

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE MINNESOTA MARKETPLACE
MISALLOCATED FEDERAL FUNDS AND
CLAIMED UNALLOWABLE COSTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



**Daniel R. Levinson
Inspector General**

November 2016
A-05-14-00045

Office of Inspector General

<https://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC

at <https://oig.hhs.gov/>

Section 8M of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

Minnesota did not allocate some of the costs for establishing a health insurance marketplace to its establishment grants in accordance with Federal requirements and claimed unallowable costs. As a result, Minnesota misallocated \$346,100 in costs to the establishment grants and claimed \$933,600 in unallowable costs over 3 years.

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.

The Minnesota marketplace (also known as MNsure) is an independent unit of the Minnesota Government. The Minnesota marketplace serves as the lead agency for the State’s marketplace establishment grants and is responsible for complying with applicable requirements.

This review is part of an ongoing 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.

Our objective was to determine whether the Minnesota marketplace allocated costs for establishing a health insurance marketplace and expended establishment grant funds 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 (CHIP).

Grant funds must be used only for allowable costs determined in accordance with the cost principles applicable to the organization incurring the cost. CCIIO’s Establishment Grant Funding Opportunity Announcements and the Minnesota marketplace’s Notice of Grant Awards terms and conditions require the Minnesota marketplace to allocate shared costs among Medicaid, CHIP, Minnesota Care (a publicly subsidized health care program for residents who

do not have access to affordable health care coverage but have higher income levels than those enrolled in Medicaid), and the Minnesota marketplace consistent with cost principles at 2 CFR part 225.

Minnesota chose to establish and operate its own State-based marketplace. Because the Minnesota marketplace provides eligibility, determination, and enrollment services for both QHPs and its State-based public health care programs, such as Medicaid, the Minnesota marketplace sought funding from various Federal sources that provided benefits to these programs. Additionally, because the Minnesota marketplace is a single entity supporting the shared needs of multiple programs, Minnesota developed methodologies for allocating costs based on anticipated marketplace enrollments in QHPs and its State-based public health care programs.

In 2012, the Minnesota marketplace hired a contractor to estimate the number of people who would enroll in QHPs offered through the Minnesota marketplace and in Medicaid through 2016. The Minnesota marketplace used the contractor's initial enrollment projections (2012 estimate) to determine the percentages of costs that should be allocated to the establishment grants and to Medicaid. In 2013, the Minnesota marketplace received an updated enrollment estimate (2013 estimate), which included not only QHPs and Medicaid but also Minnesota Care.

As of December 31, 2014, CCIIO had awarded Minnesota one planning grant and five establishment grants totaling \$189.6 million. Of this amount, the Minnesota marketplace expended \$86.4 million in planning and establishment grant funds during State fiscal years (SFYs) 2012 through 2014 (July 1, 2011, through June 30, 2014). We reviewed \$19.6 million of that \$86.4 million. We limited our review of internal controls to the Minnesota marketplace's systems and procedures for expending Federal grant funds to establish a health insurance marketplace.

WHAT WE FOUND

The Minnesota marketplace did not always allocate costs for establishing a health insurance marketplace and expend establishment grant funds in accordance with Federal requirements:

- The Minnesota marketplace did not allocate some of the costs for establishing a health insurance marketplace to its establishment grants in accordance with Federal requirements. The Minnesota marketplace allocated \$1,790,986 to the establishment grants and Medicaid on the basis of a cost allocation methodology that used outdated, estimated data instead of updated, better estimated data that were available. As a result, the Minnesota marketplace misallocated \$346,095 in costs to the establishment grants instead of allocating these costs to its State-based public health care programs.
- The Minnesota marketplace did not appropriately authorize \$929,582 for additional marketing work or execute a contract amendment until after the contractor completed the work.

- The Minnesota marketplace reimbursed a contractor twice, resulting in an unallowable payment of \$4,000.
- The Minnesota marketplace did not create or maintain complete and accurate inventory records for equipment purchased with establishment grants in accordance with Federal requirements. As a result, the Minnesota marketplace was unable to properly safeguard or conduct physical inventories of its equipment.

These errors occurred because the Minnesota marketplace did not have procedures in place to ensure that it (1) allocated costs based on updated or better data available, (2) accepted contract work only if the contract had prior authorization and was properly executed, (3) reviewed invoices before payments were made, and (4) established and maintained inventory records for all equipment purchased with establishment grant funds.

WHAT WE RECOMMEND

We recommend that the Minnesota marketplace:

- refund to CMS \$346,095 that was misallocated to the establishment grants by not using the updated, better 2013 data, or work with CMS to resolve the amounts misallocated to the establishment grants;
- refund to CMS \$933,582 consisting of (1) \$929,582 that was paid for additional marketing work performed without a contract amendment and (2) \$4,000 that was a duplicate payment;
- work with CMS to ensure that costs we did not review for the audit period and costs claimed after our audit period are allocated correctly using updated cost allocation methodology;
- implement internal controls to ensure the (1) application of updated, better data to properly allocate costs and (2) allocation of costs for all allocable project components;
- strengthen senior management oversight to ensure that additional contract work is not performed before an amendment is in place;
- implement internal controls to ensure proper prepayment review of invoices; and
- create a complete and accurate inventory record, develop procedures to ensure that it maintains complete and accurate inventory records for equipment purchased with establishment grant funds, and conduct a physical inventory at least biennially.

MINNESOTA MARKETPLACE COMMENTS AND OUR RESPONSE

In written comments on our draft report, the Minnesota marketplace did not agree with all of our recommendations. Specifically, it did not agree with our recommendations related to \$346,095

of misallocated costs to the establishment grants and \$929,582 of unallowable costs attributable to additional marketing work that was performed without a required contract amendment. It also did not agree to refund the \$4,000 that was a duplicate payment. The Minnesota marketplace concurred with our recommendation to create complete and accurate inventory records and said that it has been working to “identify a resolution that will be efficient and allow for compliance with Federal and State requirements going forward.”

After reviewing the Minnesota Marketplace’s comments, we maintain that our findings and recommendations are valid. The Minnesota Marketplace received updated, better estimates for use in its allocation methodology but failed to apply the new data in a prospective and timely manner. The additional contract work performed was unauthorized because it was completed without an executed contract extension approved by management, which is a violation of Federal and State requirements.

