20Health%20Insurance%20Benefits%20Exchange,%20Limited%20Performance%20Audit,%20October%202014.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/E9DB8A339C4CC71A87257D95005AD66E/$FILE/1348P%20Colorado%20Health%20Insurance%20Benefits%20Exchange,%20Limited%20Performance%20Audit,%20October%202014.pdf) (accessed Apr. 27, 2016).

<sup>17</sup> The principal criteria used by the Office of the State Auditor in its audit were OMB Circulars No. A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*, and No. A-122, *Cost Principles for Non-Profit Organizations*. These OMB Circulars were relocated to 2 CFR parts 215 and 230, respectively, and made applicable by Federal regulations in a manner similar to the regulatory provisions regarding the relocation of OMB Circular No. A-87. After our audit period, OMB consolidated and streamlined its guidance, which is now located at 2 CFR part 200. HHS has codified the guidance in regulations found at 45 CFR part 75.

ledger reports related to the three establishment grants and the post-award amendment for FYs 2012 through 2014. We are still conducting audit work on several aspects of the Colorado marketplace's operations and will report on them separately.<sup>18</sup> Specifically, we reviewed the Colorado marketplace's accounting records, performed detailed transactions testing, and observed marketplace operations during our onsite visits.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C contains the details of our audit scope and methodology.

## **FINDINGS**

The Colorado marketplace did not expend \$9,678,635 of Federal establishment grant funds in accordance with Federal requirements. Specifically, the Colorado marketplace:

- did not adequately document \$4,398,333 in costs that it charged to the establishment grants;
- charged the establishment grants \$4,504,799 for unallowable hardware and software operational support and maintenance contract costs whose periods of benefit occurred after December 31, 2014;
- improperly transferred costs totaling \$312,449 from one establishment grant to another without documenting that these cost transfers were performed to correct bookkeeping or clerical errors;
- did not efficiently and effectively administer establishment grant funds totaling \$463,054 consisting of improperly awarded executive and employee bonuses, overpayments to subgrantees, unallowable promotional giveaway items, excessive and unreasonable tips, vendor rebates that were received but not credited to the establishment grants, and unallowable social activities;
- drew down establishment grant funds that it did not immediately use;
- entered into contracts with consultants and other contractors that did not conform to Federal and State requirements and the Colorado marketplace's own policies on contract administration, including approval procedures and required contract information; and

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<sup>18</sup> We will report separately on the Colorado marketplace's accounting system. For purposes of this report, we reviewed FYs 2012 through 2014 general ledger reports (as well as the general ledger report for the first month of FY 2015) in the context of the \$183.7 million awarded to Colorado for FYs 2012 through 2015.

- engaged in a number of procedures and practices that, contrary to Federal requirements and cost principles and, in some cases, to the Colorado marketplace’s own policies, (1) required the use of personal credit cards to purchase equipment, supplies, and services for the marketplace, (2) permitted self-approval of purchases on behalf of the previous executive staff, (3) permitted incomplete and inadequate disclosure of possible conflicts of interest, (4) did not properly document inventory of equipment, and (5) allowed the use of establishment grant funds to purchase equipment for a previous CEO who kept it for personal use when the CEO left the organization.

A summary of the \$9,678,635 in costs that we are questioning appears in Appendix D.

These findings were caused by a lack of adequate stewardship of Federal funds. Specifically, the Colorado marketplace had not developed, finalized, and implemented policies and procedures to ensure that it expended and accounted for establishment grant funds in accordance with Federal, State, and Colorado marketplace requirements.

## **THE COLORADO MARKETPLACE DID NOT ADEQUATELY DOCUMENT SOME COSTS THAT IT CHARGED TO THE ESTABLISHMENT GRANTS**

### **Federal and Colorado Marketplace Requirements**

To be allowable under Federal grants, costs must “[b]e necessary and reasonable for proper and efficient performance and administration of Federal awards” and must “[b]e adequately documented” (2 CFR part 225, App. A, § (C)(1)).

The Colorado marketplace’s *COHBE Workforce Member Handbook*, effective July 2012, states: “Pre-approval is required for any federally funded travel.”

### **Inadequate Documentation of Costs Charged to the Establishment Grants**

The Colorado marketplace did not adequately document \$4,398,333 in costs that it charged to the establishment grants for contractual expenditures and for consultant services contract expenditures;<sup>19</sup> invoices for both types of expenditures did not adequately document, among other things, the services provided or how billed amounts were calculated. The Colorado marketplace also did not document that other costs were necessary and reasonable for the proper and efficient performance and administration of the Federal grant awards. Details on these inadequately documented costs follow.

#### *Inadequately Documented Contractual Expenditures*

The Colorado marketplace charged \$3,510,399 to the establishment grants for eight inadequately documented contractual expenditures (Table 5 of Appendix E):

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<sup>19</sup> The Colorado marketplace uses these two terms to differentiate types of expenditures. We are conforming to that terminology and are organizing our findings in this section accordingly. Some of the expenditures discussed in this section had more than one type of error; in such cases, we identify (and question costs based on) only the principal error.



- The Colorado marketplace charged \$3,399,174 for six contractual expenditures in which neither the contracts themselves nor the invoices were sufficiently detailed. The lack of specificity in the contracts meant that costs charged to the establishment grants did not meet the documentation requirements of 2 CFR part 225 and were therefore unallowable. The invoices also lacked specificity, but the Colorado marketplace paid them anyway.
  - For four of these six contractual expenditures, with \$2,943,927 in associated costs, the contracts did not require that a description of the services be included on the invoices. The invoices did not provide details of the work that had been performed for the billed fees; the invoices identified only the total amounts to be remitted, not the services provided.
  - For the other two contractual expenditures, with \$455,247 in associated costs, the contracts did not require that the invoices provide the level of detail necessary to show how the amounts to be billed would be calculated. The invoices in these two cases identified the services performed as “Integrated Systems Cost” and “SW Maintenance Fee January [20]14.” Neither invoice explained what those services were or showed how the billed amounts were calculated.
- The Colorado marketplace charged \$111,225 for two contractual expenditures in which the contracts were sufficiently detailed but the associated invoices were insufficiently detailed. The contracts required that the invoices describe, for each day of work and by each authorized worker, the specific time spent on each task or item. The invoices did not provide the required level of detail, but the Colorado marketplace paid them anyway. In so doing, Colorado marketplace staff did not follow the marketplace’s own contracts when reviewing these invoices and approving them for payment using establishment grant funds.

*Inadequately Documented Consultant Services Contract Expenditures*

The Colorado marketplace charged \$835,396 to the establishment grants for 35 inadequately documented consultant services contract expenditures:

- It charged \$737,194 for 22 consultant services contract expenditures in which neither the contracts themselves nor the invoices were sufficiently detailed. The lack of specificity in the contracts meant that costs charged to the establishment grants did not meet the documentation requirements of 2 CFR part 225 and were therefore unallowable. The invoices also lacked specificity, but the Colorado marketplace paid them anyway (Table 6 of Appendix E):
  - For 17 of these 22 consultant services contract expenditures, with \$405,819 in associated costs, the contracts were not specific enough to ensure that invoices contained sufficient detail of the costs to be paid. In 8 of the 17 cases, the contracts did not require that a description of the services be included on the invoices. In the other nine cases, the contract language was more specific: in four cases by requiring that invoices refer to a particular section of either the

statement of work (SOW) or the master services agreement (MSA) and in five cases by requiring that the invoices include the number of hours expended by project. None of the corresponding contracts for the 17 consultant services contract expenditures, though, was sufficiently detailed to conform to Federal requirements, and none of the associated invoices provided details of the work that had been performed for the billed fees.

- For 5 of the 22 consultant services contract expenditures, with \$331,375 in associated costs, the invoices did not provide the level of detail necessary to show how the billed amounts were calculated. For example, one invoice reflected only amounts keyed to phases or milestones, without including any explanations of work performed within those phases. Another invoice identified the services performed as “Evaluation Services” without any specificity or breakout of individual costs. None of the contracts associated with these five consultant services contract expenditures included language requiring that invoices adequately document how the amounts to be billed would be calculated.
- The Colorado marketplace charged \$98,202 for 13 consultant services contract expenditures in which the contracts were sufficiently detailed but the associated invoices were insufficiently detailed. By paying these invoices in spite of their lack of detail and nonconformance with contracts, Colorado marketplace staff did not follow its own contracts when reviewing the invoices and approving them for payment using establishment grant funds. For example, for 5 of these 13 consultant services contract expenditures, with \$73,039 in associated costs, the contracts required that the invoices describe, for each day of work and by each authorized worker, the specific time spent on each task or item. The invoices did not provide that level of detail, but the Colorado marketplace paid them anyway (Table 6 of Appendix E).<sup>20</sup>

#### *Other Inadequately Documented Costs*

The \$4,398,333 in costs that we are questioning also included other inadequately documented costs totaling \$52,538, which consisted of:

- \$28,680 for equipment purchased that either lacked supporting documentation altogether or lacked documentation identifying the business purposes of the purchases;
- \$13,692 for payments to subgrantees in the form of “assistance network grants” that were not supported by documentation of the actual services provided or their business purposes; and
- \$10,166 for executive and employee travel expenses that (1) either did not have receipts or did not have documentation supporting the business purposes of the trips and (2) lacked documentation showing that any of these trips had been pre-approved.

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<sup>20</sup> Details on the other eight inadequately documented consultant services contract expenditures, which had \$25,163 in associated costs, appear in Appendix F.

For additional details regarding the \$52,538 in other inadequately documented costs that the Colorado marketplace charged to the establishment grants, see Appendix F.

## **THE COLORADO MARKETPLACE CHARGED UNALLOWABLE COSTS FOR SERVICES PROVIDED AFTER DECEMBER 31, 2014, TO THE ESTABLISHMENT GRANTS**

### **Federal Requirements**

The ACA states: “In establishing an Exchange [marketplace] under this section, the State shall ensure that such Exchange is self-sustaining beginning on January 1, 2015, including allowing the Exchange to charge assessments or user fees to participating health insurance issuers, or to otherwise generate funding, to support its operations” (ACA § 1311(d)(5)(A)).

