



May 2013

PATIENT PROTECTION AND AFFORDABLE CARE ACT

HHS's Process for Awarding and Overseeing Exchange and Rate Review Grants to States

GAO Highlights

Highlights of [GAO-13-543](#), a report to congressional requesters

Why GAO Did This Study

PPACA required the establishment of health insurance exchanges and a process for the annual review of unreasonable increases in insurance premiums charged by issuers of health coverage in each state. To assist states in establishing exchanges and in enhancing their ability to review issuers' premium rate increases, the law established new grant programs under which HHS is authorized to award grants to states through 2014. The law appropriated an unspecified amount of funds for exchange grants, and appropriated \$250 million to HHS for rate review grants. GAO was asked to provide information on HHS's processes to award and oversee these grants. In this report, GAO describes (1) the process HHS uses to award exchange and rate review grants to states; (2) the amounts of grants and key activities states funded through the grants; and (3) HHS's process for overseeing states' use of the grants.

GAO reviewed laws, regulations, and HHS's procedures that established the processes for awarding the grants. GAO obtained and analyzed data on all exchange and rate review grants awarded from August 2010 through March 2013. GAO also reviewed HHS's procedures for overseeing the grants, and interviewed officials responsible for grants oversight. HHS provided technical comments on a draft of this report, which GAO incorporated as appropriate.

View [GAO-13-543](#). For more information, contact John E. Dicken at (202) 512-7114 or dickenj@gao.gov.

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HHS's Process for Awarding and Overseeing Exchange and Rate Review Grants to States

What GAO Found

The Department of Health and Human Services (HHS) has a structured process for awarding Patient Protection and Affordable Care Act (PPACA) exchange and rate review grants to states. These grants are designed to help states establish exchanges—new health insurance marketplaces through which individuals and small businesses can obtain insurance—and review issuers' proposed rate increases. The grant award process consists of a series of steps during which the agency solicits, screens, and evaluates grant applications, and then makes funding awards. Once HHS deems that applications meet program eligibility criteria, applications go through various reviews, including a review by independent experts and HHS officials. On the basis of these reviews, HHS determines whether states' proposed activities are allowable, and if so, whether the associated requests for grant funding are reasonable. Based on recommendations from the reviews, HHS determines whether to award grants to states, and if so, the amounts of any grants to be awarded.

As of March 27, 2013, HHS had awarded about \$3.8 billion in PPACA exchange and rate review grants that states have used or plan to use to develop exchanges and enhance rate review capabilities. This includes nearly \$3.7 billion in exchange grants awarded to 49 states and the District of Columbia. Among states that have received exchange grants, the amount of funding provided to states ranges from \$0.8 million (Wyoming) to about \$911 million (California). Approximately half the states were awarded under \$30 million in exchange grant funding, while 10 states were awarded over \$100 million. As of February 2013, states had drawn down approximately \$380 million of their exchange grant funds. GAO's review of a subset of exchange grantee financial reports indicated that nearly 80 percent of expenditures have been for contracts and consulting services, much of which states spent on key activities for developing exchange information technology systems. HHS also awarded about \$159 million in rate review grants to 46 states and the District of Columbia, much of which has funded five key activities, including expanding the scope of rate review programs and enhancing the transparency of the rate review process.

HHS's process for overseeing states' use of PPACA grant funds consists of several mechanisms. The agency regularly monitors states' grant activities through its review of program and financial information reported by states, as well as ongoing communication with grantees. HHS's process also includes mechanisms to periodically verify state-reported information, including its analysis of states' withdrawal of grant funds and site visits. To date, however, use of site visits has been limited. HHS has a number of mechanisms it can utilize, such as restricting a grantee's access to funds, if its monitoring identifies concerns or compliance issues, but agency officials indicated they have not identified any misuse of grant funds or compliance issues to date.

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Abbreviations

CCIIO	Center for Consumer Information and Insurance Oversight
CMS	Centers for Medicare & Medicaid Services
FOA	funding opportunity announcement
HHS	Department of Health and Human Services
IT	information technology
OAGM	Office of Acquisition and Grants Management
PPACA	Patient Protection and Affordable Care Act

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May 31, 2013

The Honorable Lamar Alexander
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Michael B. Enzi
Ranking Member
Subcommittee on Children and Families
Committee on Health, Education, Labor, and Pensions
United States Senate

The Patient Protection and Affordable Care Act (PPACA),¹ enacted in March 2010, contains a number of provisions that may influence the availability and affordability of health insurance coverage. A central provision of the law requires the establishment of health insurance exchanges, referred to as “exchanges,” in each state, through which qualified individuals and small employers can compare, select, and purchase health coverage from participating issuers. If a state chooses not to establish and operate an exchange, PPACA requires the federal government to do so. Under PPACA, states and the federal government must establish exchanges by January 1, 2014. PPACA also emphasized a need to increase the scrutiny of premium rates—actuarial estimates of the cost of providing coverage over a period to policyholders and enrollees in a health plan. In doing so, PPACA requires the Secretary of Health and Human Services to work with states to establish a process for the annual review of unreasonable insurance premium increases (“rate review”). PPACA directed the Department of Health and Human Services (HHS) and the states to implement the rate review process for the plan year beginning in 2010. If a state is unable to implement an adequate rate review process, HHS will review issuers’ proposed increases.

To assist states both in preparing to set up health insurance exchanges and in enhancing their ability to review issuers’ premium rate increases, PPACA established new grant programs under which HHS is authorized

¹Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) (hereafter, “PPACA”).

to award multiple grants to states through 2014. PPACA appropriated an unspecified amount to HHS for exchange grants, and appropriated \$250 million for rate review grants. HHS began awarding these grants in 2010, and plans to award grants through 2014.

In light of the significant federal dollars available for award through exchange and rate review grants, you asked that we examine how HHS awards and oversees the grants, as well as how states have used the funding. In this report, we describe

1. the process HHS uses to award exchange and rate review grants to states;
2. the amounts of exchange and rate review grants awarded by HHS, and the key activities states have funded through these grants; and
3. HHS's process for overseeing states' use of these grants, and the key mechanisms it uses to ensure that states are using the funds in accordance with program goals and requirements.

To describe HHS's exchange and rate review grant awarding process, we reviewed relevant portions of PPACA, HHS's Grants Policy Statement,² and other federal regulations and guidance that are relevant to the grant-awarding processes. We also interviewed officials from HHS's Center for Consumer Information and Insurance Oversight (CCIIO)³ and reviewed supporting grant program documentation focusing on the agency's award processes. In doing so, we identified the officials, guidance, documentation, and other outputs that corresponded to each key activity involved in CCIIO's grant award process. We reviewed key documents, including HHS-issued funding opportunity announcements (FOA), which provided applicants with information about grants for each program, and CCIIO's standard operating procedures for awarding grants.

²HHS's Grants Policy Statement provides information on the terms and conditions of HHS discretionary grant and cooperative agreement awards. Among other things, it specifies recipient and HHS staff responsibilities; outlines the grant application and review processes; and explains the various resources available to those interested in the HHS grants process.

³Within HHS's Center for Medicare & Medicaid Services (CMS), CCIIO officials are responsible for administering and overseeing the exchange and rate review grant programs.

To describe the amounts of exchange and rate review grants CCIIO has awarded, as well as key activities states funded with the grants, we analyzed information provided by CCIIO. We obtained data from CCIIO on all grant applications and grants awarded to states from August 2010 through March 27, 2013.⁴ This information represented the universe of all applications submitted and HHS grants awarded at the time of our request. We conducted various analyses, and produced information including

- the total amount of funding awarded for exchange and rate review grants;
- for each state, the types and amounts of grant funding originally requested, and amounts HHS awarded; and
- the types and amount of grant funding that states have returned to HHS.

To assess the reliability of this information, we asked officials responsible for entering and reviewing the grants information a series of questions about the data, including questions about actions they take to ensure the data are accurate and reliable. We also conducted electronic checks to determine if there were any outliers and other obvious errors in the data. On the basis of CCIIO officials' answers to our questions, and results of our checks, we determined that the grants data were sufficiently reliable for the purpose of our review.