TABLE OF CONTENTS

INTRODUCTION	1
Why We Did This Review	1
Objective	1
Background	2
Patient Protection and Affordable Care Act	2
Federal Requirements Related to Cost Allocation and Enhanced Funding for Marketplaces	2
Health Insurance Marketplace Programs	3
The Minnesota Marketplace	3
How We Conducted This Review	4
FINDINGS	5
The Minnesota Marketplace Allocated Costs Using Outdated, Estimated Data Instead of Updated, Better Data	5
Federal Requirements	5
The Minnesota Marketplace Did Not Recalculate and Adjust Its Cost Allocation Prospectively	6
The Minnesota Marketplace Made Payments for Unauthorized Contract Work	8
Federal Requirements	8
State Requirements	8
Contract Extension Without Management Approval	8
The Minnesota Marketplace Made an Unallowable Payment	9
Federal Requirements	9
Unallowable Payment	9
The Minnesota Marketplace Did Not Maintain Inventory Records for Equipment	9
Federal Requirements	9
State Requirements	9
No Inventory Records and No Biennial Inventory Count	10
RECOMMENDATIONS	10
MINNESOTA MARKETPLACE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	11
Misallocated Costs	11
Minnesota Marketplace Comments	11

Office of Inspector General Response	12
Work Performed Without a Required Contract Amendment	12
Minnesota Marketplace Comments	12
Office of Inspector General Response	13
Duplicate Payment	14
Minnesota Marketplace Comments	14
Office of Inspector General Response	14

APPENDIXES

A: Federal Grants to States for Planning, Establishing, and Early Operation of Marketplaces	15
B: Federal Grants Awarded for Planning, Establishing, and Early Operation of the Minnesota Marketplace as of December 31, 2014.....	17
C: Audit Scope and Methodology.....	18
D: Minnesota Marketplace Comments	20

INTRODUCTION

WHY WE DID THIS REVIEW

The Patient Protection and Affordable Care Act (ACA)¹ 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 grants² to States for planning, establishing, and the early operation of marketplaces.

MNsure (Minnesota marketplace) is an independent unit of the Minnesota Government. The Minnesota marketplace serves as the lead agency for the State's marketplace establishment grants and is responsible for complying with applicable requirements.

This review is part of an ongoing 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. See "Affordable Care Act Reviews" on the OIG Web site for a list of related OIG reports on marketplace operations.³

OBJECTIVE

Our objective was to determine whether the Minnesota marketplace allocated costs for establishing a health insurance marketplace and expended establishment grant⁴ funds in accordance with Federal requirements.

¹ 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."

² 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.

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

⁴ For purposes of this report, we reviewed Level One and Level Two grants. See Appendix A for more detailed information about Level One and Level Two grants.

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)⁵ 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). The ACA further authorizes each State to have a marketplace for individuals and a Small Business Health Options Program (SHOP) marketplace, which enables small businesses to access health coverage for their employees.

Federal Requirements Related to Cost Allocation and Enhanced Funding for Marketplaces

Federal regulations require that the grant funds be used only for allowable costs determined in accordance with the cost principles applicable to the organization incurring the cost (45 CFR § 92.22). CCIIO's Establishment Grant Funding Opportunity Announcements and the Minnesota marketplace's Notice of Grant Awards terms and conditions require the Minnesota marketplace to allocate shared costs among Medicaid, CHIP, Minnesota Care,⁶ and the Minnesota marketplace consistent with cost principles.⁷ CMS provides additional guidance to States that is specific to cost allocation for the marketplaces in *Guidance for Exchange and Medicaid Information Technology (IT) Systems* (version 2.0, May 2011) and *Supplemental Guidance on Cost Allocation for Exchange and Medicaid Information Technology (IT) Systems*

⁵ 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, "CCIIO" refers to both OCIIO and CCIIO.

⁶ Minnesota Care is a publicly subsidized health care program for residents who do not have access to affordable health care coverage but have higher income levels than those enrolled in Medicaid. During our audit period, Minnesota Care was a managed care program authorized by a Social Security Act, § 1115(a), Medicaid waiver. Beginning in 2015, Minnesota transitioned Minnesota Care to a Basic Health Plan as set forth in 42 CFR § 600.110.

⁷ Office of Management and Budget (OMB) Circular No. A-87, *Cost Principles for State, Local, and Tribal Governments*, was relocated to 2 CFR part 225 and made applicable by 45 CFR § 92.22(b). 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.

(issued Oct. 2012). Primarily, CMS guidance says: “States are expected to update their cost allocation methodology and plan based on updated or better data...”⁸

Health Insurance Marketplace Programs

The ACA provides for funding assistance⁹ 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).

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

The Minnesota Marketplace

Minnesota chose to establish and operate its own State-based marketplace. Because the Minnesota marketplace provides eligibility, determination, and enrollment services for both QHPs and its State-based public health care programs, such as Medicaid, the Minnesota marketplace sought funding from various Federal sources that provided benefits for these programs. Additionally, because the Minnesota marketplace is a single entity supporting the shared needs of multiple programs, Minnesota developed methodologies for allocating costs based on anticipated marketplace enrollments in QHPs and its State-based public health care programs.

In 2012, the Minnesota marketplace hired a contractor to estimate the number of people who would enroll in QHPs offered through the Minnesota marketplace and in Medicaid through 2016. At that time, the Minnesota marketplace did not anticipate the inclusion of Minnesota Care in the cost allocation. The Minnesota marketplace used the contractor’s initial enrollment projections (2012 estimate) to determine the program budgets and the percentages of costs that should be allocated to the establishment grants and to Medicaid. In 2013, the Minnesota marketplace received an updated enrollment estimate (2013 estimate), which included not only QHPs and Medicaid but also Minnesota Care.

⁸ Toward the end of our audit period, CMS issued further guidance, which states: “CMS strongly recommends that states continue to reassess their cost allocation on an annual basis and/or if there is a substantive change in program participation ...” or whenever a State seeks additional funding (*FAQs on the Use of 1311 Funds, Project Periods, and updating the cost allocation methodology* (issued Sept. 2014)).