Federal cost principles provide that grant funds may only be used for costs that conform to any limitations or exclusions set forth in Federal law and that are allocable to the activities for which the grant was awarded (2 CFR part 225, App. A, §§ (C)(1)(d), (C)(1)(b), and (C)(3)(a)).

### **CMS Guidelines**

Initial provisions of the establishment grant awards required that State-based marketplaces spend all grant funds by December 31, 2014. In March 2014, CMS issued guidance permitting the use of NCEs to allow establishment grant funds to be spent beyond December 31, 2014, for activities not related to the operational costs of the marketplace.<sup>21</sup> This CMS guidance specified that certain uses of the establishment grant funds were unallowable during the NCE period. Specifically: “[T]he funds may not be used to cover maintenance and operating costs, including but not limited to rent, software maintenance, telecommunications, utilities, and base operational personnel/contractors.”

CMS clarified “unallowable costs” in this context with additional guidance issued in June 2015.<sup>22</sup> This guidance states: “Examples of unallowable costs related to ongoing operations include but are not limited to: rent, hardware/software maintenance and operations, telecommunications, utilities, and call center operations that do not constitute establishment activities or indirect costs flowing from allowable establishment activities.”

### **Costs for Operational Support and Maintenance Services Improperly Charged to the Establishment Grants**

The Colorado marketplace charged the establishment grants \$4,504,799 for unallowable hardware and software operational support and maintenance contract costs whose periods of benefit occurred after December 31, 2014. These unallowable costs consisted of \$4,254,799 that was associated with software operational support and maintenance services for the Colorado

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<sup>21</sup> CMS, *FAQs on the Use of 1311 Funds and No-Cost Extensions* (issued Mar. 2014).

<sup>22</sup> CMS, *FAQs on the Clarification of the Use of 1311 Funds for Establishment Activities* (issued Jun. 2015).

marketplace and \$250,000 that was associated with hardware and software operational support and maintenance costs for the SES.

The Colorado marketplace charged \$4,254,799 in unallowable costs to the establishment grants for payments that were related to prepaid software operational support and maintenance services that were provided after December 31, 2014. Neither Federal requirements nor the CMS guidelines cited above permit the use of establishment grant funds for these operational costs after December 31, 2014. Specifically, the Colorado marketplace entered into three separate multiyear maintenance agreements in calendar year (CY) 2013 for software operational support and maintenance services. The first two agreements were for 60-month periods of service that would extend through May 2018 while the third agreement was for a 10-year period of service that would extend through January 2023. Of the prepayments made under each agreement for operational support and maintenance services, we are questioning \$4,254,799 that was associated with services provided after December 31, 2014.

The Colorado marketplace charged an additional \$250,000 in unallowable costs to the establishment grants for payments that were related to hardware and software operational support and maintenance costs for the SES. HCPF developed and maintains the SES to, among other things, determine whether health care enrollees qualify for Medicaid or for QHPs offered through the Colorado marketplace. The SES supports the business functions of the Colorado marketplace, including application and enrollment, plan management, and customer assistance. Because these services were operational and were provided after December 31, 2014, the \$250,000 in costs should not have been charged to the establishment grants.

## **THE COLORADO MARKETPLACE IMPROPERLY TRANSFERRED COSTS FROM ONE ESTABLISHMENT GRANT TO ANOTHER**

### **Federal Requirements**

For a cost to be allowable, it must be allocable. “A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received” (2 CFR part 225, App. A, § (C)(3)(a)).

Cost transfers by a recipient between grants are generally unallowable; however, cost transfers by a recipient may sometimes be necessary to correct bookkeeping or clerical errors. Permissible cost transfers should be made within 90 days following the occurrence unless a longer period is approved in advance. The transfer must be supported by documentation that fully explains how the error occurred and a certification of the correctness of the new charge by a responsible official of the recipient (45 CFR § 74.53 or § 92.42). An explanation merely stating that the transfer was made “to correct error” or “to transfer to correct project” is not sufficient, as HHS has made clear: “Frequent errors in recording costs may indicate the need for accounting system improvements, enhanced internal controls, or both” (*HHS Grants Policy Statement*, section II, “Cost Transfers,” page II-43).

## **Costs Improperly Transferred From One Establishment Grant to Another**

The Colorado marketplace improperly transferred costs totaling \$312,449, in three separate transactions, from one establishment grant to another.<sup>23</sup> The Colorado marketplace could not provide evidence that these cost transfers corrected bookkeeping or clerical errors. Furthermore, these cost transfers were not supported by documentation that explained how the errors had occurred. The Colorado marketplace could not provide any documentation for two of the three cost transfers. For the third transfer (\$164,813 for “call center furniture”), the documentation did not support that the cost transfer was due to a bookkeeping or clerical error. In response to our query, a Colorado marketplace official replied, “We believe these entries [i.e., the three cost transfers] were part of the adjustments supporting the conversion” from one accounting software system to another.<sup>24</sup>

## **THE COLORADO MARKETPLACE DID NOT ALWAYS EFFICIENTLY AND EFFECTIVELY ADMINISTER ESTABLISHMENT GRANT FUNDS**

### **Federal, State, and Colorado Marketplace Requirements**

“[A]n Exchange shall not use any funds intended for the administrative and operational expenses of the Exchange for staff retreats, promotional giveaways, excessive executive compensation, or promotion of Federal or State legislative and regulatory modifications” (ACA § 1311(d)(5)(B)).

Federal regulations state:

Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices....  
Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award [2 CFR part 225, App. A, § (A)(2)(a)].

To be allowable under Federal grants, costs must “[b]e authorized or not prohibited under State or local laws or regulations” and must “[b]e adequately documented” (2 CFR part 225, App. A, §§ (C)(1)(c) and (j)).

Federal cost principles governing personal compensation provide that “all remuneration ... for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits” must be reasonable for the services rendered and conform to the established policy of the governmental unit (2 CFR part 225, App. B, § (8)).

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<sup>23</sup> During our fieldwork, we identified 43 other cost transfers that require additional work to determine allowability. We will address these other cost transfers under a separate review.

<sup>24</sup> The conversion in accounting systems took place on July 1, 2013. The Colorado marketplace officials with whom we discussed this and other findings were not in their positions at the time that this accounting systems conversion took place.

According to Colorado State regulations, “[d]epartments must have an incentive plan prior to the use of incentives. Such plans shall include eligibility criteria, the types of incentives allowed, cash amounts or limits and payment methods, and a communication plan. Such plans shall be developed with the input of employees and managers” (4 Colorado Code of Regulations (CCR) 801-1, § 3-21(A)).

The Colorado marketplace’s policy states:

Performance evaluations will occur, at minimum, annually. The performance review process is intended to provide an Employee with feedback on his/her performance. How well an Employee performs his/her assigned duties at COHBE is an important factor in determining the level of merit increase or incentive compensation that may be provided. A record of the evaluation, along with Employee signature and comment, will be kept in the Employee’s personnel records [*COHBE Workforce Member Handbook*, effective July 2012].

### **Establishment Grant Funds Not Efficiently or Effectively Administered**

The Colorado marketplace did not efficiently and effectively administer establishment grant funds totaling \$463,054. Specifically, the Colorado marketplace improperly awarded executive and employee bonuses (\$211,891), made overpayments to subgrantees (\$164,170), purchased unallowable promotional giveaway items, received vendor rebates that it did not credit to the establishment grants, and spent grant funds on unreasonable tips and unallowable social activities.

#### *Improperly Awarded Executive and Employee Bonuses*

The Colorado marketplace used establishment grant funds to pay \$211,891 in unallowable bonuses to executive staff and to employees during CYs 2012 through 2014.

Of the \$211,891 in unallowable bonuses, \$171,891 was for performance bonuses. The Colorado marketplace could provide documentation that performance evaluations had been conducted for only three of the executives and employees who received performance bonuses. However, none of the three evaluations that the Colorado marketplace provided to us was dated, and all three lacked signatures of the employee, the reviewing official, or both. Therefore, there was no documentation that the performance bonuses were supported by contemporaneous performance evaluations.

Table 1 on the following page depicts the numbers of performance bonuses awarded for each of these 3 years, whether each bonus was awarded to a previous executive or to another employee, whether any performance evaluations were on file, and the amounts awarded.

**Table 1: Executive and Employee Performance Bonuses for CYs 2012 Through 2014**

<b>CY</b>	<b>Type</b>	<b>Awarded To<sup>25</sup></b>	<b>Documentation of Evaluation</b>	<b>Incentive Amount</b>
2012	1 Performance Bonus	CEO	None	\$18,500
2013	1 Performance Bonus	CFO	None	\$16,000
2013	1 Performance Bonus	COO	None	\$16,000
2013	6 Performance Bonuses	Other Employees	None	\$54,600
2014	1 Performance Bonus	CEO	None	\$14,291
2014	1 Performance Bonus	CFO	Yes, but not signed or dated by employee or by reviewing official	\$16,480
2014	1 Performance Bonus	COO	Yes, but not signed or dated by employee or by reviewing official	\$16,480
2014	3 Performance Bonuses	Other Employees	Two with no evaluation and one evaluation that was not signed or dated by employee or by reviewing official	\$19,540
<b>Total</b>				<b>\$171,891</b>

In addition, the Colorado marketplace paid \$16,500 for 1 signing bonus and an additional \$23,500 for 10 retention bonuses. There were no provisions in the Colorado marketplace’s policy for either of these types of bonuses. Thus, the signing bonus and the retention bonuses did not conform to the marketplace’s policy and so did not conform to Federal cost principles (2 CFR part 225, App. B, § (8)).

*Establishment Grant Funds Improperly Used To Pay Subgrantees Amounts in Excess of Those Specified in the Subgrant Agreements*

The Colorado marketplace paid three subgrantees a total of \$164,170 that exceeded the amounts that, according to the terms of the subgrant agreements, would be paid from establishment grant funds to those subgrantees. The terms of the subgrant agreements specified that establishment

<sup>25</sup> The CEO, CFO, and COO who received these bonuses were no longer with the Colorado marketplace at the end of our audit period.

grant funds would be used for these subgrantees to provide local customer support and outreach services, such as helping enrollees determine whether they qualified for Medicaid or the Colorado marketplace.<sup>26</sup> Under the terms of the subgrant agreements, expenditures of establishment grant funds were not to exceed the approved final budgeted amounts. All three subgrantees submitted invoices to the Colorado marketplace, which paid the subgrantees from both establishment grant funds and other funding sources. During our audit period, the Colorado marketplace paid all three subgrantees more in establishment grant funds than the amounts specified in the subgrant agreements, as shown in Table 2.