We also obtained from CCIIO information about key activities that states funded with their grants. For exchange grants, we reviewed financial reports that states submitted to CCIIO that highlighted expenditures across key budget categories. For rate review grants, we reviewed CCIIO summaries of state-reported information on actions they have taken or plan to take with the various grants. We analyzed the summaries and identified key categories of actions states have generally pursued with the grant funding. To assess the reliability of the financial reports, we obtained and reviewed instructions CCIIO provided to states for reporting this information and we conducted electronic checks to determine if there were outliers or other obvious errors in the data. On the basis of our

⁴In this report, we use the term "states" to refer to the 50 states and the District of Columbia, unless otherwise indicated.

review, we determined that information contained in the reports was sufficiently reliable for the purpose of our review.

To describe HHS's oversight process and key mechanisms, we analyzed several key documents. These included HHS's Grants Policy Statement; standard operating procedures for the oversight of exchange and rate review grants; sample progress and financial reports prepared by states and submitted to CCIO; and routine programmatic monitoring tools that CCIO officials use to track the status of grants, including monthly summaries of grantee progress, regular analyses of progress reports, and regular financial reports. We also interviewed CCIO officials responsible for the day-to-day oversight of the grants, including those responsible for monitoring and summarizing grantees' progress in meeting grant program goals and requirements.

As part of our review, we identified key mechanisms and internal controls that HHS uses when evaluating grant applications and overseeing states' use of grant funds. We did not, however, evaluate HHS's internal controls for awarding and overseeing grants, nor did we assess the effectiveness of HHS's processes, as such an assessment was beyond the scope of this review.

We conducted this performance audit from October 2012 to May 2013 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.

Background

PPACA includes provisions that are designed to make health insurance more accessible and affordable for millions of Americans. These include provisions for establishing health insurance exchanges in each state, and enhancing processes for the annual review of health insurance premiums. To facilitate these activities, PPACA created new responsibilities for states and the federal government, and provided financial resources to states in the form of federal grant funding.

Health Insurance Exchanges and Related Grants

PPACA mandated the establishment of exchanges—new health insurance marketplaces in each state through which qualified individuals and small businesses can compare, select, and purchase standardized health coverage from among participating issuers of health coverage. These exchanges must begin enrolling consumers by October 1, 2013, into coverage that begins January 1, 2014. Core exchange functions include determining eligibility and enrolling individuals, plan management (certifying qualified health plans), consumer assistance and outreach, and developing the necessary information technology (IT) infrastructure to support the exchange. These exchanges may be established and operated by a state itself as a “state-based exchange.” Such states must also establish a governing board and standards of conduct. Where a state is unable or unwilling to establish and operate an exchange, PPACA directs HHS to establish an exchange—referred to by HHS as a “federally facilitated exchange.” States in which a federally facilitated exchange will operate may also enter into arrangements with HHS to assist it with certain of the exchange’s plan management or consumer assistance functions. HHS refers to such exchanges as “partnership exchanges.”⁵ As of March 2013, HHS indicates that 18 states will establish their own state-based exchanges and 33 will have a federally facilitated exchange, of which 7 states are planning to have a partnership exchange.⁶

⁵PPACA requires states to establish exchanges by January 1, 2014. PPACA, § 1311(b), 124 Stat. at 173. The Secretary of Health and Human Services must establish and operate an exchange in states that do not elect to operate an exchange or in states where the Secretary determines, by January 1, 2013, that a state has failed to take actions necessary to establish an exchange. PPACA, § 1321(c), 124 Stat. at 186. Through subsequent guidance, HHS has identified options for states to assist HHS with certain functions when it establishes and operates a federally facilitated exchange.

⁶States choosing to establish state-based exchanges in 2014 were required to submit applications to HHS by December 14, 2012. Out of the 19 states that submitted applications by this date, HHS conditionally approved 18, with final approval pending the states' successful completion of key milestones. The remaining state, Mississippi, was not approved to establish a state-based exchange, in part because its governor opposed the establishment of an exchange. Similarly, states choosing to participate in partnership exchanges in 2014 were required to submit applications to HHS by February 15, 2013. HHS conditionally approved all 7 states that submitted applications by this date to participate in partnership exchanges in 2014. Additionally, HHS told us that 7 other states in which a federally facilitated exchange will operate have formally notified HHS that they will be assisting it in carrying out certain plan management functions in-state, and thus in this manner will be partnering with the federal government. However, for the purposes of this report, we refer to partnership states as only those that have been conditionally approved as such.

To assist states in developing exchanges, PPACA authorized HHS to award grants to states for the planning and establishment of insurance exchanges. PPACA did not provide a specific amount of exchange grant funding, but rather, appropriated to HHS, out of any moneys in the Treasury not otherwise appropriated, an amount necessary to make grant awards. In doing so, it directed HHS to determine the total amount of funding that it will make available to each state for each fiscal year. PPACA authorized HHS to award grants to states through December 2014, and, on the basis of this authority, HHS established four separate programs for awarding exchange grants to states:⁷

- **Planning Grants:** Provided states with resources to conduct the initial research and planning needed to build an exchange and determine how it will be operated and governed. Once awarded, the grant funds were available for 1 year, and a state could only receive one grant.⁸
- **Early Innovator Grants:** Provided funding to a state or group of states that were early leaders in building their exchanges to design and implement the IT infrastructure needed to operate the exchanges. All exchange IT components, including software and data models, developed with these grants could be adopted and modified by other states to fit their specific needs. Once awarded, the grant funds were available for 2 years, and a state or group of states could only receive one grant.⁹
- **Establishment Grants (Level 1):** Provide funding to states pursuing any exchange model. Funding is designed to help states undertake additional exchange establishment activities, such as making legislative/regulatory changes, establishing IT systems, and consulting with key stakeholders. Once awarded, the grant funds are available for 1 year, and a state may apply for multiple grants.

⁷Early Innovator and Establishment program funds were awarded in the form of cooperative agreements, which are a form of financial assistance similar to grants, but where the federal agency is more involved with the recipient in implementing the program. However, for the purposes of this report, we refer to all forms of financial assistance including these cooperative agreements as grants.

⁸Exchange Planning grants were awarded to states in 2010 and 2011, and, according to CCIIO officials, are no longer being awarded.

⁹Early Innovator grants were awarded to states in 2011, and, according to CCIIO officials, are no longer being awarded.

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- **Establishment Grants (Level 2):** Provide funding to states that have legal authority to implement an exchange and are further along in exchange development and pursuing a state-based exchange. Funding is designed to help states develop all exchange activities, including consumer and stakeholder engagement and support, eligibility and enrollment, plan management, and technology. Once awarded, the grant funds are available for up to 3 years, and a state can only receive one grant.

Premium Rate Review and Related Grants

Health insurance premium rates are generally established on the basis of actuarial estimates of the cost of providing coverage over a period to enrollees in a private health insurance plan. Insurance issuers generally submit these rates to states as a formula that describes how to calculate a premium for each person or family covered on the basis of factors such as age, gender, and geographic location. Individual states are primarily responsible for ensuring that the rates within their state are reasonable—that is, adequate, not excessive, reasonable in relation to benefits provided, and not unfairly discriminatory—and they do so by establishing standards and defining state insurance departments’ authority to help enforce them. Most states require carriers to submit rate filings to state insurance departments for review prior to implementation of new rates or rate changes, although the authority of the departments to approve or disapprove the filings can vary by state. Some state insurance departments have the authority to approve or disapprove rate filings before they go into effect, while others do not have any authority to approve or disapprove rate filings.