⁹ 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).

The Minnesota marketplace submitted a revised budget narrative to CCIIO on June 21, 2012, which included its cost allocation methodology for Level One establishment grants.¹⁰ Subsequently, on May 24, 2013, the Minnesota marketplace submitted a budget narrative for the revised allocation methodology that included the revised allocation percentage based on the 2013 estimate. It was approved by CCIIO on November 10, 2013.

As of December 31, 2014, CCIIO had awarded Minnesota one planning grant and five establishment grants totaling \$189.6 million.¹¹ Of this amount, the Minnesota marketplace expended \$86.4 million in planning and establishment grant funds during State fiscal years (SFYs) 2012 through 2014 (July 1, 2011, through June 30, 2014). Minnesota also received Federal financial participation from Medicaid to support marketplace eligibility determination and enrollment services for Medicaid beneficiaries.

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

HOW WE CONDUCTED THIS REVIEW

We reviewed \$19.6 million of establishment grant funding that the Minnesota marketplace received for SFYs 2012 through 2014 (July 1, 2011, through June 30, 2014). We limited our review of internal controls to the Minnesota marketplace's systems and procedures for expending establishment grant funds to establish a health insurance market place. We obtained an understanding of how the Minnesota marketplace developed its cost allocation methodology. We used the allocation percentages based on the updated, better 2013 estimate for the Minnesota marketplace to recalculate the amounts that should have been allocated to the establishment grants and assessed the impact of allocating costs using the updated, better 2013 estimate instead of the 2012 estimate.

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.

¹⁰ There are two levels of exchange establishment grants. Level One establishment grants were designed to provide funding to the States that have made some progress in using the Federal funding for exchange planning activities. The Level Two establishment grants were designed to provide funding to the States that made significant progress in meeting specific benchmarks in the exchange establishment progress (Fed. Reg. 24032 (April 29, 2011)). See Appendix A for more detailed information about Level One and Level Two grants.

¹¹ This amount consisted of a planning and establishment grant totaling \$1,000,000 and five Level One and Level Two Exchange Establishment Cooperative Agreements totaling \$137,082,733 and \$51,550,532, respectively. See Appendix B for detailed information about planning and establishment grants.

FINDINGS

The Minnesota marketplace did not always allocate costs for establishing a health insurance marketplace and expend establishment grant funds in accordance with Federal requirements:

- The Minnesota marketplace did not allocate some of the costs for establishing a health insurance marketplace to its establishment grants in accordance with Federal requirements. The Minnesota marketplace allocated \$1,790,986 to the establishment grants and Medicaid on the basis of a cost allocation methodology that used outdated, estimated data instead of updated, better estimated data that were available. As a result, the Minnesota marketplace misallocated \$346,095 in costs to the establishment grants instead of allocating these costs to its State-based public health care programs.
- The Minnesota marketplace did not appropriately authorize \$929,582 for additional marketing work or execute a contract amendment until after the contractor completed work.
- The Minnesota marketplace reimbursed a contractor twice, resulting in an unallowable payment of \$4,000.
- The Minnesota marketplace did not create or maintain complete and accurate inventory records for equipment purchased with establishment grants in accordance with Federal requirements. As a result, the Minnesota marketplace was unable to properly safeguard or conduct a physical inventory of its equipment.

These errors occurred because the Minnesota marketplace did not have procedures in place to ensure that it (1) allocated costs based on updated or better data available, (2) accepted contract work only if the contract had prior authorization and was properly executed, (3) reviewed invoices before payments were made, and (4) established and maintained inventory records for all equipment purchased with establishment grant funds.

THE MINNESOTA MARKETPLACE ALLOCATED COSTS USING OUTDATED, ESTIMATED DATA INSTEAD OF UPDATED, BETTER DATA

Federal Requirements

A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to that cost objective in accordance with the relative benefits received (2 CFR part 225, App. A, § C.3).

According to CMS guidance published in May 2011, “If development is in progress, states must recalculate and adjust cost allocation on a prospective basis. [CMS] will work with States to ensure proper adjustments on an expedited basis and encourage states to consult with [CMS] early as they identify such circumstances” (CMS’s *Guidance for Exchange and Medicaid Information Technology (IT) Systems* (version 2.0, p. 7).

In addition, “States are expected to update their cost allocation methodology and plan based on updated or better data ...” and “on changing realities” (CMS’s *Supplemental Guidance on Cost Allocation for Exchange and Medicaid Information Technology (IT) Systems*, “Questions and Answers,” Oct. 5, 2012, pp. 3, 4).

The Minnesota Marketplace Did Not Recalculate and Adjust Its Cost Allocation Prospectively

The Minnesota marketplace allocated costs of \$1,790,986 to the establishment grants and Medicaid for the period May 24, 2013, through June 30, 2014, on the basis of enrollment estimates that it received in April 2012.¹² However, in February 2013 the Minnesota marketplace received new estimates that were included on the Minnesota marketplace’s budget narrative dated May 24, 2013.¹³ The Minnesota marketplace revised its allocation methodology using updated and better data resulting from the addition of Minnesota Care, a third program that uses Minnesota marketplace’s resources.

Although the Minnesota marketplace updated its allocation rates for May 24, 2013, through June 30, 2014, using better data that was available, it did not apply those updated rates to all payments made during that period. Instead, it allocated some payments using the allocation rates based on the 2012 enrollment estimate. Consequently, costs that the Minnesota marketplace allocated to the establishment grants, Medicaid, and Minnesota Care may not have corresponded to the relative benefits received, as required by 2 CFR part 225.

The Minnesota marketplace’s infrastructure comprises seven modules, each consisting of hardware and software components: Module 1–Individual Eligibility and Exemption, Module 2–Individual Enrollment, Module 3–Small Employer Eligibility and Enrollment, Module 4–Health Benefit Plan and Navigator Certification and Display, Module 5–Provider Display, Module 6–Fund Aggregation and Payment, and Module 7–Account Administration. Each component benefits the QHP and the State-based public health care programs in different respects and therefore is allocated at different rates (Table 1).