**Table 2: Amounts Specified and Amounts Paid From Establishment Grant Funds to Subgrantees, and Overpayments of Those Funds**

<b>Subgrantee</b>	<b>Amount of Subgrant (To Be Paid With Federal Funds)</b>	<b>Amount Paid With Federal Funds</b>	<b>Overpayment</b>
Subgrantee 1	\$248,806	\$372,273	\$123,467
Subgrantee 2	250,000	286,117	36,117
Subgrantee 3 <sup>27</sup>	0	4,586	4,586
<b>Total Overpayments</b>			<b>\$164,170</b>

The Colorado marketplace could not provide us with any grant amendments to show that (1) the subgrantees formally requested the use of additional Federal funds, (2) the Colorado marketplace had reviewed and approved these requests, or (3) the Colorado marketplace created formal grant amendments that would be available for review by CMS.

The combined effect of these errors is that the Colorado marketplace paid \$164,170 in establishment grant funds in excess of the allotted award amounts.

*Other Establishment Grant Funds Not Efficiently or Effectively Administered*

The Colorado marketplace did not efficiently and effectively administer other establishment grant funds totaling \$86,993 when it used them to pay other unallowable costs. Specifically, the Colorado marketplace improperly charged:

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<sup>26</sup> The three subgrantees in this example are not the same subgrantees that we discuss in “The Colorado Marketplace Did Not Adequately Document Some Costs That It Charged to the Establishment Grants” and Appendix F.

<sup>27</sup> The Colorado marketplace contracted with subgrantee 3 to provide enrollment customer service support; the \$150,000 specified in this contract was supposed to be paid from funding sources other than the establishment grants. Nevertheless, the marketplace used \$4,586 in establishment grant funds to pay this subgrantee. Because the other funding sources were outside the scope of our audit, we did not examine the related documentation.



- \$86,061 for purchases of promotional giveaway items such as sunscreen, water bottles, tee-shirts, and pens and ink cartridges;<sup>28</sup>
- \$363 in vendor rebates that a previous CFO of the Colorado marketplace received but did not credit to the establishment grants;
- \$290 to the establishment grants for unreasonable tips that it provided to movers; and
- \$279 to the establishment grants for unallowable social activities.

Additional details and criteria related to the unallowable vendor rebates, tips, and social activities appear in Appendix G.

## **ESTABLISHMENT GRANT FUNDS DRAWN DOWN BUT NOT IMMEDIATELY USED**

### **Federal Requirements**

Federal regulations require that whenever a grantee draws down funds in advance, it must minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees. These regulations further require grantees to make drawdowns as close as possible to the time of making disbursements (45 CFR §§ 92.20(b)).

Federal requirements state that although a grant may be financed by advanced payments, “the intent is that recipients draw funds as needed.” In addition, Federal funds advanced to the recipient should be fully disbursed (checks written, signed, and issued to the payees) by the close of business the next workday after receipt of the funds. “The recipient is responsible for determining when the Federal funds have been deposited into its bank account for each drawdown, ensuring that the funds are fully disbursed by the close of business the next workday after they are received and immediately returning undisbursed Federal cash on hand to PMS [Payment Management System]” (*HHS Grants Policy Statement*, part I, “HHS Grants Process,” page I-36, “Payment”).

### **Grant Funds Held for 3 Months After Being Drawn Down**

The Colorado marketplace withdrew from the PMS approximately \$22 million in establishment grant funds from September 27 through October 11, 2013. However, our review of the report that the Colorado marketplace uses to identify the amount of funds drawn down revealed that the Colorado marketplace’s immediate cash needs during this period were approximately \$9 million. As a result, the Colorado marketplace had on hand excess undisbursed Federal cash (establishment grant funds) totaling as much as \$13.2 million that it did not immediately require

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<sup>28</sup> This amount includes \$720 in promotional giveaway items (pens and ink cartridges) that were charged to the establishment grants for payments made to the “assistance network grants” that we discuss in Appendix F. The \$720 is not included in the costs we questioned in “The Colorado Marketplace Did Not Adequately Document Some Costs That It Charged to the Establishment Grants.”

but that it did not return to the PMS. In fact, the Colorado marketplace was able to operate without having to draw down any additional establishment grant funds until December 31, 2013.

In accordance with Federal requirements, the Colorado marketplace should have refunded these excessive drawdowns to the PMS. This action would not have reduced the amount of the grant awards that would still have been available for the Colorado marketplace to draw down when needed.

This practice created vulnerabilities in the safeguarding of Federal funds because cash balances of this size are subject to an increased risk of loss in the event of a bank failure. The fact that the Colorado marketplace asserts that it is a nonprofit organization, rather than a State agency, raises questions as to the extent to which cash balances would be protected (in a manner similar to the way in which the Federal Deposit Insurance Corporation insures depositors' accounts of up to \$250,000 (per insured bank)) in the event of a bank failure.

## **THE COLORADO MARKETPLACE DID NOT ENSURE THAT IT EFFICIENTLY AND EFFECTIVELY ADMINISTERED ITS CONTRACTS**

### **Federal and State Requirements and Colorado Marketplace Policy**

When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds (45 CFR § 92.36(a)).

Federal requirements state:

- (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.
- (2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award [2 CFR part 225, App. A, § (A)(2)(a)].

In determining the allowability of professional and consultant services costs, the following factors are relevant, including the nature and scope of the service rendered in relation to the service required and the adequacy of the contractual agreement for the services (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions) (2 CFR part 225, App. B, §§ (32)(a) and (b)).

Colorado statute provides that for payment to be made by the State for any liability incurred, there must be a valid commitment voucher in place. The commitment voucher may be a contract, but any contract will not be deemed valid unless it has been approved by the controller or a designee. Finally, the content and form of the contract will be prescribed by Colorado's fiscal rules (Colorado Revised Statutes (CRS) 24-30-202(1)).

Colorado State Fiscal Rules specify the necessary elements of contracts, which include total dollar amounts, periods of performance, and price agreements (1 CCR 101-1, Rule 3-1, § 5.1.1).

Colorado procurement requirements mandate that contracts contain certain elements, including an effective date (*Colorado State Procurement Manual*, chapter IV, “Contract Formation, Drafting, and Approval,” page 8). That manual states: “The Effective Date is the later of the date the State Controller or delegate signs a Contract or another date specified therein. CRS §§ 24-30-202(1) makes this is [sic] the date that the Contract becomes valid and performance under the Contract may begin...” (*Colorado State Procurement Manual*, chapter IV, “Contract Formation, Drafting, and Approval,” page 10).

Colorado State requirements also provide that amendments shall be used to modify, change, add to, or delete State contracts (*Colorado State Procurement Manual*, chapter VI, *Glossary*, page 1, which defines “Amendment”).

The Colorado marketplace’s *COHBE Delegation of Authority Matrix*, effective June 16, 2012, provides guidance to marketplace employees regarding approval of expenditures and contracts based on dollar amounts. This matrix includes a provision for two-person approval (the CEO and Procurement Specialist) of all expenditures greater than \$5,000, both contractual and otherwise. For contracts and expenditures greater than \$150,000, the matrix specifies that approval from both the Board and the CEO is required. In addition, the Colorado marketplace provided two other policies that had not been finalized or implemented (*Process for Managing and Overseeing Vendor Contracts* and *Consultant Procurement Policy*). However, even if these two documents had been finalized, they lacked the policies and procedures that would have prevented the contract administration weaknesses discussed below from occurring.

### **Inadequacies in the Colorado Marketplace’s Contract Administration**

The Colorado marketplace entered into contracts with consultants and other contractors that were incomplete, lacked proper approvals, or both. We reviewed 65 expenditures related to 41 contracts that were paid from the establishment grants and identified a total of 126 contract administration weaknesses. (Some contracts and some expenditures had more than one weakness.) Specifically, we identified the following weaknesses:

- Forty-four *contract expenditures* lacked the appropriate approvals. For example, we identified one instance in which, in an apparent conflict of interest, a contractor’s employee pre-approved hours to be worked by another employee of that same contractor. When the contractor submitted an invoice (for \$18,315) for those hours, it was approved solely by the Colorado marketplace CEO in violation of the two-person approval standard specified in the COHBE Delegation of Authority Matrix; we found no documentation that anyone had actually reviewed the hours invoiced.
- Fifty-seven *contracts* lacked the appropriate approvals. For example, we identified two instances in which the Colorado marketplace CEO approved contracts after the work had been completed.
- Twenty-five *contracts* were missing one or more necessary elements, such as total dollar amounts, periods of performance, hourly billing rates, and, in one instance, charges or rates for services to be rendered.

See Appendix H for additional details on the inadequacies in the Colorado marketplace's administration of its contracts.

## **THE COLORADO MARKETPLACE'S PROCEDURES AND PRACTICES DID NOT ALWAYS SAFEGUARD FEDERAL FUNDS AND ASSETS**

### **Federal Requirements and Colorado Marketplace Policies**

When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds (45 CFR § 92.36(a)).

“The Exchange must have in place and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest” (45 CFR § 155.110(d)).<sup>29</sup>

Federal requirements state:

- (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.
- (2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award [2 CFR part 225, App. A, § (A)(2)(a)].

The *COHBE Workforce Member Handbook* states: “Expense reports must be completed for reimbursement. COHBE’s payroll service has an electronic form to use for submission and approvals. Expense reports submitted and approved by the end of the pay period will be included in the employee’s upcoming paycheck. Expenses submitted after the end of the pay period will be paid with the employee’s next paycheck.” In addition, the *COHBE Employee Travel Reimbursement Procedure—updated 7/31/14, Travel Reimbursement Guidelines*, includes procedures for review and approval of documentation associated with expenses for official travel.