Oversight of premium rates charged by insurance issuers historically has been primarily a state responsibility; however, PPACA established a role for HHS by requiring the Secretary of Health and Human Services to work with states to establish a process for the annual review of unreasonable premium increases in the individual and small group insurance markets. HHS has since issued regulations that established a threshold for determining whether rate increases proposed by insurance issuers require review, and requiring insurance issuers to report information to

HHS on proposed rate increases.¹⁰ The regulations also establish criteria and a process by which HHS will determine whether a state has an effective rate review program and thus meets HHS's standards for conducting the rate reviews. Under the regulations, an effective rate review program must, among other things, utilize sufficient data and documentation concerning rate increases to conduct an examination of the reasonableness of the proposed increases, and make a determination of the reasonableness of the rate increase under a standard set forth in state statute or regulation. If HHS determines that a state does not have an effective rate review program, then HHS will conduct the rate reviews. As of April 2013, HHS has determined that all but nine states have an effective rate review program for both the individual and small group insurance market.¹¹

To assist states in reviewing premium rates, PPACA also established a 5-year premium rate review grant program beginning in 2010. PPACA appropriated \$250 million for HHS to award grants to states from fiscal years 2010 through 2014.¹² On the basis of this authority, HHS established two separate rate review grant programs:

- **Cycle I:** Provided states with assistance to enhance their rate review processes—for example, by ensuring that increases in health insurance premiums and rate filings are thoroughly evaluated and, to the extent permitted by law, approved or disapproved through a

¹⁰Regulations finalized on May 23, 2011, established a 10 percent threshold, meaning proposed rate increases of 10 percent or more require review. Alternatively, states may propose state-specific thresholds for review and approval by HHS. See 45 C.F.R. § 154.200. Under a final regulation issued on February 27, 2013, insurance issuers will be required to report to HHS all proposed rate increases, although, only proposed rate increases meeting the applicable threshold will require review. See 78 Fed. Reg. 13406, 13440 (Feb. 27, 2013) (to be codified at 45 C.F.R. § 154.215).

¹¹HHS determined that Alabama, Louisiana, Missouri, Montana, Oklahoma, Texas, and Wyoming did not have an effective rate review program in either market. HHS also determined that Arizona did not have an effective program in the small group market, and Virginia did not have an effective rate review program in the small group and HMO individual market.

¹²Funds appropriated that are not fully obligated under rate review grants by the end of fiscal year 2014 remain available to the Secretary for grants to states for planning and implementing insurance reforms and consumer protections enacted under PPACA. PPACA 1003, 124 Stat. at 139 (amending section 2794(c)(2)(B) of the Public Health Service Act).

comprehensive rate review process. Once awarded, grant funds were available for 1 year, and a state could only receive one grant.¹³

- **Cycle II:** Further assists states in improving and enhancing their rate review and reporting processes, and for meeting requirements of an effective rate review program. Once awarded, grant funds are available for up to 3 years depending on the date they are awarded, and a state may be able to receive more than one grant.¹⁴ (See app. I for further details on these grant types as well as the four types of establishment grants.)

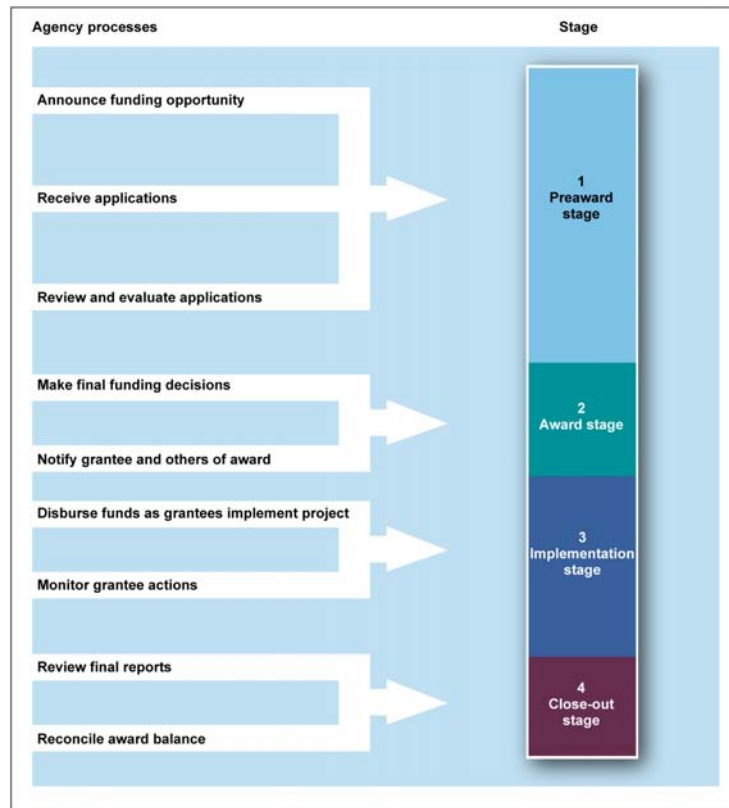
Award and Oversight of Federal Grants

Federal competitive grants generally follow a life cycle that includes four stages and several activities within each stage, as seen in figure 1.

¹³Cycle I grants were awarded to states in 2010. According to CCIIO officials, these grants are no longer being awarded.

¹⁴According to CCIIO, a state can apply for a second Cycle II award if it has drawn down at least 60 percent of previously awarded rate review Cycle II grant funds as of August 1, 2013, and if funding is available after all eligible and qualified applications are considered for an initial Cycle II award. Also, California is eligible for multiple awards because it has two regulatory agencies that are each primarily responsible for regulating a portion of the private health insurance market.

Figure 1: Federal Grant Life Cycle



Source: GAO.

The grant process begins with the preaward stage, when the public is notified of the grant opportunity through a funding announcement, and potential grantees must submit applications for agency review. In the award stage, the agency identifies successful applicants and awards funding. The implementation stage includes grantees drawing down funds, agency monitoring, and grantee reporting, which may include financial and performance information. The closeout stage includes preparation of final reports, financial reconciliation, and any required accounting for property. Audits may occur multiple times during the life cycle of the grant and after closeout.

In CCIIO, officials, known as state or project officers, are assigned to specific grants, and are responsible for managing and overseeing the life cycle of grants. This includes reviewing grant applications and evaluating whether the projects funded by the grants are on schedule and meeting goals. For exchange grants, 17 CCIIO employees work as state officers,

and for rate review grants, 2 CCIIO employees work as project officers. These state or project officers also work with grants management officials from CMS's Office of Acquisition and Grants Management (OAGM) to oversee the financial and regulatory aspects of the grants.¹⁵

HHS Follows a Multistep Process to Award PPACA Exchange and Rate Review Grants to States

HHS's process to award PPACA exchange and rate review grants to states involves soliciting, screening, and evaluating applications and making official grant awards. The steps include the announcement of grant opportunities; states' preparation and submission of applications; application eligibility determinations; objective reviewers' evaluation of applications; HHS officials' evaluation of applications and corresponding follow-up, or budget negotiations, with states; final grant recommendations to HHS leadership; and final award decisions and issuance of official awards.

Announcement and Assistance

CCIIO project officers, in collaboration with other HHS officials, review statutory requirements as well as federal regulations to develop an FOA to solicit applications for each exchange and rate review grant type. The FOA contains key items a state needs to review and understand prior to submitting an application. These include the program eligibility criteria, the amount of funding available for award, the types of activities that may be funded under the grants, the instructions for completing applications, and the process and criteria for evaluating applications. Once completed, the FOA is posted on the HHS website and Grants.gov, a website run by the federal government through which states and other entities can find and apply for federal grants. After posting the FOA, CCIIO project officers may conduct a conference call to provide guidance to interested states on items such as the grant review criteria, instructions on preparing project budget proposals, and other application procedures. Information on this call is provided in the FOA, and a transcript and recording of the call may be posted afterward on the HHS website.

¹⁵We refer to both state and project officers as project officers throughout the remainder of this report.

Application Preparation and Submission

States must prepare and submit application materials to HHS through Grants.gov, as outlined in the FOA. The application must include the amount of federal grant funding being requested, as well as other materials including various federal forms; letters of support from the governor or other applicable state entities, or both; a project narrative; a work plan that contains milestones and time frames; a proposed budget that provides line-item costs for various categories of activities to be performed using grant funding; and an organizational chart of key state personnel.

Eligibility Determinations

Upon receiving applications, CCIO project officers and OAGM officials conduct an initial eligibility check for all grant applications by screening them on the basis of specific eligibility criteria described in the FOA and ensuring that they contain all required documents as described above. The eligibility criteria vary depending on the type of exchange or rate review grant being awarded. Table 1 below outlines the key eligibility criteria for each type of exchange and rate review grant. As the table shows, the eligibility criteria for Level 2 exchange Establishment grants and Cycle II rate review grants require greater commitments from states as compared to the criteria for other grants—for example, to receive Level 2 Establishment grants, states must commit to establishing a state-based exchange and complete specified steps associated with doing so, such as obtaining the necessary legal authority to establish and operate the exchange.¹⁶ To receive Cycle II grants, states must commit to developing effective rate review programs that meet HHS requirements.