¹² In April of 2012, the contractor projected 1,230,000 enrollees, 340,000 of which would be enrolled in a QHP, 700,000 in Medicaid or CHIP, and 190,000 in SHOP.

¹³ As of February 2013, the contractor projected 1,336,000 enrollees, 297,000 of which would be enrolled in a QHP, 690,000 in Medicaid or CHIP, 155,000 in SHOP, and 194,000 in Minnesota Care.

Table 1: Minnesota Marketplace’s Infrastructure Modules and Allocation Rates

	Allocation Rates Based on 2012 Estimate		Allocation Rates Based on 2013 Estimate		
	Establishment Grants	Medicaid	Establishment Grants	Medicaid	Minnesota Care
Module 1	33%	67%	25%	58%	16%
Module 2	43%	57%	34%	52%	15%
Module 3	100%	0%	100%	0%	0%
Module 4	43%	57%	34%	52%	15%
Module 5	43%	57%	34%	52%	15%
Module 6	100%	0%	70%	0%	30%
Module 7	43%	57%	34%	52%	15%
Average	57.86%	42.14%	47.20%	37.86%	14.94%

We sampled 28 transactions totaling \$16,006,921 that were to be allocated among the Minnesota marketplace, Medicaid, and Minnesota Care. For 21 of the 28 sample transactions allocated, the invoices were either dated before May 24, 2013, or were properly allocated. The remaining seven sample transactions included an error in the application of the updated allocation methodology. The Minnesota marketplace applied the 2012 estimate to these transactions and allocated \$1,790,986 to the establishment grants. Using the updated 2013 estimate, we determined that the Minnesota marketplace misallocated \$346,095 to the establishment grants instead of to its State-based public health care programs (Table 2).

Table 2: Allocation of Minnesota Marketplace Costs Using Updated Allocation Rates¹⁴

Sample	Transaction Amount	Allocation Based on the 2012 Estimate		Allocation Based on the 2013 Estimate		Error
		Percent	Amount	Percent	Amount	
1	\$1,389,751	57.86%	\$804,110	47.20%	\$655,962	\$148,147
2	242,374	57.86%	140,238	47.20%	114,401	25,837
3	15,530	57.86%	8,985	47.20%	7,330	1,655
4	72,148	57.86%	41,745	47.20%	34,054	7,691
5	169,349	57.86%	97,985	47.20%	79,933	18,053
6	452,803	43.09%	195,113	33.83%	153,183	41,930
7	1,237,624	40.63%	502,810	32.32%	400,028	102,782
Total	\$3,579,579		\$1,790,986		\$1,444,891	\$346,095

This \$346,095 error occurred because the Minnesota marketplace did not have internal controls to ensure consistent application of updated allocation rates.

¹⁴ Because an individual transaction can relate to one, several, or all modules, no specific allocation rate can be applied to all transactions. Table 1 shows the modules and their respective allocation rates.

THE MINNESOTA MARKETPLACE MADE PAYMENTS FOR UNAUTHORIZED CONTRACT WORK

Federal Requirements

When procuring property and services under a grant, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State must ensure that every purchase order or other contract includes all clauses required by Federal statutes and executive orders and their implementing regulations (45 CFR § 92.36(a)).

State Requirements

Agencies must not allow a contractor to begin work before the contract is fully executed unless an exception under section 16C.05, subdivision 2a has been granted by the commissioner and funds are fully encumbered (Minnesota Statutes 2014 16C.08, Subdivision 2. (4)).

A contract or an amendment is not valid unless (1) it has been executed by the head of the agency; (2) it has been approved by the commissioner; and (3) the accounting system shows an encumbrance for the amount of the contract liability, except as allowed by policy approved by the commissioner for routine low-dollar procurements (Minnesota Statutes 2014 16C.05, Subdivision 2).

A payment may not be made without prior obligation, and a payment made in violation of this chapter is illegal (Minnesota Statutes 2014 16A.15, Subdivision 3(a)).

“All staff members are expected to be familiar with their authorization limits ... to operate within them, and to exercise care with respect to decisions made and commitments entered into on behalf of the organization. All delegations by the Executive Director to subordinate staff members must be made in writing and must include start and end dates. Documentation must be maintained for all delegations” (MNSure Policy #5).¹⁵

Contract Extension Without Management Approval

The Minnesota marketplace made payments to a contractor for work that was not defined in the original scope of the contract and was not approved by the commissioner. The Minnesota marketplace’s marketing director, who was not delegated authority to execute contracts, and without the direct knowledge of senior management, authorized an expansion of the scope of work without a contract amendment.¹⁶ As a result, the Minnesota marketplace paid \$929,582 for improperly authorized marketing work. At the time of our review, the marketing director was no

¹⁵ MNSure Policies and Procedures can be accessed at <https://www.mnsure.org/about-us/directors/policy-and-procedure.jsp>. Accessed on February 22, 2016.

¹⁶ The Office of the Legislative Auditor (OLA) of the State of Minnesota prepared a report titled *Minnesota Health Insurance Exchange: MNSure Internal Controls and Compliance Audit*, dated October 28, 2014. The OLA found that the Minnesota marketplace did not appropriately authorize \$925,458 of additional marketing work or execute a contract amendment until after the contractor had completed the work. We found an additional \$4,125, for a total of \$929,582.

longer employed by the Minnesota marketplace. Senior management could not determine nor provide a reason for the marketing director's actions.

The Minnesota marketplace did not have adequate senior management oversight in place to maintain the integrity of the procurement and contracting process. Specifically, it did not ensure that a contract amendment was in place and money was set aside in the State's accounting system before additional work was performed.

THE MINNESOTA MARKETPLACE MADE AN UNALLOWABLE PAYMENT

Federal Requirements

Grant funds may be used only for allowable costs of the grantees (45 CFR § 92.22). Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs (45 CFR § 92.22). To be allowable under Federal awards, cost must be adequately documented (2 CFR part 225, Appendix A, § C.1.(j)).