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<sup>29</sup> Additional discussion of guiding governance principles such as these can be found in the U.S. Government Accountability Office, *Standards for Internal Control in the Federal Government* (commonly referred to as the Green Book). The Green Book does not constitute criteria in the sense of a Federal requirement or guideline. It does, however, offer relevant best practices for the administration and safeguarding of Federal funds and, more generally, for an organization’s internal control environment, to include the following: “The oversight body and management should demonstrate a commitment to integrity and ethical values... Management should evaluate performance and hold individuals accountable for their internal control responsibilities” (the Green Book, “Control Environment,” page 21). In addition, “[t]he oversight body and management demonstrate the importance of integrity and ethical values through their directives, attitudes, and behavior...” (the Green Book, “Demonstrate Commitment to Integrity and Ethical Values,” page 22). These quoted passages are drawn from the most recently published version (September 2014), but earlier versions of the Green Book have similar language about integrity, ethical values, and the importance of the tone that management sets in any organization.

## **Procedures and Practices Did Not Conform to Federal Requirements or Colorado Marketplace Policies or Did Not Have a Basis in Colorado Marketplace Policy**

The Colorado marketplace engaged in a number of procedures and practices that did not conform to Federal requirements and cost principles. Specifically, these procedures and practices did not reflect the consistent application of either the guiding governance principles specified in 45 CFR § 155.110(d) or the sound management practices necessary to the efficient and effective administration of Federal awards as stated in the cost principles at 2 CFR part 225, Appendix A, section (A)(2)(a). Moreover, some of these procedures and practices were carried out even though they had no basis or justification in Colorado marketplace policy. Other procedures and practices conformed to Colorado marketplace policies but were not sufficiently detailed and either lacked effective implementation dates or had not been finalized.

We noted a number of practices and procedures that created vulnerabilities in the safeguarding of Federal funds and assets. These practices and procedures (1) required the use of personal credit cards to purchase equipment, supplies, and services for the marketplace, (2) permitted self-approval of purchases on behalf of the previous executive staff, (3) permitted incomplete and inadequate disclosure of possible conflicts of interest, (4) did not properly document inventory of equipment, and (5) allowed the use of establishment grant funds to purchase equipment for a previous CEO who kept the equipment when that individual left the organization.

### *Use of Personal Credit Cards To Purchase Equipment, Supplies, and Services for the Colorado Marketplace*

During most of our audit period, the Colorado marketplace did not have a business credit card or line of credit with a bank.<sup>30</sup> The lack of a business credit card, combined with the marketplace's reimbursement policy (the *COHBE Workforce Member Handbook*, relevant language quoted above), meant that employees routinely used their personal credit cards to carry out official marketplace business. Specifically, marketplace employees used their personal credit cards to purchase equipment, supplies, and services for the marketplace, then submitted expense reports to the marketplace for reimbursement from establishment grant funds. Colorado marketplace employees used the same procedure to pay, and then claim reimbursement, for expenses associated with official travel.

In addition, the Colorado marketplace had procedures in place for review and approval of documentation associated with expenses for official travel (the *COHBE Employee Travel Reimbursement Procedure—updated 7/31/14, Travel Reimbursement Guidelines*). However, the Colorado marketplace's ability to consistently enforce these procedures was hampered by the fact that bills for travel expenses, supplies, and services were in a number of cases delivered to employees' home addresses, not to the marketplace office.<sup>31</sup> The marketplace's reliance on

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<sup>30</sup> In November 2014, the Colorado marketplace obtained a business credit card, but with a relatively low credit line (\$3,000).

<sup>31</sup> We earlier questioned, among other costs, \$10,166 in inadequately documented travel expenses that were paid for with previous executives' and employees' personal credit cards. See "The Colorado Marketplace Did Not Adequately Document Some Costs That It Charged to the Establishment Grants" and Appendix F.

personal credit cards thus increased the risk that Federal funds could have been used to purchase equipment, supplies, and services that employees might have used for personal rather than business purposes.

*Procedures and Practices of the Colorado Marketplace Permitted Self-Approval of Purchases on Behalf of the Previous Executive Staff*

The Colorado marketplace's reliance on the use of personal credit cards to conduct marketplace business may have contributed to violations of the marketplace's policies and procedures regarding the review and approval of purchases by the previous executive staff.

A previous Colorado marketplace CEO routinely approved purchases that a previous CFO made on the CFO's personal credit card for equipment, supplies, and services used by the CEO. For example, the CEO approved the purchase of Internet services that were paid for using the CFO's personal credit card, but these services were for the CEO's use. These procedures and practices did not conform to Federal regulations and cost principles or to the Colorado marketplace's policies and procedures regarding review and approval of purchases of equipment, supplies, and services.

In addition, on several occasions supplies and services purchased by the CFO were not delivered to the Colorado marketplace's business address, but were delivered to the address of the CFO's outside business (Bolder Business Solutions (BBS)).<sup>32</sup> The CFO submitted expense reports for these purchases—thus implying that the supplies and services purchased were for the use of the Colorado marketplace—and the expenses were then reimbursed from establishment grant funds. In one instance, postage stamps were purchased in this manner and delivered to the BBS address; however, there is no corresponding documentation indicating that these stamps were used for Colorado marketplace business.

*Possible Conflict of Interest Regarding a Previous Executive's Outside Business*

*Federal Requirements and Colorado Marketplace Policies*

Federal requirements mandate that a marketplace have written conflict-of-interest safeguards in place that prevent employees from using their positions for private financial gain (45 CFR § 155.110(d)(1) and *HHS Grants Policy Statement*, Part II, page II-7).

The Colorado marketplace's *COHBE Procurement Policy*, section 3, "Code of Conduct," states:

No officer, director, workforce member, or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the officer, director, workforce member, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the

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<sup>32</sup> See also "Possible Conflict of Interest" below, as well as "Vendor Rebates Received by a Previous Executive of the Colorado Marketplace but Not Credited to the Establishment Grants" in Appendix G.

parties indicated herein, has a financial or other interest in the firm selected for an award.

The Colorado marketplace's *COHBE Consultant Procurement Policy*, section V(D), "Procurement Policies & Procedures," states: "Procurement and administration of all related contracts will be conducted in a consistent, fair, and equitable manner and without a real or apparent conflict of interest between the parties."

The Colorado marketplace's *COHBE Workforce Member Handbook* also includes a section on conflict of interest.

#### *Possible Conflict of Interest*

During our fieldwork, we reviewed conflict-of-interest forms for the Colorado marketplace executives and staff (both previous and current) and noted possible discrepancies in the forms that a previous CFO had prepared and submitted. Specifically, that CFO did not adequately disclose ownership of a business (BBS) with which the Colorado marketplace had a contractual relationship. For example, the CY 2012 conflict-of-interest form that the CFO signed and submitted named the CFO's spouse as the owner of BBS; however, both the BBS Web site and the CFO's LinkedIn page identified the CFO as the owner and operator of BBS.

#### *Equipment Purchased With Establishment Grant Funds Not Properly Inventoried*

##### *Federal Requirements and Colorado Marketplace Policy*

Federal requirements state that a grant recipient's management system for equipment must meet the requirements of 45 CFR § 92.32(b): "[a] State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures."

Federal requirements also mandate "[a] physical inventory of the [recipient's] equipment, at least once every 2 years, to verify that the items in the records exist and either are usable and needed or are surplus..." (*HHS Grants Policy Statement*, Part II, "Terms and Conditions of Award," page II-64, "Equipment Management System").

Colorado State Fiscal Rules state: "Each state agency or institution of higher education is responsible for ensuring that all equipment acquired by the state is properly accounted for when acquired, inventoried and safeguarded throughout its useful life, and properly accounted for at the time of disposal" (1 CCR 101-1, Rule 1-10).

The Colorado marketplace's policy states: "Annually, near the end of a fiscal year, the Office Manager will perform a Physical Inventory of Assets and will update the Inventory Asset Log..." (*COHBE Inventory Policy and Procedures*).

### *Equipment Not Properly Inventoried*

The Colorado marketplace did not have documentation that it had conducted equipment inventories. Colorado marketplace staff told us during our fieldwork (in July 2014) that the most recent physical inventory had been completed sometime during the previous 12 months. Staff was unable to provide a more precise date and could not provide documentation (such as notations on the marketplace’s Inventory Asset Log or management certification of a list of inventoried items) to support that the inventory had in fact been performed.

When we asked Colorado marketplace officials to provide policies and procedures regarding equipment inventory, we were given two documents: the *COHBE Property Disposition Policy* and the *COHBE Inventory Policy and Procedures*. Together, these two documents appeared to be sufficiently detailed to allow for the conduct of proper inventory procedures. However, we noted that the *COHBE Property Disposition Policy* lacked an effective or implementation date and that the *COHBE Inventory Policy and Procedures* was annotated “updated 6/13/14” and still showed editing changes. We were unable to determine whether this second document had been finalized or implemented.

### *Equipment Purchased for a Previous Executive and Retained for Personal Use After Departure*

In October 2012 and again in May 2014, the CFO of the marketplace purchased an iPad for the CEO’s use; both purchases (approximately \$1,100 each time) were approved by the CEO and charged to the establishment grants. The second iPad was purchased after the CEO reported that the first iPad had been damaged. The CEO did not return that first iPad to the marketplace for repair or proper disposal, and marketplace staff could not explain what happened to it when we asked.

When the CFO purchased the second iPad in May 2014—a purchase that was also approved by the CEO—it was added to the Colorado marketplace’s equipment inventory log, but the office manager never had an opportunity to place an inventory sticker on it. When the CEO left the Colorado marketplace 3 months later, that individual purchased the second iPad and retained it for personal use.<sup>33</sup>

By allowing a former executive to retain computer equipment after the individual’s departure, the Colorado marketplace did not ensure that sensitive data were safeguarded. Neither the first (damaged) iPad nor the second iPad was ever physically returned to the Colorado marketplace. In reply to a query from us, the Colorado marketplace was not able to provide any documentation showing that either piece of equipment had had its memory cleared. In light of this, and given the health-care-related focus of the Colorado marketplace’s mission and operation, we cannot preclude the risk that either or both iPads contained personally identifiable information or other proprietary information.

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<sup>33</sup> The price that this individual paid for that second iPad appeared to be in line with prices we found when checking online resale sites for this model of iPad.