¹⁶According to CCIO officials, states may establish this authority by means of legislative action or executive order.

Table 1: Key Eligibility Criteria for PPACA Exchange and Rate Review Grants

Eligibility criteria	Grant type					
	Planning (Exchange)	Early Innovator (Exchange)	Level 1 Establishment (Exchange)	Level 2 Establishment (Exchange)	Cycle I (Rate Review)	Cycle II (Rate Review)
Commitment to assess whether the state will establish a state-based exchange	●	○	○	○	n/a	n/a
Commitment to use grant funding for activities associated with the state's exchange model	○	●	●	●	n/a	n/a
Commitment to establishing a state-based exchange ^a	○	●	○	●	n/a	n/a
Completion of several steps associated with establishing a state-based exchange, including obtaining the necessary legal authority to establish and operate the exchange ^b	○	○	○	●	n/a	n/a
Commitment to developing or enhancing the state's rate review program	n/a	n/a	n/a	n/a	●	●
Commitment to developing an effective rate review program per HHS regulations ^c	n/a	n/a	n/a	n/a	○	●

Source: GAO analysis of HHS information.

Legend:

- Not required
- Required

n/a = Not applicable.

^aIn its initial Establishment grant FOA issued in January 2011, HHS did not indicate that states in which a partnership or federally facilitated exchange will operate may receive Level 1 grant funds. However, in updated FOAs issued in 2012, the agency indicated that states in which a partnership or federally facilitated exchange will operate may receive Level 1 funding for certain activities depending on the exchange type.

^bSteps that states must complete to be eligible for Level 2 Establishment grants include the following: (1) states must have the necessary legal authority to establish and operate a state-based exchange that complies with existing federal requirements, (2) states must have established a governance structure for the exchange, and (3) states must submit an initial plan discussing long-term operational costs of the exchange.

^cTo be eligible, states that at the time of application do not have effective rate review programs in their individual or small group health insurance markets, or both, must commit to using grant funds to develop effective programs within 12 months of receiving the grant. In addition, states that at the time of application meet the effective rate review program requirements as defined by HHS regulations must commit to using grant funds to further enhance their rate review programs.

Objective Review

Once applications are deemed eligible, a panel of independent subject-matter experts meets to discuss the applications' strengths and weaknesses and evaluate whether they meet grant program requirements. These reviewers are recruited by CCIIO project officers, who ensure that the reviewers are unaffiliated with the exchange and rate review programs but have experience in a wide range of relevant fields and together possess the subject-matter expertise needed to review the applications.¹⁷ For example, according to CCIIO officials, panels for exchange grant application cycles always contain reviewers with IT-related expertise, due to the significant role IT plays in exchange establishment. CCIIO project officers assign three reviewers to each application, but the total number of reviewers within a panel depends on the number of submitted applications and may therefore vary between application cycles.

Once reviewers are selected, project officers provide them with instructions on the process and guidance on the relevant FOA and statute. In addition, OAGM officials indicated that they advise the reviewers on the proper procedures to follow in conducting their review. To then evaluate applications, the objective reviewers use various methods depending on grant type:

- For most exchange grants, reviewers rely on a scoring system outlined in the applicable FOA to assess the strengths and weaknesses of various sections of an application.¹⁸ These application sections are attached to specified review criteria and point ranges, with a maximum total score of 100 points. For example, the project narrative portion of a state's Establishment grant application can be awarded up to 55 points, depending on factors such as the extent to which the state clearly describes how its progress toward exchange establishment to date has informed its current grant proposal (see table 2 below). The reviewers document their proposed total score for

¹⁷Reviewers are not permitted to have conflicts of interest and must complete a form certifying their lack of conflicts of interest prior to the start of the panel.

¹⁸All Early Innovator and Establishment grant applications were (and, in the case of Establishment grants, continue to be) reviewed using a scoring system. However, Planning grant applications were not scored; rather, reviewers determined whether applications addressed nine specified topics related to planning for the development and implementation of an exchange. These topics were described in the FOA and included background research, stakeholder involvement, and technical infrastructure.

each assigned application as well as their assessments of the applications' strengths and weaknesses.

Table 2: Objective Review Rating System for PPACA Exchange Establishment Grants

Application section	Rating criteria	Maximum score, in points
Project narrative	Rated on the basis of the extent to which a state described and quantified progress made on exchange establishment; described how establishment progress to date has informed the current grant proposal; addressed program requirements as described in the funding opportunity announcement; provided a clear understanding of proposed activities to be funded under the grant; demonstrated alignment with the proposed budget and other sections of the application; and provided other items related to exchange establishment such as a high-level strategic plan for fulfilling required exchange establishment activities.	55
Work plan	Rated on the basis of the extent to which a state addressed key exchange establishment activities laid out in the funding opportunity announcement; provided reasonable, complete milestones and associated time frames; provided details regarding the plan to accomplish each milestone; and distinguished activities in the current proposal from activities funded under previously awarded exchange grants.	25
Budget narrative	Rated on the basis of the extent to which a state provided a complete, reasonable budget that where possible illustrates funding needed on a quarterly basis; included only costs for activities integral to exchange establishment and consistent with PPACA requirements and HHS guidance; and included a description of the state's capacity to manage multiple funding streams from various grants.	20
Total possible score		100

Source: GAO analysis of HHS information.

- For rate review grants, reviewers do not utilize a scoring system. Rather, to assess the strengths and weaknesses of applications and determine whether they meet requirements, objective reviewers use a CCIO-provided checklist that lists the requirements of the grant program. The reviewers discuss the applications and make recommendations as to whether the applications are strong enough to be funded or contain weaknesses that must be addressed prior to awarding the grant.¹⁹

¹⁹If an application contains significant weaknesses, objective reviewers can recommend that the rate review grant request be deferred or denied. According to HHS officials, as of May 17, 2013, objective reviewers have recommended deferrals of consideration of a state application on four occasions. Two states were able to address the reviewers' concerns during budget negotiations, or follow-up discussions with CMS officials, and thus were awarded grants; the third state also was awarded the grant but had the portion of its funding related to the item of concern restricted. The remaining state withdrew its application voluntarily.

CCIIO project officers and OAGM officials sit on the panel meetings but do not participate; rather, their role is to document decisions made during the meetings. For example, where applicable, the officials prepare a rank-order list, or a list of applicants ranked by objective review score. The officials also prepare summaries of each application's strengths and weaknesses as discussed during the review panel (including objective review scores, where applicable), as well as summaries of recommendations stemming from the reviewers' analysis of rate review grant applications. These summaries serve as official documentation of the objective review process.

Internal Reviews and Budget Negotiations

Drawing from the results of the specific objective review, CCIIO, OAGM, and other CMS officials evaluate states' individual exchange or rate review grant applications, including budget proposals, and where necessary conduct follow-up discussions with states to help determine the amount of grant funding to award. Specifically, these processes, known respectively as internal reviews and budget negotiations, consist of the following:

- **Internal Reviews:** CCIIO project officers review states' applications, noting where they have any questions or concerns. In addition, OAGM officials specifically review states' budget proposals to determine whether proposed activities are allowable and consistent with laws and regulations, and, if so, whether their associated costs are necessary and reasonable.²⁰ To do so, officials rely in part on requirements regarding allowable and prohibited uses of funding as laid out in the relevant FOA. For example, the FOA for exchange Establishment grants differentiates between activities that states may perform using Level 1 Establishment grant funding for state-based or

²⁰According to OAGM officials, as part of their internal review they also review past audits of grantees to verify prior audit findings; as well as any information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the nonprocurement common rule, or otherwise declared ineligible from receiving federal contracts, certain subcontracts, and certain federal assistance and benefits.

federally facilitated exchanges, including partnership exchanges.²¹ Officials may also provide states' proposals to other specialized staff within CMS, including CMS IT experts, who specifically review the proposed IT budget and prepare a standardized, detailed analysis of the states' proposed IT costs, and the Office of Communications, which reviews state outreach and education proposals. They do this in part because the IT and outreach and education line items are typically the largest part of a state's exchange grant budget proposal.