Unallowable Payment

The Minnesota marketplace reimbursed a contractor twice, resulting in an unallowable payment of \$4,000. We found two entries in the general ledger for the same contractor. However, in the invoice column of the general ledger, one transaction showed an invoice number and the other transaction showed a date. The accounting system uses the invoice number to detect duplicate payments. Because the second transaction had a date instead of a number, that transaction circumvented the system controls and was not detected as a duplicate payment. The Minnesota marketplace acknowledged that it reimbursed the contractor twice but offered no explanation of how a date was allowed in the invoice column of the second transaction.

THE MINNESOTA MARKETPLACE DID NOT MAINTAIN INVENTORY RECORDS FOR EQUIPMENT

Federal Requirements

A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures (45 CFR § 92.32(b)).

State Requirements

The *State of Minnesota Property Management Policy and User Guide* (State User Guide) defines "equipment" as having a useful life of 2 or more years with an acquisition cost of \$5,000 or more (page 2-2).

The State User Guide defines "physical inventory" as the physical counting of capital assets and states that a physical inventory is the act of accounting for, and the accurate verification of, information on file for each piece of State-owned capital asset property (page 4-6). It places emphasis on physically locating the capital assets maintained in the recordkeeping system for the

specific agency or activity and verifying, among other things, that each capital asset in existence is accurately reported in the recordkeeping system.

The State User Guide requires that a complete physical inventory (e.g., a wall-to-wall inventory count) for capital assets must be conducted at least biennially. The State User Guide also specifies that a physical inventory is essential to ensure that the State's comprehensive annual financial report contains accurate and complete financial information (page 4-6).

No Inventory Records and No Biennial Inventory Count

The Minnesota marketplace did not manage equipment acquired in accordance with State law and procedures because it did not maintain inventory records for equipment purchased with establishment grant funds. The Minnesota marketplace did not have procedures in place to ensure that inventory records were established and maintained with specific equipment identification and with custodian and location information for all equipment purchased with establishment grant funds, as required by the State User Guide. Furthermore, the Minnesota marketplace did not perform at least a biennial inventory count as required by the State User Guide.

Through an analysis of its general ledger, we estimated that the Minnesota marketplace purchased equipment totaling \$4,079,182. However, we were unable to distinguish all of the specific equipment purchased with establishment grant funds because some of the equipment was partially allocated to other Minnesota programs and not used exclusively for establishment grant purposes. To ensure the Minnesota marketplace had custody of equipment purchased with establishment grant funds, we selected 10 transactions from the 13 equipment transactions in our overall sample. The 10 selected transactions involved 71 line items and 374 individual pieces of equipment that had a total worth of \$4,039,942, of which \$2,651,062 was allocated to establishment grant funds. We performed a physical inspection of the 374 individual pieces of equipment, which included servers and networking components, such as network cards and motherboards.

Equipment identification and location information is critical to conduct a reliable physical inventory count and safeguard the equipment. Without a reliable inventory record and at least a biennial count, the Minnesota marketplace could not ensure use of equipment for grant purposes and increased the risk of loss or theft of the assets. The Minnesota marketplace could not explain why inventory records had not been established or maintained.

RECOMMENDATIONS

We recommend that the Minnesota marketplace:

- refund to CMS \$346,095 that was misallocated to the establishment grants by not using the updated, better 2013 data, or work with CMS to resolve the amounts misallocated to the establishment grants;

- refund to CMS \$933,582 consisting of (1) \$929,582 that was paid for additional marketing work performed without a contract amendment, and (2) \$4,000 that was a duplicate payment;
- work with CMS to ensure that costs we did not review for the audit period and costs claimed after our audit period are allocated correctly using updated cost allocation methodology;
- implement internal controls that ensure the (1) application of updated, better data to properly allocate costs and (2) allocation of costs for all allocable project components;
- strengthen senior management oversight to ensure that additional contract work is not performed before an amendment is in place;
- implement internal controls to ensure proper prepayment review of invoices; and
- create a complete and accurate inventory record, develop procedures to ensure that it maintains complete and accurate inventory records for equipment purchased with establishment grant funds, and conduct a physical inventory at least biennially.

MINNESOTA MARKETPLACE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

The Minnesota marketplace did not agree with all of our recommendations. It did not agree with our recommendations related to \$346,095 of misallocated costs to the establishment grants and \$929,582 of unallowable costs attributable to additional marketing work that was performed without a required contract amendment. It also did not agree to refund the \$4,000 that it agreed was a duplicate payment.

The Minnesota marketplace concurred with our recommendation to create complete and accurate inventory records and said that it has been working to “identify a resolution that will be efficient and allow for compliance with Federal and State requirements going forward.”

The Minnesota marketplace’s comments are included in their entirety as Appendix D.

For the reasons provided below, we maintain that our findings and recommendations are valid.

MISALLOCATED COSTS

Minnesota Marketplace Comments

The Minnesota marketplace stated that the legal obligations for all seven transactions at issue were incurred before the updated cost allocation rates were approved in October 2013. It believes it is reasonable to apply cost allocation rates to transactions based on the date the legal obligations for those transactions were incurred. The Minnesota marketplace further stated that it is not aware of any Federal guidance requiring the retroactive application of updated cost

allocation rates to existing legal obligations, and the retroactive application of the updated rates runs counter to Federal guidance that requires prospective application of updated rates.

Finally, the Minnesota marketplace stated that it has procedures and internal controls in place to ensure the allocations of grant expenditures in accordance with Federal regulations.

Office of Inspector General Response

CMS allowed the Minnesota marketplace to base its allocation on enrollment estimates. CMS issued *Guidance for Exchange and Medicaid IT Systems* (Version 2.0) requiring that the allocation methodology be updated prospectively as better data become available.

In February 2013, the Minnesota marketplace received updated, better estimates for use in its allocation methodology. These data were inserted into its methodology and submitted to CMS in May 2013. Our finding was based on applying the resulting updated rates on a prospective basis after May 2013. Our calculation of \$346,095 in misallocated costs represents a reduction in the Minnesota marketplace cost allocation to the grant from 57 percent to 47 percent. Although the Minnesota marketplace contends that it did not need to apply the updated allocation rate until October 2013, it applied the updated allocation rates for some costs from May 24, 2013, through June 30, 2014, using better data available. However, it did not apply those updated rates to all payments made during that period.