## **INSUFFICIENT POLICIES AND PROCEDURES**

These findings were caused by a lack of adequate stewardship of Federal funds. Specifically, the Colorado marketplace had not developed, finalized, and implemented policies and procedures to ensure that it expended and accounted for establishment grant funds in accordance with Federal, State, and Colorado marketplace requirements. As a result of these weaknesses, we identified \$9,678,635 in unallowable costs (Appendix D) and a number of procedural findings.

A significant portion of the unallowable costs (that is, the inadequately documented costs) and many of the procedural findings involved issues related to contractual expenditures and contract administration. Particularly with respect to insufficiently documented costs, the Colorado marketplace did not always ensure that the contracts it developed were sufficiently detailed to require that invoices would (1) specifically describe the services that had been performed and (2) show in detail how the amounts billed had been calculated. Such lack of specificity in the contract provisions meant that costs charged to the establishment grants did not meet the documentation requirements of 2 CFR part 225. Furthermore, in instances when the Colorado marketplace did develop sufficiently detailed contracts, Colorado marketplace staff did not always follow the provisions of those contracts. A significant amount of the costs we are questioning for insufficient documentation involved cases in which Colorado marketplace staff reviewed, and approved for payment, invoices whose lack of detail violated the requirements laid out in those sufficiently detailed contracts.

The other significant portion of the unallowable costs involved prepaid software operational support and maintenance services that were provided after December 31, 2014, and incorrectly charged to the establishment grants. The Colorado marketplace did not have adequate policies and procedures to recognize that the use of establishment grant funds to pay for these services violated provisions of the ACA and CMS guidance regarding the NCE period.

## **RECOMMENDATIONS**

We recommend that the Colorado marketplace:

- refund to the Federal Government \$9,678,635, consisting of:
  - \$4,398,333 in inadequately documented costs that it charged to the establishment grants,
  - \$4,504,799 in unallowable hardware and software operational support and maintenance contract costs whose periods of benefit occurred after December 31, 2014,
  - \$312,449 in costs that were improperly transferred from one establishment grant to another, and

- \$463,054 in costs that the Colorado marketplace did not efficiently and effectively administer and that it therefore unallowably charged to the establishment grants; and
- develop, finalize, and implement policies and procedures to ensure that it expends Federal grant funds in accordance with Federal, State, and Colorado marketplace requirements, including:
  - policies and procedures to ensure that all contracts require invoices to specifically describe the services to be performed and show in detail how billed amounts are to be calculated;
  - policies, procedures, and internal controls to ensure that marketplace staff follow Federal requirements and contract provisions when reviewing invoices before approving them for payment;
  - controls to ensure that grant funds are drawn down only as and when needed;
  - finalizing policies and procedures regarding contract administration to ensure that all contracts, contractual expenditures, and associated invoices contain all necessary elements of information and are approved in accordance with the marketplace's existing policy; and
  - finalizing policies and procedures to ensure that equipment is properly inventoried and properly disposed of so that Federal grant funds and assets are properly safeguarded.

## **AUDITEE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

### **AUDITEE COMMENTS**

In written comments on our draft report, the Colorado marketplace concurred with our second recommendation, described procedures that it said it had in place, and added that it did not currently have any Federal awards. The Colorado marketplace did not concur with our first recommendation and disagreed with our finding that the \$4,398,333 in costs that we questioned were inadequately documented. The marketplace said that the cost principles in 2 CFR part 225 do not prescribe what constitutes adequate documentation. Concerning the \$4,504,799 in prepaid support and maintenance costs that we questioned, the Colorado marketplace stated that it had “identified the prepaid support and maintenance costs benefitting the period subsequent to December 31, 2014 and credited the amounts back against future payment requests of federal funds.” In addition, the marketplace said that it is in the process of correcting the accounting for the \$312,449 in cost transfers that we questioned.

The Colorado marketplace also disagreed with our finding concerning \$463,054 of costs that we described as not efficiently or effectively administered. The marketplace stated that it had not exceeded approved and budgeted Federal funding levels for assistance network subgrantees and

that it had identified and credited back unallowable costs related to promotional giveaway items “against a future payment request of federal funds.” The marketplace added that the costs of social activities were allowable under Federal regulations at 2 CFR part 225, App. B, section 13(a).

The Colorado marketplace’s comments appear in their entirety as Appendix I.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

After reviewing the Colorado marketplace’s comments, we maintain that all of our findings and recommendations remain valid. Our report describes in detail, and with reference to the cost principles in 2 CFR part 225, the inadequacies of the documentation for the \$4,398,333 in costs that we are questioning. The Colorado marketplace provided no new documentation to support that it had adequate documentation for these costs. Our discussion in this finding emphasizes the extent to which the marketplace’s invoices for contractual expenditures and consultant services contract expenditures did not adequately document the services provided, how billed amounts were calculated, and other critical elements of information. Other costs were not documented as necessary and reasonable for the proper and efficient performance and administration of the Federal grant awards. This finding also explains that with respect to equipment purchases, payments to subgrantees, and travel expenses, the documentation either did not exist or did not support the business purposes of those expenditures. In the absence of adequate documentation, the Colorado marketplace was not able to demonstrate how these questioned costs benefitted the Federal grant awards.

We also disagree with the Colorado marketplace’s comments regarding the \$463,054 of costs that we describe as not efficiently or effectively administered. The marketplace’s accounting records show that it paid \$164,170 more to the assistance network subgrantees than was specified in the subgrantee agreements; the marketplace did not provide us with any new documentation to consider.

The Colorado marketplace described corrective actions related to prepaid maintenance and support costs, cost transfers, and promotional giveaway items but did not provide any documentation supporting the corrective actions taken. The responsible HHS Action Official will determine the adequacy of the corrective actions during the normal audit resolution process after issuance of our report.

Finally, the marketplace cited an inapplicable provision of Federal regulations (2 CFR part 225, App. B, § 13(a)) to support its assertion that the costs for social activities that we are questioning (\$279) were allowable. The subheading of section 13(a) of this regulation is “Employee morale, health, and welfare costs,” and the section cites employee information publications, health or first aid clinics, recreational activities, and employee counseling services as examples of allowable morale, health, and welfare costs. In addition, this provision requires equitable apportionment of these costs “to all activities of the governmental unit” and states that any income generated will be offset against expenses. An entity would therefore have to formally account for these costs. By contrast, the Colorado marketplace spent the \$279 in establishment grant funds for—by its own admission—“cake, punch, holiday cards, and decorations.” These

costs were for social activities which, along with other forms of entertainment, are explicitly prohibited by 2 CFR part 225, App. B, section 14—the criteria we cite in this finding at the end of Appendix G.

## **APPENDIX A: FEDERAL GRANTS TO STATES FOR PLANNING, ESTABLISHING, AND EARLY OPERATION OF MARKETPLACES**

CCIIO used a phased approach to provide States with resources for planning and implementing marketplaces. CCIIO awarded States and one consortium of States planning and establishment grants, including early innovator cooperative agreements and two types of marketplace establishment cooperative agreements.

### **PLANNING AND ESTABLISHMENT GRANTS**

CCIIO awarded planning and establishment grants<sup>34</sup> to assist States with initial planning activities related to the potential implementation of the marketplaces. States could use these funds in a variety of ways, including to assess current information technology (IT) systems; to determine the statutory and administrative changes needed to build marketplaces; and to coordinate streamlined eligibility and enrollment systems across State health programs, including Medicaid and CHIP. In September 2010, CCIIO awarded grants in amounts up to a maximum of \$1 million per State to 49 States and the District of Columbia. (Alaska did not apply for a planning and establishment grant.)

### **EARLY INNOVATOR COOPERATIVE AGREEMENTS**

CCIIO awarded early innovator cooperative agreements<sup>35</sup> to States to provide them with incentives to design and implement the IT infrastructure needed to operate marketplaces. These cooperative agreements rewarded States that demonstrated leadership in developing cutting-edge and cost-effective consumer-based technologies and models for insurance eligibility and enrollment for marketplaces. The “early innovator” States received funding to develop IT models, “... building universally essential components that can be adopted and tailored by other States.” In February 2011, CCIIO awarded 2-year early innovator cooperative agreements to six States and one consortium of States. Awards ranged from \$6.2 million (Maryland) to \$59.9 million (Oregon).

### **MARKETPLACE ESTABLISHMENT COOPERATIVE AGREEMENTS**

CCIIO designed establishment cooperative agreements<sup>36</sup> to support States’ progress toward establishing marketplaces. Establishment cooperative agreements awarded through December 31, 2014, were available for States seeking (1) to establish a State-based marketplace,

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<sup>34</sup> CCIIO, *State Planning and Establishment Grants for the Affordable Care Act’s Exchanges*, Funding Opportunity Number: IE-HBE-10-001, July 29, 2010.

<sup>35</sup> CCIIO, *Cooperative Agreements to Support Innovative Exchange Information Technology Systems*, Funding Opportunity Number: TBA, October 29, 2010. In February 2011, CMS announced that it had awarded seven early innovator cooperative agreements. The cooperative agreements totaled \$249 million.

<sup>36</sup> CCIIO, *Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges*, Funding Opportunity Number: IE-HBE-11-004, November 29, 2011, and *Cooperative Agreement to Support Establishment of the Affordable Care Act’s Health Insurance Exchanges*, Funding Opportunity Number: IE-HBE-12-001, December 6, 2013.

(2) to build functions that a State elects to operate under a State partnership marketplace, and (3) to support State activities to build interfaces with the federally facilitated marketplace. Cooperative agreement funds were available for approved and permissible establishment activities and could include startup year expenses to allow outreach, testing, and necessary improvements during the startup year. In addition, a State that did not have a fully approved State-based marketplace on January 1, 2013, could have continued to qualify for and receive establishment cooperative agreement awards in connection with its activities related to establishment of the federally facilitated marketplace or State partnership marketplace, subject to certain eligibility criteria. States were eligible for multiple establishment cooperative agreements.