- **Budget Negotiations:** If the officials, on the basis of their review, identify any questions or concerns regarding proposed activities or costs in an application, they develop a list of questions for the state. In developing this list, the officials also draw from results of the objective review, including the descriptions of applications' strengths and weaknesses. OAGM officials send the list to the state, and then follow up with the state by phone to discuss the questions. The state must then send their responses back to OAGM. These negotiations may lead states to change their proposed budget in order to address the concerns.²² For example, HHS conducted budget negotiations with Arkansas regarding the state's Level 1 grant application reviewed in September 2012. These negotiations consisted of 15 questions, which, among other items, requested that Arkansas officials specify their method of calculating staff travel costs, describe their policies and procedures for oversight of contractors, and explain an unusually large funding request for office supplies. In response, Arkansas officials provided the requested information and decreased their budget request by approximately \$50,000. Overall, budget negotiations on exchange grant applications submitted by December 2012 have resulted in a net reduction of about \$186.1 million, with changes ranging from a decrease of about \$48.1 million to an

²¹For example, according to the Establishment grant FOA, states in which the federally facilitated exchange will operate may receive Level 1 grant funding for activities such as establishing a reinsurance program and coordinating certain plan information from the state's Department of Insurance with the federally facilitated exchange. However, according to CCIO officials, these states may not use Level 1 Establishment grant funding for IT and eligibility/enrollment-related activities that are only applicable to states establishing state-based exchanges. Level 2 Establishment grant funding is only available for states establishing state-based exchanges.

²²Questions or concerns flagged during this review, as well as those identified during the objective review, can also help inform HHS officials' future oversight of states' use of grant funds.

increase of about \$9.7 million.²³ Budget negotiations on rate review grant applications submitted by August 2012 have resulted in a net increase of about \$8.8 million, with changes ranging from an increase of about \$3,000 to an increase of about \$2.5 million.²⁴

Final Recommendations

After budget review and negotiations for exchange and rate review grant applications have concluded, project officers conduct a final analysis of the results of previous reviews and prepare funding recommendation memos for HHS leadership. These memos contain summaries of the awarding process thus far, including the number of submitted applications as well as the original budget request, revised budget request (where applicable), and the final recommended award amount for each applicant. For example, the August 2011 funding memo describing decisions on exchange Establishment grant applications due in June 2011 indicated that 14 states applied for Level 1 grants. All applications were deemed eligible and thus were recommended to receive awards, with recommended funding amounts ranging from about \$4.2 million to about \$39.4 million (due to differences in the states' proposed activities and budgets). The funding memos may also include scores from the objective review, where applicable, as well as high-level results from any budget negotiations conducted with states.

In addition, according to HHS officials, before final awards are issued, CCIO project officers typically recommend special terms and conditions

²³Exchange grant applications' budget proposals were decreased for reasons such as HHS's assessment that proposed costs in the applications were overestimated. In addition, budget proposals were infrequently increased as a result of budget review and negotiations. CCIO officials cited states' underestimation of costs needed for exchange IT systems development and education and outreach as common reasons for such an increase.

²⁴CCIO officials indicated that states often did not prepare budgets in accordance with the statutory requirement that states qualifying for a grant must receive at least \$1 million in rate review grant funds in a given year, and thus underestimated costs. This required increases in rate review grant budget proposals and corresponding adjustments to application work plans. No rate review grant applications have had their proposed budgets reduced.

that grantees must meet prior to receiving their full funding amount.²⁵ These recommended terms and conditions are also included in the funding memo. For example, funding for contractors performing IT-related activities is initially restricted from all exchange Establishment grants until certain conditions, such as providing an itemized budget and justification for each contract, are met and sufficiently documented. In addition, Establishment grant applicants submitting applications that receive scores less than 70 during the objective review may have their entire funding amount restricted until the applicants meet certain requirements as specified by HHS, such as providing an updated work plan or budget proposal that more sufficiently meets requirements outlined in the FOA. For instance, the August 2011 Establishment grant funding memo indicated that 3 out of the 14 states' applications received scores of less than 70, and that 2 of these states were able to address most of their application weaknesses during budget negotiations. The remaining state was recommended to have its entire funding amount restricted pending submission of updated application materials within 60 days of receiving the award notice.

Final Award Decision and Issuance

HHS leadership reviews the funding memo and provides the final sign-off on decisions regarding exchange and rate review grant applications, but according to CCIIO officials generally does not deviate from recommendations in the memo. The agency issues an official notice of grant award to each applicant, outlining the funding amount, project period, budget period, applicable terms and conditions, and administrative

²⁵Depending on an application's weaknesses, project officers can also make recommendations for management assessment items, which are recommended actions or requests that typically relate to implementation of the grant proposal. For example, the project officer may request that a state provide more information within a specified period on how it will involve stakeholders in its proposed activities. These issues are not as critical as those requiring a condition, and thus are not included in the final award notice but are instead sent separately to the state. According to CCIIO officials, each exchange grant award is generally associated with one or two management assessment items.

requirements such as financial and progress reports that grantees must submit on a regular basis throughout the course of their grant.²⁶

HHS Has Awarded about \$3.8 Billion in PPACA Exchange and Rate Review Grants, Which States Are Using for Activities Related to Exchanges and to Enhance Rate Review Capabilities

As of March 27, 2013, HHS had awarded nearly \$3.7 billion in exchange grants to states, much of which will be used to fund activities related to developing IT systems for states' exchanges. HHS also awarded about \$159 million in rate review grants to states, which to date has been used for five key activities related to enhancing states' rate review processes, including enhancing the transparency of issuers' rate review filings.

HHS Awarded nearly \$3.7 Billion in Exchange Grants to States, Much of Which Will Fund Activities Related to Developing Information Technology Systems

Between September 2010, when exchange grants were first awarded, and March 27, 2013, HHS awarded 132 exchange grants totaling nearly \$3.7 billion to 50 states.²⁷ These awards included Exchange Planning, Early Innovator, and Level 1 and 2 Establishment grants. To date, the majority of funding (about \$3.4 billion, or 92 percent) has been awarded in the form of Level 1 and Level 2 Establishment grants, while Exchange Planning grants make up approximately 1 percent of total exchange grant funding (see table 3).

²⁶Once awarded, funding is disbursed using the Payment Management System, which is an HHS-administered system that provides federal agencies and grant recipients the tools to manage grant payments. Grantees have access to and can draw down their unrestricted funds from the system on an as-needed basis, but are not able to draw down any restricted funds until the awarding agency deems the necessary requirements have been met and releases the funds in the system.

²⁷HHS also awarded four approximately \$1 million Territory Establishment grants, totaling about \$4 million, to four U.S. territories in March 2011. These awards were not issued under the Exchange Planning, Early Innovator, and Establishment grant FOAs for states, but rather were issued under a separate FOA.

Table 3: Total PPACA Exchange Grants Awarded to States as of March 27, 2013

Grant type	Number of grants	Number of states ^a	Total funding awarded (dollars in millions)	Percentage of total funding awarded
Exchange Planning ^b	50	50	\$51	1%
Early Innovator ^b	7	7 ^c	262	7
Level 1 Establishment	63	38	1,373	37
Level 2 Establishment	12	12	2,001	54
Total	132	50^d	\$3,687	100%^e

Source: GAO analysis of HHS data.

^aFor the purposes of this table, we consider “states” to be the 50 states as well as the District of Columbia.

^bAccording to officials from the Center for Consumer Information and Insurance Oversight (CCIIO), Exchange Planning and Early Innovator grants are no longer being awarded.

^cThese grants were awarded to 6 states and one 5-state consortium.