The Minnesota marketplace contends that the expenditures were legally obligated before CMS's approval of the updated allocation methodology and should not be allocated retroactively. However, costs are to be allocated after they have been incurred, not when they have been obligated. Specifically, Federal cost principles require a cost to be allocable to a particular cost objective for it to be allowable (2 CFR part 225, App. A, § C.1.(b)). A "cost objective" is a function, grant, or other activity for which costs *are incurred* (2 CFR part 225, App. A, § B.11) (emphasis added). Finally, the Departmental Appeals Board (DAB) has held that once "a state incurs costs that support or benefit more than one public assistance program, the costs generally must be allocated to each program in proportion to the benefits that each derives from the activity that generated the costs."¹⁷ Thus, in calculating our finding, we applied the updated rates in accordance with the applicable cost principles and previously cited CMS guidance, prospectively, beginning in May 2013. That is the date that the Minnesota marketplace submitted a budget narrative with the updated rates in its revised allocation methodology. We applied the updated rates to costs that were actually incurred in accordance with the applicable cost principles. Therefore, we stand by our finding as being reasonable and in compliance with CMS guidance.

WORK PERFORMED WITHOUT A REQUIRED CONTRACT AMENDMENT

Minnesota Marketplace Comments

The Minnesota marketplace stated that "The Minnesota Marketplace Made Payments for Unauthorized Contract Work" is factually incorrect and suggested it be corrected to read, "The

¹⁷ *West Virginia Department of Health and Human Resources*, DAB No. 2529, at 3 (2013), citing *Minnesota Department of Human Services*, DAB No. 1869, at 4-5 (2003).

Minnesota Marketplace Allowed a Vendor to Perform Work in Excess of the Scope of the Vendor Contract, Before Executing a Contract Amendment.” The Minnesota marketplace stated that it had the funds to pay for the services and the cost was within the budget submitted to the Federal Government. The Minnesota marketplace stated that the services were requested, received, and used by the Minnesota marketplace, and the services were paid only after the Minnesota marketplace confirmed the services were received, the invoices were reviewed and approved, and a contract amendment had been executed.

It also stated that the control weaknesses in this business area were addressed by bringing marketing and communications under the direct supervision of the Deputy Director for External Affairs, reorganizing the contracting and procurement functions to report to the General Counsel, and providing staff with training on the procurement process. In addition, the Minnesota marketplace said it had entered into an interagency agreement with the Minnesota Department of Human Resources to use their procurement unit to purchase commodities and that the arrangements had been in place for more than 2 years.

Office of Inspector General Response

We disagree that the title of our finding is incorrect. The additional work performed was unauthorized because it was completed without an executed contract amendment approved by management, which is a violation of Federal and State requirements. Federal regulations require the State to follow the same policies and procedures it uses for procurements from its non-Federal funds. In addition, to be allowable under Federal grants, costs must “[b]e authorized or not prohibited under State or local laws or regulations” (2 CFR part 225, App. A, §§ (C)(1)(c)). Minnesota statutes provide that work may not begin without an executed contract. This includes any additional work that was not part of the original scope of the contract. Under State law, a contract extension must be approved by management before any additional contract work is performed.

The Minnesota marketplace failed to follow its own State statute, which requires additional work to be authorized and approved by means of a contract amendment before it is started. The marketing director improperly approved \$929,582 in additional work that was not part of the original contract.¹⁸ Minnesota law permits claims for such work to be retroactively approved upon investigation, review, a determination that the services were actually furnished in good faith without collusion and without intent to defraud, and approval by the agency head. The agency head retroactively approved the contract extension. Minnesota marketplace officials stated that, on the basis of the after-the-fact justification, they believe that the Minnesota marketplace only paid for additional services that it received. However, the Minnesota marketplace did not provide any documentation showing that it had conducted the required investigation and review.

¹⁸ The original contract amount was for \$666,590. This change resulted in total payment of \$1,592,047 consisting of \$662,465 for work that was included in the original contract and \$929,582 for improperly authorized marketing services.

DUPLICATE PAYMENT

Minnesota Marketplace Comments

The Minnesota marketplace stated, “Given the recovery of the duplicate payment in full and in light of remedial steps taken by MNsure, it is clear that requesting a refund of the funds involved to CMS would be an extreme measure, inconsistent with helping MNsure’s mission to provide a marketplace for Minnesotans to acquire health insurance.” It stated that the duplicate payment of \$4,000 was made in error. It further stated, “To strengthen controls around vendor payments, MNsure entered into an interagency agreement with [the Department of Human Services] to use their procurement unit to purchase commodities.”

Office of Inspector General Response

The Minnesota marketplace used the Federal award funds to make an unallowable duplicate payment. To be allowable under Federal awards, costs must “[b]e necessary and reasonable for proper and efficient performance and administration of Federal awards.” (2 CFR part 225, App A, §§ (C)(1)(a)). Therefore, we stand by our recommendation.

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 grants¹⁹ 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 IT systems; determine the statutory and administrative changes needed to build marketplaces; and 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 agreements²⁰ 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 agreements²¹ to support States’ progress toward establishing marketplaces. Establishment cooperative agreements awarded through December 31, 2014, were available for States seeking to (1) establish a State-based marketplace, (2) build functions that a State elects to operate under a State partnership marketplace, and

¹⁹ CCIIO, *State Planning and Establishment Grants for the Affordable Care Act’s Exchanges*, Funding Opportunity Number: IE-HBE-10-001, July 29, 2010.

²⁰ 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.

²¹ 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.

(3) 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 MINNESOTA MARKETPLACE
AS OF DECEMBER 31, 2014**

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

Table 3: Information on Grants Awarded for Planning, Establishing, and Early Operation of the Minnesota Marketplace as of December 31, 2014

Grant Number²²	Award Period²³	Award Type	Award Total²⁴	Marketplace Expenditures²⁵
HBEIE110058	February 25, 2011– February 24, 2012	Planning	\$1,000,000	\$998,121
HBEIE110068	August 15, 2011– August 13, 2013	Level I	4,168,071	4,067,951
HBEIE120107/ HBEIE120176	February 22, 2012– September 26, 2014	Level I	32,151,854	18,045,600
HBEIE120135/ HBEIE120177	September 27, 2012– September 26, 2014	Level I	52,361,800	32,011,132
HBEIE130149/ HBEIE130163	January 16, 2013– January 15, 2014	Level I	48,401,008	25,161,889
HBEIE140181	October 23, 2013– October 22, 2014	Level II	51,550,532	6,137,165
Total			\$189,633,265	\$86,421,858

²² Several grants were initially awarded to the Minnesota Department of Commerce before responsibility for the grants was transferred to the Minnesota marketplace in 2013. At that time, the grant numbers changed. We listed both numbers for these grants.