There were two categories of establishment cooperative agreements: Level One and Level Two. Level One establishment cooperative agreements were open to all States, whether they were (1) participating in the federally facilitated marketplace (including States collaborating with the federally facilitated marketplace through the State partnership model) or (2) developing a State-based marketplace. All States could have applied for Level One establishment cooperative agreements, including those that previously received exchange planning and establishment grants. Level One award funds were available for up to 1 year after the date of the award.

Level Two establishment cooperative agreements were available to States, including those that previously received exchange planning and establishment grants. Level Two establishment cooperative agreement awards provided funding for up to 3 years after the date of the award. These awards were available to States that could demonstrate that they had (1) the necessary legal authority to establish and operate a marketplace that complies with Federal requirements available at the time of the application, (2) established a governance structure for the marketplace, and (3) submitted an initial plan discussing long-term operational costs of the marketplace.

States could have initially applied for either a Level One or a Level Two establishment cooperative agreement. Those that had received Level One establishment cooperative agreements could have applied for another Level One establishment cooperative agreement by a subsequent application deadline. Level One establishment grantees also could have applied for a Level Two establishment cooperative agreement provided the State had made sufficient progress in the initial Level One establishment project period and was able to satisfy the eligibility criteria for a Level Two establishment cooperative agreement.

In determining award amounts, CCIIO looked for efficiencies and considered whether the proposed budget would be sufficient, reasonable, and cost effective to support the activities proposed in the State's application. According to the Funding Opportunity Announcement, the cooperative agreements funded only costs for establishment activities that were integral to marketplace operations and meeting marketplace requirements, including those defined in existing and future guidance and regulations issued by HHS. A marketplace must use ACA, section 1311(a), funds consistent with ACA requirements and related guidance from CCIIO.

States must ensure that their marketplaces were self-sustaining beginning on January 1, 2015 (ACA § 1311(d)(5)(A)).

**APPENDIX B: FEDERAL GRANTS AWARDED FOR PLANNING, ESTABLISHING,  
AND EARLY OPERATION OF THE COLORADO MARKETPLACE  
AS OF DECEMBER 31, 2014**

Table 3 summarizes the grants awarded by CCIIO to support the planning, establishing, and early operation of the Colorado marketplace and expenditures allocated to these grants.

**Table 3: Establishment Grant Numbers, Award Periods, Award Types, and Award Totals**

<b>Grant Number</b>	<b>Award Period</b>	<b>Award Type</b>	<b>Award Total</b>
HBEIE120111	February 22, 2012– April 15, 2013	Level One	\$17,951,000
HBEIE120131	September 27, 2012– January 15, 2014	Level One	43,486,747
HBEIE130169	July 9, 2013– December 31, 2015 <sup>37</sup>	Level Two	116,245,677
HBEIE130169 <sup>38</sup>	July 9, 2013– December 31, 2015	Level Two	6,055,673
<b>Total of Establishment Grants</b>			<b>\$183,739,097</b>
HBEIE00004 <sup>39</sup>	September 29, 2010– February 29, 2012	Planning	\$1,247,599
<b>Total of All Grants</b>			<b>\$184,986,696</b>

<sup>37</sup> The award period for this grant (and the post-award amendment grant on the next line) includes the NCE period.

<sup>38</sup> This grant, awarded in December 2014, was a post-award amendment of the Level Two grant.

<sup>39</sup> CCIIO did not award this planning grant to the Colorado marketplace, but did award it to the Executive Office of the State of Colorado. The total amount shown (\$1,247,599) includes the initial planning grant award (\$999,987) and a supplemental grant award (\$247,612). We did not review the \$1,247,599.

## APPENDIX C: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed the Notice of Awards associated with \$183.7 million that CCIIO awarded to the Colorado marketplace, in three establishment grants and a post-award amendment to the third of the three grants, during FYs 2012 through the 1<sup>st</sup> quarter of 2016 (February 22, 2012, through December 31, 2015). We are still conducting audit work on several aspects of the Colorado marketplace's operations and will report on them separately. These other aspects include:

- the allocation of costs between the Colorado marketplace and HCPF for the SES,
- the allowability of cost-plus-percentage-of-cost contracts used for the construction of enrollment call centers for the Colorado marketplace,
- transfers of costs from one establishment grant to another (except for the transfers associated with findings conveyed in this report), and
- unresolved discrepancies between financial records in the Colorado marketplace's accounting system and (1) financial reports submitted to CMS, (2) the marketplace's bank statements, and (3) PMS's Drawdown Report.

We conducted our audit work, which included site visits to the Colorado marketplace's office in Denver, Colorado, from July 2014 to August 2015.

### METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- reviewed the Colorado marketplace's establishment grant application packages;
- reviewed CCIIO's Funding Opportunity Announcements and NGA terms and conditions;
- reviewed the Colorado Office of the State Auditor report on the Colorado marketplace and interviewed the State Auditor staff to gain an understanding of the findings that the staff was developing and, later, to ensure that our own sampled items and findings had not been sampled or identified as findings by the State Auditor staff;
- reviewed an audit report prepared by an independent auditing firm under the provisions of OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, and gained an understanding of that report's findings about the Colorado marketplace's use of establishment grant funds;



- reviewed a CMS CCIIO progress report<sup>40</sup> on the Colorado marketplace and its call centers and gained an understanding of that report's findings with respect to the Colorado marketplace's use of establishment grant funds;
- interviewed HCPF and Colorado marketplace officials and reviewed the SES Memorandum of Understanding between the 2 entities to gain an understanding of their use of the SES for eligibility and enrollment determinations;
- obtained and reviewed the Board's bylaws and minutes;
- toured the Colorado marketplace's enrollment call centers in Denver and Colorado Springs;
- reviewed the Colorado marketplace's policies and procedures for financial management;
- interviewed Colorado marketplace officials to gain an understanding of their accounting systems and internal controls;
- interviewed Colorado marketplace officials to gain an understanding of enrollment statistics available to the marketplace for individuals determined eligible for and enrolled in QHPs, Medicaid, or CHIP;
- interviewed Colorado marketplace officials and staff to gain an understanding of the marketplace's procedures for credit card usage and use of expense reports for reimbursement, and reviewed the general ledgers to identify and test credit card expenditures;
- reviewed hardware and software operational support and maintenance services expenditures for allowability;
- reviewed the general ledgers and judgmentally selected expenditures that related to contracts that the Colorado marketplace paid through establishment grant funds, as well as associated invoices and supporting documentation, and tested these contracts and expenditures with respect to necessary elements of information and with respect to approvals;
- reviewed the trial balance for each of the establishment grants to identify open balances and to compare total debits to total credits;
- obtained revenue and expenditure general ledger reports (for the 3 establishment grants and the post-award amendment to the third of the three grants) for FYs 2012 through 2014 and the general ledger report for the first month of FY 2015 and analyzed these general ledger reports to obtain an understanding of the information that the Colorado

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<sup>40</sup> CMS, *Center for Consumer Information and Insurance Oversight Site Visit: Connect for Health Colorado*, issued March 23, 2015.

marketplace used to claim expenditures for Federal reimbursement and specifically to reconcile the general ledgers to the:

- drawdowns of funds from the PMS,
  - appropriate NGAs,
  - monthly bank statements, and
  - quarterly expenditures reported to CMS on Federal Financial Reports (Standard Form-425 reports);
- obtained and reviewed the report that the Colorado marketplace used to identify drawdown amounts and dates and analyzed both the length of time between drawdowns and the grant funds available in the marketplace's bank account during those periods;
  - reviewed 3 judgmentally selected transactions in the general ledgers in which the Colorado marketplace transferred costs from one establishment grant to another and evaluated whether these transfers were performed to correct bookkeeping or clerical errors and whether they were supported by documentation explaining how the errors had occurred;
  - identified transactions through which the Colorado marketplace transferred costs from one establishment grant to another;
  - reviewed expenses for travel undertaken by executives and employees of the Colorado marketplace and reimbursed through establishment grant funds, as well as associated invoices and supporting documentation, and attempted to identify the business purposes of the trips, the approval processes of claimed expenses, and the adequacy of support;
  - reviewed executive and employee bonuses awarded during our audit period to determine whether these awards conformed to Federal and State requirements and the Colorado marketplace's policies;
  - reviewed awards paid to subgrantees and evaluated the requested and awarded amounts, contracts and other supporting documentation, and general ledger entries regarding these awards;
  - identified in the general ledgers transactions for promotional giveaway items, amounts paid to movers and installers and for social activities; reviewed supporting documentation for the transactions; and evaluated these payments in the context of Federal cost principles and other requirements regarding the use of Federal grant award funds;
  - examined credit card statements and supporting documentation regarding a previous Colorado marketplace executive's use of a business credit card to make purchases for

both the Colorado marketplace and the individual's outside business (BBS)<sup>41</sup> and then evaluated procedures and controls to ensure (1) the proper accounting of equipment, supplies, and services purchased using this card and (2) the differentiation of purchases made for the Colorado marketplace from purchases made for that executive's outside business;

- reviewed conflict-of-interest forms prepared by Colorado marketplace executives and employees and performed online research of LinkedIn and other business- and career-related Web sites to identify potential conflicts of interest;
- reviewed equipment purchases for allowability, approvals, and supporting documentation and performed a physical inventory of (1) 36 pieces of equipment purchased using personal or BBS credit cards and (2) 7 pieces of judgmentally selected equipment listed on the Colorado marketplace's December 12, 2014, master inventory list; and
- discussed the preliminary results of our review with Colorado marketplace officials on July 16, 2015, and our draft report findings with Colorado marketplace officials on January 27, 2016.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>41</sup> BBS is the name of a previous Colorado marketplace CFO's personal business. See the discussions in "Procedures and Practices Did Not Conform to Federal Requirements or Colorado Marketplace Policies or Did Not Have a Basis in Colorado Marketplace Policy" earlier in this report regarding self-approval of purchases and a possible conflict of interest. See also "Vendor Rebates Received by a Previous Executive of the Colorado Marketplace but Not Credited to the Establishment Grants" in Appendix G.