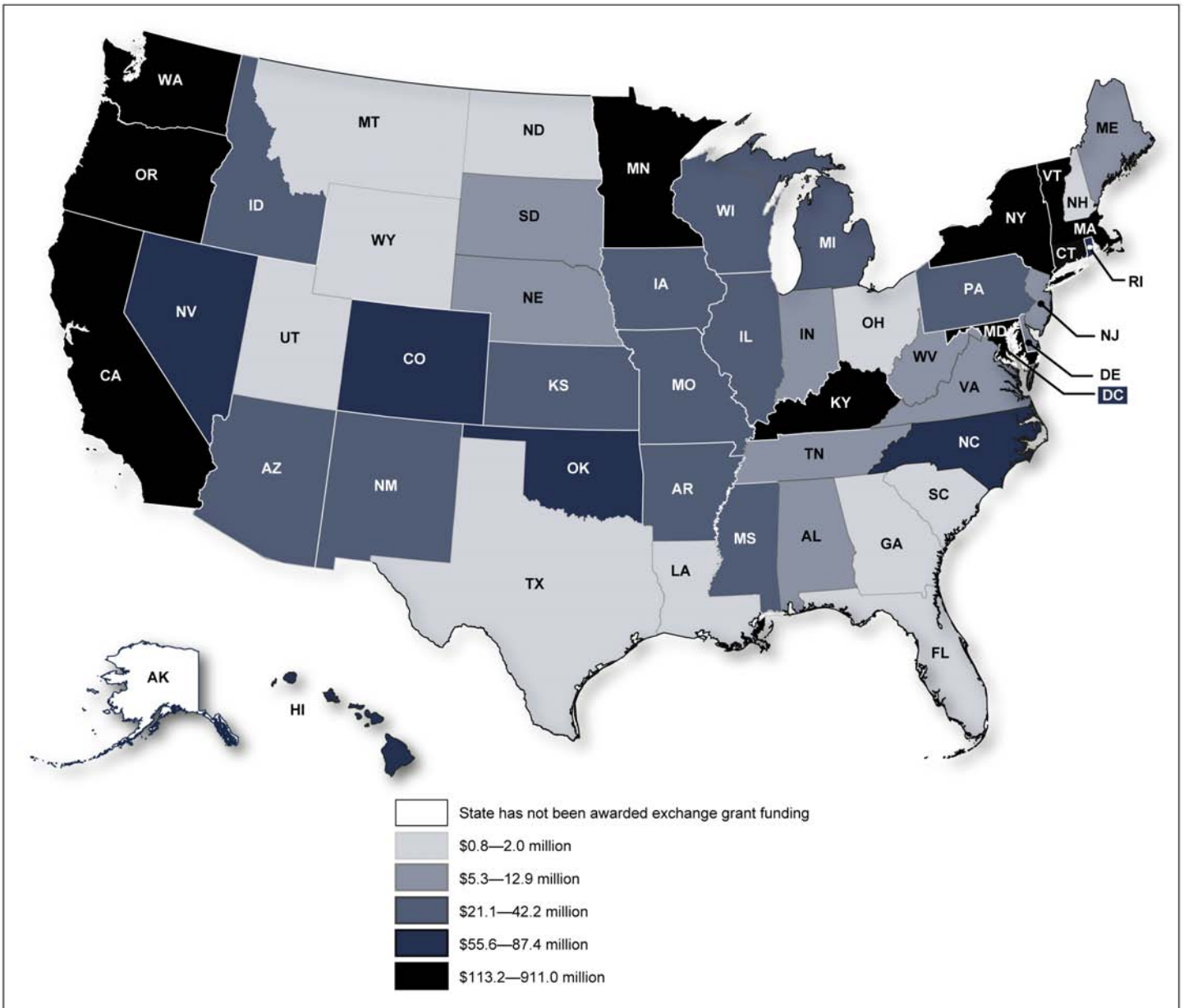
^dThis total is not the sum of the above numbers because some states were awarded more than one type of exchange grant.

^eThis total is not the exact sum of the above percentages as displayed in this table due to rounding.

All states except Alaska²⁸ have been awarded an exchange planning grant, and most states have been awarded multiple exchange grants, with the most common combination of grants being Exchange Planning and Level 1 Establishment grants (see app. II for additional information on the types of grants awarded to each state). Due to the variation in the types of grants states have applied for and been awarded, as well as the range of funding that may be awarded within the same grant type, there is a wide range in terms of the total amount of exchange grant funding awarded to each state. Specifically, among states that have been awarded exchange grants, total funding awarded to date ranges from \$0.8 million (Wyoming) to about \$911 million (California). Approximately half the states have been awarded under \$30 million in exchange grant funding, while 10 states have been awarded over \$100 million (see fig. 2).

²⁸Alaska has not applied for or been awarded an exchange grant.

Figure 2: Range of PPACA Exchange Grants Awarded by State as of March 27, 2013



Source: GAO analysis of HHS data; Map Resources (map).

Note: As of March 27, 2013, according to CCIIO, states had “returned” to HHS about 3 percent of the grant funding originally awarded for reasons such as a state’s decision not to pursue a state-based exchange.

Out of the approximately \$3.7 billion awarded in exchange grants, the majority (about 85 percent) of funding has been awarded to states that as of March 7, 2013, have formally declared their intent and have received conditional approval from HHS to establish state-based exchanges that will be operationally ready for the initial open enrollment period beginning October 1, 2013. Conversely, states pursuing partnership exchanges have been awarded about 5 percent of the funding, and states in which a federally facilitated exchange will operate have been awarded about 11 percent of the funding. According to CCIO, however, several states—largely states in which a federally facilitated exchange will operate—have chosen to “return” all or a portion of their grant award. CCIO officials indicated that most of these grant funds were returned by states that decided not to undertake the activities for which the grant had been awarded, such as those activities states initially planned to undertake in order to establish a state-based exchange.²⁹ Of the total amount awarded in exchange grants, about 3 percent, or \$98.7 million, has been returned to HHS; about \$96.4 million of this was returned by states in which a federally facilitated exchange will operate.³⁰ For additional detail on the amount of exchange grant funding awarded, drawn down, and returned, as well as the exchange type by state, see appendix III.

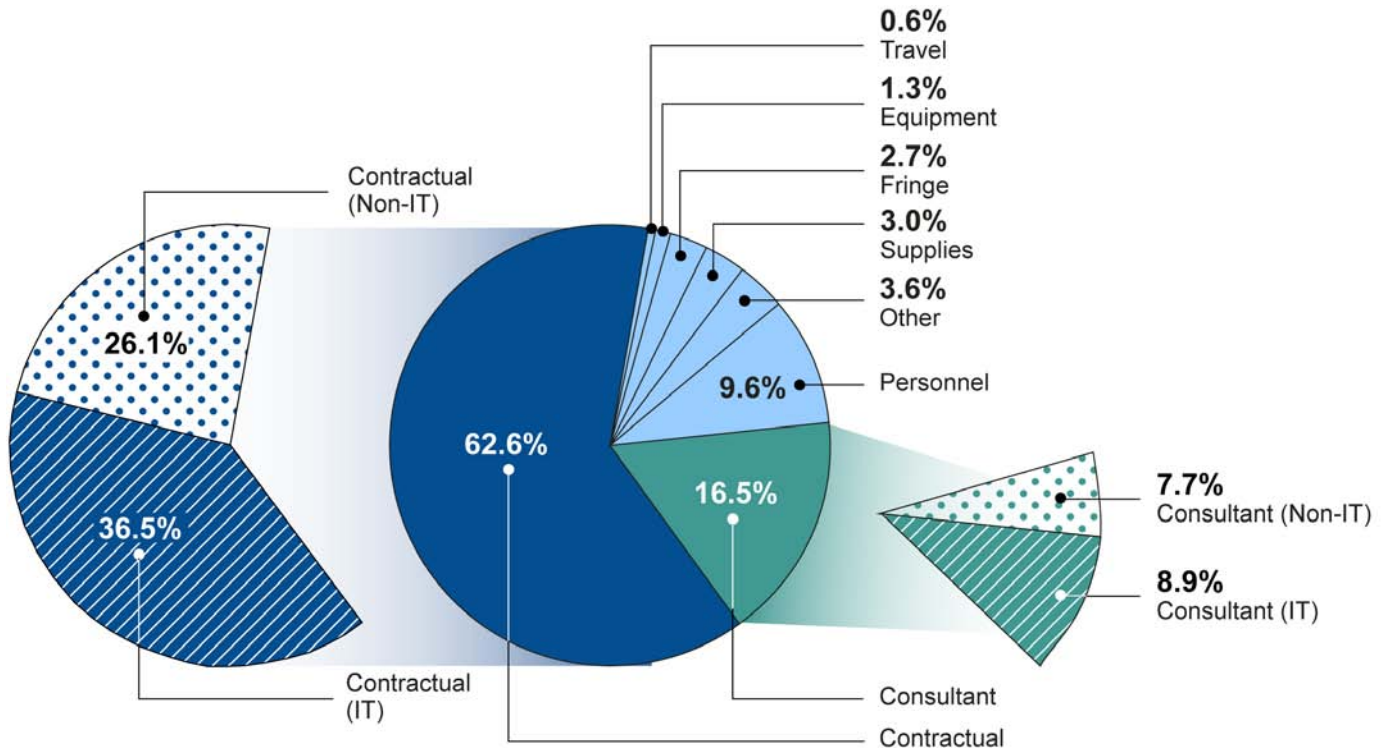
According to CCIO, as of February 29, 2013, states had drawn down about \$380 million of the \$3.7 billion in exchange grants awarded (approximately 10 percent). Given that exchanges must begin enrolling individuals by October 2013, CCIO officials indicated that most state expenditures of exchange grant funds will be occurring in the near future. They also indicated that on the basis of their review of states’ exchange grant applications and communications with state officials, the majority of exchange grant expenditures will be used to develop the IT infrastructure required for the exchanges. Additionally, officials said that states generally have used or will use funds for other activities including developing exchange implementation plans, hiring staff, and undertaking outreach with consumers and stakeholders.