²³ The award period for the grant number may include no-cost extensions.

²⁴ The Minnesota marketplace provided us the total award amounts as of December 31, 2014, for presentation in this table. We verified the award amounts totaling \$155,020,464 as of June 30, 2014, only.

²⁵ Expenditures through June 30, 2014.

APPENDIX C: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed \$19,632,798 of the Level One and Level Two establishment grant funds that the Minnesota marketplace expended in SFYs 2012 through 2014 (July 1, 2011, through June 30, 2014). We limited our review of internal controls to the Minnesota marketplace's systems and procedures for expending Federal grant funds to establish a health insurance marketplace.

We conducted our fieldwork at the Minnesota marketplace's offices in Saint Paul, Minnesota, from June 2014 to January 2015.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- reviewed the Minnesota marketplace's establishment grant application packages;
- reviewed CCIIO's Funding Opportunity Announcements and Notice of Grant Awards terms and conditions;
- reviewed the Minnesota marketplace's policies and procedures for financial management;
- interviewed Minnesota marketplace officials to gain an understanding of the State's accounting system and internal controls;
- interviewed Minnesota marketplace officials to understand how they developed projections of enrollment in various health care coverage programs mandated by the ACA;
- interviewed Minnesota marketplace officials to gain an understanding of estimated enrollment statistics available to the Minnesota marketplace for individuals determined eligible for and enrolled in QHPs, Medicaid, CHIP, or Minnesota Care;
- obtained cumulative enrollment figures through July 2014 for QHP, Medicaid, CHIP, and Minnesota Care enrollments through the Minnesota marketplace;
- obtained establishment grant expenditure general ledger reports for SFYs 2012 through 2014;
- performed tests, such as comparing the Minnesota marketplace's cash drawdowns with the disbursement amounts in the Federal Payment Management System reports and the Minnesota marketplace's expenditures with the disbursement amounts in the Federal

financial reports, to determine whether the detailed general ledger reports were reliable and complete;

- analyzed the general ledger reports to obtain an understanding of the information that the Minnesota marketplace used to claim expenditures for Federal reimbursement;
- judgmentally selected a sample of 88 transactions totaling \$19,632,798 from the general ledger (15 payroll transactions, 13 equipment transactions, 4 supply transactions, 17 legal-fee transactions, 6 software transactions, 1 outreach-activity transaction, 22 contract-payment transactions, and 10 indirect-cost transactions); of the 88 transactions, 28 totaling \$16,006,921 were allocated between establishment grants and State-based public health care programs;
- reviewed payroll records, invoices, and other accounting records for the sample of 88 transactions;
- reviewed cost allocation rates for the sample of 28 transactions;
- assessed the impact of allocated costs that used allocation rates based on 2012 estimates instead of 2013 estimates;
- selected 10 transactions from the 13 equipment transactions in our sample and performed a physical inspection of 374 related pieces of equipment²⁶ that had a total worth of \$4,039,942, of which \$2,651,062 was allocated to establishment grant funds;
- discussed the results of our review with Minnesota marketplace officials; and
- reviewed CMS's technical comments on our draft report.²⁷

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.

²⁶ Seven of the ten transactions had multiple pieces of equipment.

²⁷ We had provided CMS a courtesy copy of our draft report.

APPENDIX D: MINNESOTA MARKETPLACE COMMENTS



June 24, 2016

Sheri L. Fulcher
Regional Inspector General for Audit Services
Office of Audit Services, Region V
233 North Michigan, Suite 1360
Chicago, IL 60601

Dear Ms. Fulcher:

Thank you for the draft report on the grant expenditures audit performed by the Health and Human Services Office of Inspector General ("HHS OIG") audit team starting in August 2014. The scope of the review was grant expenditures from July 1, 2011, through June 30, 2014. We appreciate the professionalism shown by HHS OIG staff throughout this process. As you know, we welcome your review and view it as part of an ongoing process of improvement for MNSure. Attached are MNSure's responses to specific audit findings and, as requested, a status update on eligibility verifications.

Since the beginning of the first open enrollment on October 1, 2013, more than 700,000 Minnesotans have used METS to apply for health insurance coverage. Now, 96 percent of Minnesotans have health insurance coverage. Between 2013 and 2015, 200,000 Minnesotans gained health insurance coverage for the first time. Minnesotans are also saving money. Since 2014, Minnesotans have saved more than \$80 million through tax credits, thanks to financial help only available through MNSure.

The work to improve the state health benefit exchange not only includes MNSure, but also the dedicated staff at the Minnesota Department of Human Services and the Office of MN.IT Services. We are grateful for their partnership and look forward to continuing our work together.

We continue to take our responsibility to be an accountable and transparent organization seriously. We have been working as an organization since early 2014 to proactively identify and make improvements to all areas of MNSure, including those documented in various state and federal audit reports completed on MNSure.

Reviews and audits such as this one are important tools for us to improve. In the interest of transparency and accountability, we will continue to make necessary adjustments to the organization, while maintaining our focus on improving the consumer experience.

Again, thank you for the work that HHS OIG staff have done on this review.

Sincerely,

/Allison O'Toole/

Allison O'Toole
Chief Executive Officer





MNSure Detailed Response to Report A-05-14-00045 Grant Expenditures

1. Finding:

The Minnesota Marketplace Allocated Costs Using Outdated, Estimated Data Instead of Updated, Better Data.