**APPENDIX D: SUMMARY OF UNALLOWABLE COSTS**

<b>Table 4: Description of Grant Funds Not Expended in Accordance With Federal Requirements</b>	<b>Unallowable Costs</b>
<b>Inadequate Documentation<sup>42</sup></b>	
Contractual expenditure invoices did not indicate the work accomplished for billed fees	\$3,055,152
Invoices for consultant services did not indicate the work accomplished for billed fees	478,858
Contractual expenditure invoices lacked explanation of the services or calculation of billed amounts	455,247
Invoices for consultant services did not show how the billed amounts were calculated	331,375
Equipment purchased on personal credit cards that lacked business purposes	28,680
Invoices for consultant services exceeded the maximum monthly amounts specified in the contracts	14,125
Payments to subgrantees not supported by documentation of actual service or purpose	13,692
Executive and employee travel expenses not supported by receipts or purpose	10,166
Invoice for consultant services specified services not included in the SOW	9,965
Invoices for consultant services was for prohibited expenses	713
Invoices for consultant services was for executive protection services with no supporting documentation	360
<b>Subtotal</b>	<b>\$4,398,333</b>
<b>Unallowable Hardware and Software Operational Support and Maintenance Costs</b>	
Prepaid hardware and software operational support and maintenance services provided after December 31, 2014	4,254,799
Prepaid hardware and software operational support and maintenance services for the SES	\$250,000
<b>Subtotal</b>	<b>\$4,504,799</b>
<b>Improperly Transferred Costs From One Establishment Grant to Another</b>	<b>\$312,449</b>

<sup>42</sup> See Appendix E.

<b>Inefficient and Ineffective Administration of Establishment Grant Funds<sup>43</sup></b>	
Executive and employee bonuses not supported by required documentation of performance evaluations	\$211,891
Excess funds paid to subgrantees	164,170
Unallowable promotional giveaway items	86,061
Unreasonable tips	290
Vendor rebates not credited to the establishment grants	363
Unallowable social activities	279
<b>Subtotal</b>	<b>\$463,054</b>
<b>Total Unallowable Costs</b>	<b>\$9,678,635</b>

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<sup>43</sup> See Appendix G.

**APPENDIX E: ERRORS WITH RESPECT TO CONTRACTS AND INVOICES FOR  
INADEQUATELY DOCUMENTED CONTRACTUAL EXPENDITURES AND  
CONSULTANT SERVICES CONTRACT EXPENDITURES**

**Table 5: Errors With Respect to Contracts and Invoices for Inadequately Documented Contractual Expenditures**

Invoice Number/Date <sup>44</sup>	Contract and Invoice Not Compliant			Contract Compliant but Invoice Not Compliant	Contract Compliant but Invoice Not Compliant
	Lack of Description of Services Provided	Lack of Description for Calculation of Billed Amounts	Questioned Amount	No Contract Tasks or Hours by Contract Task Reported	Questioned Amount
6593 & 6594		X	\$ 36,739		\$ 0
			0		0
			0		0
			0		0
971	X		215,461		0
			0		0
			0		0
3404	X		28,935		0
			0		0
US370002147		X	418,508		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
US370002151	X		1,581,881		0
US370001628	X		1,117,650		0
20517			0	X	41,225
			0		0
2013-20200			0	X	70,000
			0		0
<b>Totals</b>	<b>4</b>	<b>2</b>	<b>\$3,399,174</b>	<b>2</b>	<b>\$111,225</b>

<sup>44</sup> This table uses invoice numbers except in cases when available documentation of expenditures conveyed only the date and no invoice or document number. Blank rows signify invoices for which we found no documentation errors.

**Table 6: Errors With Respect to Contracts and Invoices for Inadequately Documented Consultant Services Contract Expenditures**

Invoice Number/Date <sup>45</sup>	Contract and Invoice Not Compliant				Contract Compliant but Invoice Not Compliant		
	Lack of Description for Services Provided	Lack of Description for Calculation of Billed Amounts	Contract Language Inadequate To Ensure Invoices Described Specific Tasks Completed by MSA or SOW	Contract Language Inadequate To Ensure Invoices Described Specific Tasks Completed by Project	Questioned Amount	No Contract Tasks or Hours by Contract Task Reported	Questioned Amount
3885-14219					\$ 0	X	\$ 7,535
					0		0
					0		0
3					0	X	5,613
136					0	X	9,000
					0		0
					0		0
					0		0
					0		0
Jan. 4, 2013				X	66,325		0
22425			X		6,800		0
Dec. 3, 2012				X	61,886		0
DEN-2013-03105			X		18,315		0
DEN-2013-03159			X		14,595		0
126	X				22,770		0
					0		0
COHBE_INV20					0	X	22,000
					0		0
Dec. 1, 2013				X	28,525		0
882		X			249,122		0
900369	X	X			18,048		0
900369	X	X			18,180		0
054171	X				57,000		0

<sup>45</sup> This table uses invoice numbers except in cases when available documentation of expenditures conveyed only the date and no invoice or document number. Blank rows signify invoices for which we found no documentation errors.

Invoice Number/Date	Contract and Invoice Not Compliant (con't)				Contract Compliant but Invoice Not Compliant		
	Lack of Description for Services Provided	Lack of Description for Calculation of Billed Amounts	Contract Language Inadequate To Ensure Invoices Described Specific Tasks Completed by MSA or SOW	Contract Language Inadequate To Ensure Invoices Described Specific Tasks Completed by Project	Questioned Amount	No Contract Tasks or Hours by Contract Task Reported	Questioned Amount
533	X				\$41,430		\$0
					0		0
6460		X			35,088		0
					0		0
					0		0
					0	X	0
0299CHX-007		X			24,000		28,891
3862957					0		0
					0		0
Oct. 31, 2013	X				16,240		0
4445 & 4446				X	27,880		0
4329				X	12,920		0
					0		0
DEN-2013-03371			X		13,750		0
					0		0
					0		0
Feb. 24, 2014	X				3,600		0
Mar. 18, 2014	X				720		0
<b>Totals</b>	<b>8</b>	<b>5</b>	<b>4</b>	<b>5</b>	<b>\$737,194</b>	<b>5</b>	<b>\$73,039</b>



## **APPENDIX F: OTHER INADEQUATELY DOCUMENTED CONSULTANT SERVICES CONTRACT EXPENDITURES AND OTHER INADEQUATELY DOCUMENTED COSTS CHARGED TO THE ESTABLISHMENT GRANTS**

The Colorado marketplace did not adequately document \$4,398,333 in costs that it charged to the establishment grants. These unallowable costs included \$3,510,399 associated with 8 contractual expenditures and \$835,396 associated with 35 inadequately documented consultant services contract expenditures.

### **OTHER INADEQUATELY DOCUMENTED CONSULTANT SERVICES CONTRACT EXPENDITURES**

Details on most of \$835,396 in inadequately documented consultant services contract expenditures appear in Table 6 of Appendix E. Eight other inadequately documented consultant services contract expenditures totaling \$25,163 are *not* included in that Appendix because their errors were of a different nature:

- Three instances associated with \$14,125 had contractor-invoiced amounts that exceeded the maximum monthly amounts specified in the contracts. The Colorado marketplace paid these invoices even though the contractors had violated the terms of the contracts.
- One consultant services contract associated with \$9,965 had services rendered, as described in the invoice, that were not included in the SOW. The SOW involved the delivery of training, but the invoice was for management of a Colorado marketplace enrollment site in Denver, Colorado, during open enrollment season.
- Three expenditures (on two consultant services contracts) associated with \$713 were for expenses that the consultants were contractually prohibited from invoicing. These consultants were authorized a flat hourly billing rate in the SOW, with no additional expenses allowed, but the consultants billed for additional expenses anyway.
- One expenditure (for executive protection services) associated with \$360 had an invoice that did not identify the individual to be protected, the location, or the business purpose of the services. Moreover, the Colorado marketplace could not provide documentation supporting the nature and scope of the service rendered in relation to the service required.

### **OTHER INADEQUATELY DOCUMENTED COSTS CHARGED TO THE ESTABLISHMENT GRANTS**

We also identified other inadequately documented costs totaling \$52,538, which consisted of the following unallowable costs:

- Equipment that cost \$28,680 was purchased with the CFO's (\$21,203) and an office manager's (\$7,477) personal credit cards. These charged costs either had no supporting

documentation or had documentation that was inadequate because it did not identify the business purposes of the purchases.<sup>46</sup>

- “Assistance network grants” worth \$13,692 were payments to a number of subgrantees that provided outreach and educational services. These costs were not supported by documentation of the actual services provided or their business purposes.<sup>47</sup> Specifically, the Colorado marketplace incorrectly charged the establishment grants for the following payments to these subgrantees:
  - \$8,669 for subgrantee services that had no invoices or receipts,
  - \$2,640 for advance payments that exceeded the amounts that the subgrantees claimed and that did not have documentation justifying or supporting the extra payments,
  - \$1,337 for rent expenditures that had no invoices,
  - \$692 for inadequately documented mileage reimbursements (in three cases, the documentation did not reflect the business purposes of the trips, and in another case, the reimbursement exceeded the Federal mileage rate without justification for the higher amount of reimbursement), and
  - \$354 for supplies that had no invoices or receipts.
- Executive and employee travel expenses of \$10,166 that either did not have receipts or did not have documentation supporting the business purposes of the trips. In addition, none of these trips had documentation showing that they had been pre-approved as required by the Colorado marketplace’s own policies (the *COHBE Workforce Member Handbook*).

Of that \$10,166, \$6,408 was associated with travel undertaken by a previous Colorado marketplace CEO. For example, the Colorado marketplace charged \$968 to the establishment grants for a trip that this executive took to Durango, Colorado. The Colorado marketplace could provide no documentation supporting that this trip was necessary and reasonable for the proper and efficient performance and administration of the Federal grant awards or that this executive travel had been approved (in this case, by the Board).

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<sup>46</sup> We mention the use of personal credit cards to help explain the lack of documentation associated with these costs. The use of personal credit cards also points to a weakness in the administration of Federal funds; see our discussion in “Procedures and Practices Did Not Conform to Federal Requirements or Colorado Marketplace Policies or Did Not Have a Basis in Colorado Marketplace Policy” earlier in this report.

<sup>47</sup> We identified other costs associated with the assistance network grants that we question earlier in this report in connection with promotional giveaway items whose costs were unallowably charged to the establishment grants. See our discussion in “Establishment Grant Funds Not Efficiently or Effectively Administered.”

