

FAQs on the Clarification of the Use of 1311 Funds for Establishment Activities

The Centers for Medicare & Medicaid Services (CMS) publishes these Frequently Asked Questions to provide recipients of grants under section 1311 of the Affordable Care Act with further guidance on the appropriate uses of establishment grant funds after January 1, 2015. These FAQs supplement and further clarify the first two Questions and Answers in prior CMS guidance entitled, “FAQs on the Use of 1311 Funds and No Cost Extensions,” published March 14, 2014.

Question: For current Marketplace Grantees, including those who have or are applying for a No Cost Extension, are there any activities that are not allowable?

Answer: Yes. Per section 1311(d)(5) of the Affordable Care Act, Marketplaces must be self-sustaining beginning January 1, 2015, and funds may not be used for ongoing operations. Marketplaces demonstrate self-sustainability by, among other things, having a source of funding – other than 1311 – in place for ongoing operations.

Allowable uses of 1311 funds after January 1, 2015 are for establishment activities that were specifically described in the grantee’s approved work plan, including:

- Stabilizing Marketplace IT Systems through the design, development, and testing of IT functionality;
- Instituting financial and programmatic audit policies and procedures to comply with the State-based Marketplace Annual Reporting Tool (SMART), including establishment of data systems that support compliance;
- Outreach and education, including in-person assistance, to support increasing total enrollment to designated targets in a grantee’s approved work plan that reflect a documented level of participation that was not achieved by January 1, 2015, and is necessary for the viability of the Marketplace;
- Call center activities to support establishment-related outreach or to provide manual support while IT functionality is developed; and
- Long-term capital planning to support the successful establishment of the Marketplace.

Grantees are reminded that allowable establishment activities that may be supported with 1311 funds after January 1, 2015, during an initial project period under a 1311 award or during an extended project period under a No Cost Extension, must have been specifically described in a grantee’s approved work plan.

In addition, portions of indirect costs, such as salaries, that support establishment activities may be allowable. Grantees should have accounting systems that adequately track activities and costs

in a manner that will enable accurate allocation of indirect costs to allowable establishment activities.

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.

CMS recognizes that in some situations grantees will have questions regarding whether a particular activity constitutes an allowable establishment activity. Grantees should present these questions to the grants official identified in the grant award and to their state officers prior to expending funds on such activities. CMS grants officials will continue to work closely with states to address questions regarding allowable costs on a case-by-case basis.

Question: May Marketplace Grantees seek an extension of their grant project period?

Answer: Yes, consistent with existing Department of Health and Human Services' (HHS) grant rules and policies, grantees may request No Cost Extensions (NCE) to extend the project period in order to complete establishment activities that were part of the grantees' approved work plan under a specific grant where the grantee reasonably requires additional time to complete those activities. CMS reviews each NCE request for allowability, allocability, and reasonableness of costs based on section 1311 of the Affordable Care Act and HHS grant rules and policies.

When submitting a request for a NCE, the grantee should submit a budget and a monthly spend plan/drawdown plan for each budget category on the Standard Form 424A, as well as for the Exchange Core Areas. When submitting a budget for the Exchange Core Areas, the request should clearly identify the grants funds for which an NCE is being requested. This budget should also identify non-1311 funds that will support the Marketplaces' ongoing operations.

If grantees receive a NCE: 1) the grantee must use 1311 funds only for establishment activities that are specifically described in its approved work plan; and 2) the grantee must have internal controls in place to assure that 1311 funding and the other identified funding sources are properly separated and documented in support of these allowable activities. CMS will thoroughly review all NCE requests to ensure that project periods are extended only for approved and permissible establishment activities.