Recommendation:

- a. Refund to the Center for Medicare & Medicaid Services ("CMS") \$346,095 that was misallocated to the establishment grants by not using the updated, better 2013 data, or work with CMS to resolve the amounts misallocated to the establishment grants.
- b. Work with CMS to ensure that costs we did not review for the audit period and costs claimed after our audit period are allocated correctly using updated cost allocation methodology.
- c. Implement internal controls that ensure the (1) application of updated, better data to properly allocate costs and (2) allocation of costs for all allocable project components.

MNSure Response:

MNSure disagrees with this finding and its related recommendations.

We are not aware of any federal guidance requiring the retroactive application of updated cost allocation rates to existing legal obligations. Indeed, the retroactive application of the updated rates runs counter to federal guidance that requires prospective application of updated rates. The HHS OIG's interpretation of the federal guidance significantly increases both the complexity of and risk of error in recording these transactions.

The legal obligations for all seven transactions at issue were incurred before the updated cost allocation rates were approved in October 2013. We believe it is reasonable to apply cost allocation rates to transactions based on the date the legal obligations for those transactions were incurred. Finally, MNSure has procedures and internal controls in place to ensure the allocations of grant expenditures in accordance with federal regulations.

For reasons outlined above, we disagree to the recommendation to refund CMS \$346,095.

Responsible Minnesota Official: Kari Koob, MNSure Chief Financial Officer

Scheduled Completion Date: Complete

2. Finding:

The Minnesota Marketplace Made Payments for Unauthorized Contract Work.

Recommendation:

- a. Refund to CMS \$929,582 that was paid for additional marketing work performed without a contract amendment.

- b. Strengthen senior management oversight to ensure additional contract work is not performed before an amendment is in place.

MNsure Response:

MNsure disagrees with this finding and the recommendation to refund CMS \$929,582. This matter was thoroughly investigated by the Minnesota Office of the Legislative Auditor (“OLA”) which issued a report (# 14-21) dated October 28, 2014, on this and other matters¹. As a threshold matter, the OLA report notes that the amount at issue was \$925,458. While it is correct that the work related to the \$925,458 was outside the original scope of the first contract with the marketing vendor, the draft HHS OIG report omits the following salient facts that were made available to the audit team during the site visit:

1. At all times, MNsure had the funds to pay for these services. All funds expended on this contract (including the \$925,458) were within the budget submitted to the federal government and consistent with MNsure’s plans for creating consumer awareness for its first open enrollment. These expenses were allowable grant expenditures.
2. The services provided by the marketing vendor had been requested, received and utilized by MNsure. MNsure received and reviewed detailed invoices and other supporting documents related to the entire contract.
3. The \$925,458 was paid only after senior management confirmed all the related services had been received, invoices had been reviewed and approved, and a contract amendment for \$925,458 had been executed.

Because of these facts, the statement “The Minnesota Marketplace Made Payments for Unauthorized Contract Work” is factually incorrect. We suggest this statement be corrected to read “The Minnesota Marketplace Allowed a Vendor to Perform Work in Excess of the Scope of the Vendor Contract, Before Executing a Contract Amendment.”

The control weaknesses in this business area were addressed by bringing marketing and communications under the direct supervision of the Deputy Director for External Affairs, reorganizing the contracting and procurement functions to report to the General Counsel, and providing staff with training on the procurement process. In addition, MNsure entered into an interagency agreement with the Minnesota Department of Human Resources (“DHS”) to use their procurement unit to purchase commodities. These arrangements have been in place for more than two years.

When viewed in the proper context and in light of remedial steps taken by MNsure, it is clear that requesting a refund of the amount involved to CMS would not only harm MNsure, but would be an extreme measure inconsistent with MNsure’s mission to provide a marketplace for Minnesotans to acquire health insurance.

Responsible Minnesota Official: Kari Koob, Chief Financial Officer, David Rowley General Counsel

Scheduled Completion Date: Complete

3. Finding:

The Minnesota Marketplace Made an Unallowable Payment.

¹ Minnesota law (specifically Minnesota Statutes Section 3.971) gives the Office of the Legislative Auditor (“OLA”) statutory authority to conduct financial audits of Minnesota state agencies. The OLA conducted an audit of MNsure’s compliance with federal grants for the period July 1, 2011 through December 31, 2013. OLA Report 14-21 details the results of the audit. The OLA conducts federal Single Audit A-133 compliance audits of state agencies.

Recommendation:

- a. Refund to CMS \$4,000 that was a duplicate payment.
- b. Implement internal controls to ensure proper prepayment review of invoices.

MNSure Response:

MNSure agrees that a duplicate payment of \$4,000 was made in error to a marketing vendor. However, as soon as this matter was brought to our attention, MNSure initiated the recovery of the funds which have been received in full.

To strengthen controls around vendor payments, MNSure entered into an interagency agreement with DHS to use their procurement unit to purchase commodities.

Given the recovery of the duplicate payment in full and in light of remedial steps taken by MNSure, it is clear that requesting a refund of the funds involved to CMS would be an extreme measure, inconsistent with helping MNSure's mission to provide a marketplace for Minnesotans to acquire health insurance.

Responsible MNSure Official: Kari Koob, Chief Financial Officer

Scheduled Completion Date: Complete

4. Findings:

The Minnesota Marketplace did not Maintain Inventory Records for Equipment.

Recommendation:

Create a complete and accurate inventory record, develop procedures to ensure that it maintains complete and accurate inventory records for equipment purchased with establishment grant funds and conducts a physical inventory at least biennially.

MNSure Response:

MNSure agrees with this finding and related recommendation. The creation of a fixed asset register is a significant undertaking, given the large number of assets purchased during the creation of the marketplace. Over the past year, MNSure and DHS have been reviewing this issue in an attempt to identify a resolution that will be efficient and allow for compliance with federal and state requirements going forward. MNSure and DHS continue these efforts.

It should be noted that as referenced in the HHS OIG audit report's Appendix C, the audit team performed a physical inspection of 374 pieces of equipment totaling \$4,039,942, and located all the assets in the sample. This is strong evidence that Minnesota is safeguarding the assets purchased with federal grant funds.

Responsible MNSure Official: Kari Koob, MNSure Chief Financial Officer

Scheduled Completion Date: In progress. Estimated completion date is June 30, 2017.