## **APPENDIX G: ESTABLISHMENT GRANT FUNDS USED FOR UNALLOWABLE VENDOR REBATES, TIPS, AND SOCIAL ACTIVITIES**

### **VENDOR REBATES RECEIVED BY A PREVIOUS EXECUTIVE OF THE COLORADO MARKETPLACE BUT NOT CREDITED TO THE ESTABLISHMENT GRANTS**

#### **Federal Requirements**

To be allowable under Federal awards, costs must be the net of all applicable credits (2 CFR part 225, App. A, § (C)(1)(i)).

Federal requirements also state:

Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: Purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate. [2 CFR part 225, App. A, § (C)(4)(a).]

#### **Vendor Rebates Not Credited to the Establishment Grants**

A previous CFO of the Colorado marketplace received rebates totaling \$363 that were not credited to the establishment grants. The CFO combined purchases for accounting software for the Colorado marketplace with purchases of accounting software for that individual's personal business (BBS).

The CFO was able to receive vendor rebates based on the number of users of the accounting software, a number which included both Colorado marketplace employees and BBS users. However, in spite of the fact that usage by marketplace employees helped trigger the rebates, the Colorado marketplace did not receive its equitable share of those rebates—an amount that we calculated to have been \$363. The \$363 in rebates should have been applied as credits to the Colorado marketplace and used to offset expenditures charged to the establishment grants.

## **ESTABLISHMENT GRANT FUNDS USED FOR UNREASONABLE TIPS**

#### **Federal Requirements**

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.... In determining reasonableness of a given cost, consideration shall be given to: ....

b. The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award. [2 CFR part 225, App. A, § (C)(2).]

### **Unreasonable Tips**

In April 2013, the Colorado marketplace charged \$290 to the establishment grants for unreasonable tips to movers. The entire amount of the moving costs incurred and charged to the establishment grants for this service was \$833. The invoice for this service indicated that it involved one truck and four movers for 6 hours. This invoice also showed a \$350 tip to the movers for a total paid amount of \$1,183. The industry standard for tipping movers<sup>48</sup> is an amount equal to 5 percent of the moving charge (which in this case would have been \$42) or \$10 to \$20 per mover. Accordingly, we accepted a total tip of \$60 for the four movers, which is \$15 per mover (the midpoint of the dollar range specified as appropriate)—a total tip of just over 7 percent. Instead, the Colorado marketplace provided a 42 percent tip. Therefore, we are questioning \$290 (\$350 minus \$60) as exceeding that which would have been incurred by a prudent person under the circumstances.

### **ESTABLISHMENT GRANT FUNDS USED FOR UNALLOWABLE SOCIAL ACTIVITIES**

Federal requirements state: “Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable” (2 CFR part 225, App. B, § 14).

Contrary to these Federal requirements, the Colorado marketplace charged the establishment grants a total of \$279 for party supplies. This amount included \$166 in September 2013 for decorations that appear to have been associated with one or more baby showers and \$113 in December 2012 for a holiday party, including a cake, cider, and decorations.

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<sup>48</sup> As stated by a spokesperson for the American Moving and Storage Association.

**APPENDIX H: SUMMARY OF FINDINGS RELATED TO  
CONTRACT ADMINISTRATION**

**Table 7: Internal Control Weaknesses Related to Contract Administration**

<b>Contract Expenditure Approvals</b>	<b>Number of Occurrences</b>
Expenditure was dated 6-6-12 or later; over \$150,000; approved by CEO <sup>49</sup> but not by Board of Directors	13
Expenditure was dated 6-16-12 or later; over \$5,000 and up to \$150,000; approved by CEO but not by Procurement Specialist	19
Expenditure was dated 6-6-12 or later; over \$5,000 and up to \$150,000; not approved by either the CEO or Procurement Specialist	1
Expenditure was dated 6-6-12 or later; contractor employee pre-approved hours to be worked in a billing period, which were invoiced by the contractor employee's company; over \$5,000 and up to \$150,000; approved by CEO but no one else; no evidence of review before approval	1
Contractor employee served as Procurement Specialist and approved the payment of an invoice	10
<b>Subtotal</b>	<b>44</b>
<b>Contract Approvals</b>	
Contract approved 6-16-12 or later; over \$150,000; approved by CEO but not by Board of Directors	23
Contract approved 6-16-12 or later; over \$5,000 and up to \$150,000; approved by CEO but not by Procurement Specialist	22
No policy existed for contract approval as of the contract approval date	10
CEO approved contract after completion of work	2
<b>Subtotal</b>	<b>57</b>
<b>Missing Element of a Contract</b>	
Contract does not include the total contract amount	12
Contract does not include the period of performance	3
Contract does not include the hourly billing rate	4
Contract or contract amendment does not include an effective date	5
No written agreement covering rates agreed to with vendor	1
<b>Subtotal</b>	<b>25</b>
<b>Total<sup>50</sup></b>	<b>126</b>

<sup>49</sup> All "CEO" references in this table are to an individual who was no longer with the Colorado marketplace at the end of our audit period.

<sup>50</sup> Some contracts had more than one error.

APPENDIX I: AUDITEE COMMENTS



September 21, 2016

Patrick J. Cogley  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of the Inspector  
General Office of Audit Services, Region VII  
601 East 12<sup>th</sup> Street, Room 0429  
Kansas City, MO 64106

Re: Report Number A-07-14-02801

Dear Mr. Cogley:

This letter acknowledges the Connect for Health Colorado's receipt and review of the draft report from the Department of Health and Human Services' Office of the Inspector General entitled *Colorado Did Not Correctly Expend Establishment Grant Funds for Establishing a Health Insurance Marketplace*. The Marketplace's comments are attached.

We appreciate the opportunity to review the draft and submit comments. Should you have any questions or require additional information, please feel free to contact me.

Sincerely,

/s/

Alan J. Schmitz  
General Counsel

Enclosure

**Connect for Health Colorado's Response to the DHHS OIG Audit Report**  
Colorado Did Not Correctly Expend Establishment Grant Funds for Establishing a Health  
Insurance Marketplace

**Audit Recommendation 1:** We recommend that the Colorado marketplace refund the Federal Government \$9,678,632.

**Response:** Connect for Health Colorado (Marketplace) does not concur with Recommendation 1.

- \$4,398,333 in inadequately documented costs that it charged to the establishment grants.

**Comments:** The Marketplace disagrees with the OIG position that the Marketplace did not adequately document costs charged to the grant, citing 2 CFR part 225, App. A, § (C)(1). We also disagree with the OIG's statement "the lack of specificity in the contracts mean that costs charged to the establishment grants did not meet the documentation requirement of 2 CFR part 225 and were therefore unallowable." The cost principles stated in the 2 CFR part 225 are not prescriptive in what constitutes "adequate documentation". There are no specific documentation requirements listed for the purchase of equipment, software, maintenance services agreements. The Marketplace documentation included approved contracts, vendor invoices, budgets, acknowledgement of software received, proper approvals and payment. A significant proportion of the costs being questioned were for the original development and integration of the exchange platform. These costs were incurred as the result of an extensive RFP/contracting process. The development milestones were closely monitored and reported to the appropriate Federal authorities during the entire implementation phase. The costs referenced in these findings were adequately documented by the Marketplace and presented to the OIG for inspection.

- \$4,504,799 in unallowable hardware and software operational support and maintenance contract costs whose periods of benefit occurred after December 31, 2014.

**Comments:** The Marketplace identified the prepaid support and maintenance costs benefiting the period subsequent to December 31, 2014 and credited the amounts back against future payment requests of federal funds.

- \$312,449 in costs that were improperly transferred from one establishment grant to another.

**Comments:** The Marketplace is correcting the accounting for questioned transfers.

- \$463,054 in costs that the Colorado marketplace did not efficiently and effectively administer and that is therefore unallowably charged to the establishment grants.

**Comments:** The Marketplace closely monitored all assistant network program sub-grantee activities funded through a combination of federal and Marketplace funds. Individual budgets were prepared and approved for each subgrantee and contractually documented through a subgrant agreement. Subgrantees in the assistant network program were not paid in excess of the budgeted amount in the subgrantees agreement. Total federal funds expended on the assistant network program did not exceed the total amount approved by the Marketplace Board of Directors. In some instances the portion of federal funds distributed to individual subgrantees varied from the original program funding plan but overall the Marketplace did not exceed the approved federal funding level for the program.

Unallowable promotional give away costs were identified and credited back against a future payment request of federal funds.

The Marketplace disagrees with the OIG claim of unallowable social activities. These costs are allowable under 2 CFR Part 225, App. B, 13.(a), *Employee morale, health, and welfare costs*. "The cost of employee...expenses incurred in accordance with the governmental unit's established practices or custom for the improvement of...employee morale... are allowable." The costs consisted of cake, punch, holiday cards, and decorations.

**Audit Recommendation 2:** We recommend that the Colorado marketplace develop, finalize and implement policies and procedures to ensure that it expends Federal grant funds in accordance with Federal, State, and Colorado marketplace requirements.



**Response:** The Marketplace concurs with Recommendation 2.

- Policies and procedures to ensure that all contracts require invoices to specifically describe the services to be performed and show in detail how billed amounts are to be calculated.

**Comments:** The Marketplace has a contract management procedure to ensure contracts are properly socialized, managed and reported on.

- Policies, procedures, and internal controls to ensure that marketplace staff follow Federal requirements and contract provisions when reviewing invoices before approving them for payment.

**Comments:** The Marketplace has a contract management procedure to ensure contracts are properly socialized, managed and reported on.

- Controls to ensure that grant funds are drawn down only as and when needed.

**Comments:** The Marketplace does not currently have any federal awards.

- Finalizing policies and procedures regarding contract administration to ensure that all contracts, contractual expenditures, and associated invoices contain all necessary elements of information and are approved in accordance with the marketplace's existing policy.

**Comments:** The Marketplace has a contract management procedure to ensure contracts are properly socialized, managed and reported on.

- Finalizing policies and procedures to ensure that equipment is properly inventoried and properly disposed of so that Federal grant funds and assets are properly safeguarded.

**Comments:** The Marketplace has a policy and procedure for purchasing, inventorying and disposing of equipment.