

## Report in Brief

Date: February 2020

Report No. A-03-16-03001

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG Did This Review

A 2008 HHS review of its acquisition process concluded that HHS components, including the Centers for Medicare & Medicaid Services (CMS), did not always obligate and expend funds in compliance with Federal requirements. As a result, in July 2011, HHS reported a department-wide Antideficiency Act violation totaling more than \$1.4 billion. These previously identified deficiencies, combined with issues with the October 2013 launch of the Federal marketplace, raised concerns about CMS's management and oversight of contracts awarded in whole or in part for the support of the Federal marketplace. CMS relies extensively on contractors to operate many of its healthcare programs, including the Federal marketplace.

Our objective was to determine whether CMS obligated and expended funds for its Federal marketplace contracts in compliance with appropriations law and Federal requirements.

### How OIG Did This Review

We reviewed 74 contracts that CMS identified as having been awarded for the development, implementation, and operation of the Federal marketplace. We reviewed these contracts to identify their funding sources and determine whether their obligations and expenditures from March 23, 2010, through October 31, 2015, were made in accordance with funding source and other legal requirements.

## The Centers for Medicare & Medicaid Services Did Not Identify and Report Potential Antideficiency Act Violations for 12 Contracts Used To Establish the Federal Marketplace Under the Affordable Care Act

### What OIG Found

CMS correctly obligated and expended funds for 62 of the 74 contracts we reviewed. For the remaining 12 contracts, CMS did not obligate and expend funds in compliance with applicable laws and requirements. For instance, CMS did not always obligate funds in accordance with the bona fide needs rule. Under this rule, a fiscal year appropriation may be obligated only to meet a bona fide, or legitimate, need arising in, or in some cases arising before but continuing to exist in, the appropriation's period of availability. CMS did not meet this rule because it obligated the wrong fiscal year's funds to contract modifications. In addition, CMS did not meet rules governing expenditures because it paid some contract invoices with fiscal year funds that were not available at the time the billed work was performed. CMS's accounting system, the Healthcare Integrated General Ledger Accounting System (HIGLAS), did not ensure that expenditures were matched to obligations with an appropriate period of availability.

These errors resulted in potential, unreported Antideficiency Act obligation violations totaling \$164.6 million (\$155.9 million related to the Federal marketplace) and expenditure violations totaling \$22.4 million (\$18.3 million related to the Federal marketplace). In addition, for three contracts, CMS failed to record obligations totaling \$2.9 million in a timely manner. Failure to record obligations in a timely manner can result in Antideficiency Act violations.

### What OIG Recommends and CMS Comments

We recommend that CMS (1) correct the bona fide needs obligation violations totaling \$164.6 million (\$155.9 million related to the Federal marketplace) and, if CMS is unable to correct those violations, report the Antideficiency Act violations; (2) correct the bona fide needs expenditure violations totaling \$22.4 million (\$18.3 million related to the Federal marketplace) and, if CMS is unable to correct those violations, report the Antideficiency Act violations; (3) coordinate with HHS, in consultation with the Office of the General Counsel, to develop guidance and train Office of Financial Management personnel on the correct process to record obligations and expenditures to avoid potential Antideficiency Act violations; and (4) develop automated controls in HIGLAS to ensure that contract expenditures for each program year are paid using appropriate program-year obligations.

## Report in Brief Continued

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In written comments on our draft report, CMS did not specifically concur with our recommendations but described the actions it planned to take in response to those recommendations. CMS officials stated that in coordination with appropriate offices within HHS, they would examine the identified obligation and expenditure violations, make appropriate account adjustments, and report any remaining reportable Antideficiency Act violations as necessary. Further, CMS officials stated that in coordination with appropriate offices within HHS, they would develop additional guidance and provide training to personnel as appropriate once they examined the contract obligation and expenditure violations we identified. In response to our final recommendation, CMS stated that automated controls would be developed in HIGLAS as appropriate.

After receiving CMS's comments on our draft report, we made two revisions to the total value of the bona fide needs obligation violations. Our findings and recommendations, however, remain essentially unchanged.