²⁹According to CCIO, a small portion of the returns occurred because grantees completed the project funded by the grant and returned the remaining unused portion.

³⁰Of the approximately \$98.7 million returned as of March 27, 2013, 87 percent, or approximately \$86.1 million, consisted of Early Innovator grant funding. The remainder consisted of Exchange Planning and Level 1 Establishment grant funding.

A review of the most recent financial progress report that CCIIO had on file for states' Level 1 and Level 2 Establishment grants provided additional information on how states have used their grant funds for key activities. The reports provide a listing of state expenditures by eight broad budget categories. We found that nearly 80 percent of states' expenditures were in the categories of contracts and consulting services for IT and non-IT items. According to CCIIO, these expenditures were typically associated with key activities such as developing IT systems for the exchanges as well as facilitating exchange management and outreach with consumers. The financial progress reports also indicated that about 10 percent of Establishment grant expenditures have gone to fund state personnel costs. Figure 3 below breaks out the proportion of expenditures by each budget category.

Figure 3: Proportion of States' PPACA Establishment Grant Expenditures, by Budget Category



Source: GAO analysis of state data.

Notes: Data are from state financial progress reports submitted to HHS. Several categories (Personnel, Supplies, Equipment, Contractual, and Consultant) were further divided in the financial progress reports into IT and non-IT related expenditures. These expenditures are combined for the purposes of this figure.

HHS Awarded about \$159 Million in Rate Review Grants to States, Which to Date Has Been Used to Fund Five Key Activities

In March 2013, CCIIO provided us with the most recent financial progress reports it had on file that were submitted by states with ongoing Level 1 or Level 2 Establishment grants, or both. Thus, the date of expenditure data included in this figure varies between June and December 2012, depending on the date of a state's most recent financial progress report on file at CCIIO.

For the purposes of this figure, we consider "states" to be the 50 states as well as the District of Columbia.

Between August 2010, when rate review grants were first awarded, and March 27, 2013, HHS awarded 78 grants totaling about \$159 million to 47 states.³¹ These awards included Cycle I and Cycle II grants. Of the \$159 million in grants awarded, the majority (about \$113 million, or 71 percent) has been awarded in the form of Cycle II grants (see table 4).

Table 4: Total PPACA Rate Review Grants Awarded to States as of March 27, 2013

Grant type	Number of grants	Number of states ^a	Total funding awarded (dollars in millions)	Percentage of total funding awarded
Cycle I ^b	46	46	\$46	29%
Cycle II	32	30 ^c	113	71
Total	78	47^d	\$159	100%

Source: GAO analysis of HHS data.

^aFor the purposes of this figure, we consider "states" to be the 50 states as well as the District of Columbia.

^bAccording to officials from the Center for Consumer Information and Insurance Oversight (CCIIO), Cycle I grants are no longer being awarded.

^cOne state, California, was awarded two Cycle II grants because it has two regulatory agencies that are each primarily responsible for regulating a portion of the state's private health insurance market.

^dThis total is not the sum of the above numbers because some states were awarded both types of rate review grants.

Out of the 47 states that have been awarded rate review grants, total funding awarded has ranged from \$1 million (16 states) to about \$5.5 million (New York). According to CCIIO officials, 25 of these states have "returned" all or a portion of their Cycle I grants to HHS, with a total return in funding of about \$13.6 million, or approximately 9 percent of total funding awarded. CCIIO officials told us this funding was largely returned because it had not been used during its period of availability to the

³¹HHS also awarded five Cycle I grants totaling \$5 million and three Cycle II grants totaling \$6 million to five U.S. territories between 2011 and 2012.

grantee.³² For more information on premium rate review grant funding awarded, drawn down, and returned by state, see appendix IV.

According to HHS, as of March 13, 2013, states had drawn down about \$42.3 million of the \$159 million in Cycle I and Cycle II rate review grants awarded (27 percent). With funds expended to date, CCIIO summaries indicated that states have undertaken five key activities:

- *Enhanced transparency:* States reported actions and plans including posting rate filings and rate review results on their websites, posting consumer-friendly summaries of rate information, and conducting outreach through town-hall meetings.
- *Enhanced IT:* States reported activities such as requiring that issuers file rate review requests electronically, making software upgrades to enhance rate review analytical capabilities, and establishing new rate review databases.
- *Established Rate Review Contracts:* States reported contracting for various rate review activities such as obtaining actuarial and legal services, reviews of rate review processes, and trend analyses.
- *Hired staff:* States reported the hiring or planned hiring of numerous rate review analysts and actuaries.
- *Expanded the scope of rate review:* States reported actions such as requiring rate reviews for additional insurers and markets, increasing the categories of information included in rate reviews.

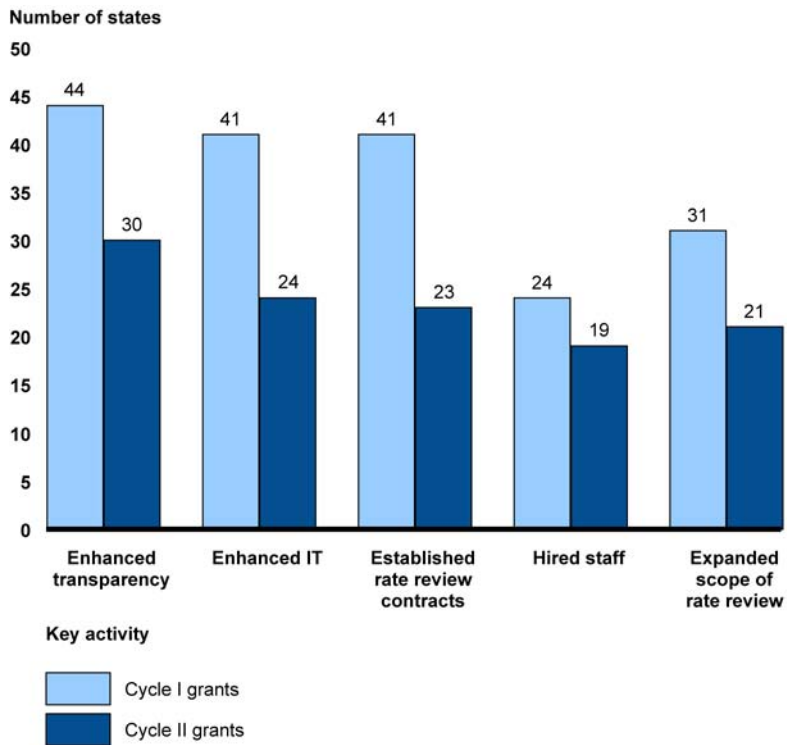
Figure 4 shows the number of states which, according to CCIIO February 2013 summaries, reported undertaking these activities with Cycle I or II grants.³³ As the figure shows, almost all states receiving Cycle I grants

³²According to CCIIO officials, awarded Cycle I rate review funds were returned in connection with 3 of the 25 grants because the states chose to no longer participate in the grant program. For the other 22 grants, the states completed the project funded by the grant and returned the remaining portion of awarded funds that were not used during their period of availability to the grantee. Of the approximately \$13.6 million returned, about \$2.9 million came from states that chose to no longer participate in the program, and about \$10.7 million came from states completing their projects.

³³Our analysis includes some actions taken by U.S. territories using their Cycle I rate review grants.

reported enhancing the transparency of their rate review process, enhancing IT, and establishing rate review contracts. Fewer states were awarded Cycle II grants, but most reported using grants for these same activities.

Figure 4: States Reporting Taking Certain Actions with PPACA Rate Review Grant Funds as of February 2013



Source: GAO analysis of HHS data.

Note: For the purposes of this figure, we consider “states” to be the 50 states and the District of Columbia. However, our analysis for Cycle I rate review grants also includes some actions taken by U.S. territories.

HHS’s Process for Overseeing PPACA Exchange and Rate Review Grants Consists of Several Key Mechanisms

HHS oversees states’ use of grant funds by reviewing and analyzing state-reported information and conducting some limited verification of state data. HHS has several mechanisms to address identified concerns or noncompliance identified through routine monitoring and to respond to requests to amend grants’ terms.

Regular Oversight of Exchange and Rate Review Grants to Date Is Primarily Based on Review of State-Reported Information and Some Limited Independent Verification

CCIIO’s regular oversight process for exchange and rate review grants consists of a variety of mechanisms through which project officers regularly review information reported by grantees as well as communicate with grantees. Additionally, this oversight is supplemented by independent verification through internal analysis and periodic reviews. CCIIO’s regular oversight mechanisms are listed below in table 5.

Table 5: The Center for Consumer Information and Insurance Oversight’s (CCIIO) Mechanisms for Overseeing PPACA Exchange and Rate Review Grantees

	Oversight mechanism	Source of information	Exchange oversight schedule	Rate review oversight schedule
Regular review of information reported by grantees and communication with grantees	Progress reports	Grantee	Semiannually	Quarterly
	Financial reports	Grantee	Quarterly	Quarterly
	Regular phone communication	Grantee	At least quarterly	At least quarterly
	Internal project officer summaries	CCIIO prepares on the basis of grantee reports	Weekly and monthly	Weekly and quarterly
Independent verification through internal analysis, and periodic reviews	Monitor draw down of grant funds	CCIIO monitoring of grant accounts	Weekly	Weekly
	Site visits	CCIIO	At least once for each state before exchange certification	No set schedule
	Establishment reviews and postestablishment reports	CCIIO	Three reviews, schedule based on grantee progress	n/a
	A-133 Audits ^a	Independent third-party review of grantee	Annual	Annual

Source: GAO analysis of CCIIO information.

Notes: n/a = Not applicable for rate review oversight.

^aThe Single Audit Act, as amended, requires each reporting entity that expends \$500,000 or more in federal awards, including grants and other assistance, in a fiscal year to obtain an annual “single audit,” which includes an audit of the entity’s financial statements and a schedule of the expenditure

of federal awards, and review of related internal controls. See 31 U.S.C. §§ 7501 *et seq.* To assist the single audit community in carrying out its respective audit responsibilities, the Office of Management and Budget performs several activities, including issuing guidance for implementing single audit requirements as described in Office of Management and Budget Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, and the Compliance Supplement.

Regular Review of Grantee Information and Communication with Grantees

As a condition of receiving an exchange or rate review grant, CCIIO requires grantees to prepare and submit regular progress reports covering programmatic activities, progress in meeting program goals, and details about expenditures. CCIIO requires exchange program grantees to provide progress reports describing the current status of their activities in areas such as making legislative/regulatory changes, establishing IT systems, building organizational infrastructure and staffing resources, establishing an operational budget and management plan, and consulting with key stakeholders. Originally, states were required to submit these reports quarterly, but officials indicated that they changed the reporting to semiannually to reduce the burden on states, since states were providing information and communicating with project officers frequently. As part of this progress report, CCIIO requires exchange program grantees to provide information on the amount of grant funds spent over the life of the grant across key budget categories. These categories include state personnel, travel, contractors and consultants. CCIIO also requires grantees to identify the individual contracts they have awarded with grant funds. As with exchange grants, CCIIO requires rate review grantees to provide quarterly progress reports, which include data on their rate review activities, the grantees' original goals, deviations or changes to original goals, accomplishments to date, significant activities undertaken and planned, and any relevant issues or setbacks that occurred over the prior 12 months. These reports also include expenditure information similar to that reported by exchange grantees. Further, CCIIO requires that, each quarter, both exchange and rate review grantees provide financial reports that detail financial activities, including the amount of cash transactions grantees made with grant funds during the quarter.

In addition to requiring regular reports, CCIIO project officers have regular phone communication with grantees to discuss grantee reports and activities, clarify guidance, and provide technical assistance to grantees with challenges they encounter, and, according to officials, thereby maintain an awareness of grantees' ongoing activities. According to the standard operating procedures for both programs, project officers call each grantee at least quarterly. According to CCIIO officials, these contacts are in practice much more frequent than the minimum for many grantees under both programs. For example, according to CCIIO officials,

project officers generally communicate at least twice per week with exchange grant recipients.

As part of their ongoing monitoring, CCIO officials regularly review and summarize the programmatic and financial information obtained from grantees' progress reports and monitoring calls. For exchange grants, CCIO officials indicated that each week, project officers submit internal project office summaries about the status of the states' exchange implementation efforts. Additionally, each month, project officers also develop detailed narratives for exchange grants, which include information on how much grant funding the state has spent, the states' progress, barriers they may face, and any action items to be taken over the next 30 days. For rate review grants, project officers also prepare weekly summaries of grantee activities, and quarterly they summarize each state's progress in an Excel tracking sheet. This analysis includes information on how much the grantee has spent, grantee accomplishments, and issues requiring follow-up. Finally, on a quarterly basis program staff provide briefings to CCIO leadership, and issues regarding grantees' progress are discussed.

Independent Verification through Internal Analysis, and Periodic Reviews

According to CCIO officials, project officers routinely oversee and assess exchange and rate review grantees' financial activities by monitoring the amount and pace of the states' drawdown of grants. Each week, OAGM staff provides project officers with reports from OAGM's financial system on the amount of funding each grantee has withdrawn from the grant account, according to officials. Project officers use the reports to look for unusual events such as large drawdowns or no drawdowns. Withdrawals are reported at the overall grant level, not by specific expenditures or general categories of expenditures. According to CCIO officials, if review of these reports highlights potential issues, they will follow up with grantees and determine whether further action is warranted.³⁴

In addition to analysis of grantee drawdowns, CCIO has other mechanisms that can provide independent assessments of grantees' use of funds. CCIO officials also indicated that they conduct site visits—on-site assessments of exchange and rate review grantees' activities—and that this provides a measure of independent verification of grantee

³⁴In addition, when the grant period is complete, states are required to make a final report to CCIO on their completion of grant activities and expenditures over the entire span of the grant.

activities. CCIO officials indicated that exchange grant site visits are in their early stages and have been utilized to provide technical assistance to help grantees establish their exchanges. For example, CCIO officials indicated that as of April 11, 2013, they have conducted 26 technical assistance site visits at exchange grantees. CCIO's draft procedures for conducting site visits indicate that they will ultimately conduct a site visit to each state at least once prior to certification of a state's exchange. The procedures indicate that the visit should be conducted by a team consisting of a project officer and key CCIO and CMS staff, and the site visit team will review operational aspects of the proposed exchange including its enrollment process and financial management. Within 4 weeks of completing the site visit, the project officer should prepare a written report that will include a summary of the site visit, and recommendations to the state, if applicable.

For rate review grantees, CCIO's procedures do not address the frequency of site visits, but indicate site visits are used to further engage grantees, monitor programmatic progress toward established milestones, track fiscal performance, ensure compliance with programmatic and statutory requirements, and mitigate programmatic risks. The procedures indicate that selecting grantees for site visits will be determined by a number of factors including the stage of programmatic implementation and complexity of the grantee's rate review proposal, and the need for more hands-on auditing or budget review, or both. CCIO officials indicated that as of April 11, 2013, CCIO has conducted two site visits to rate review grantees.

CCIO requires each state receiving exchange grants to undergo three Establishment Reviews over the course of its grant period. CCIO uses these reviews to assess states' activities and provide systematic feedback on their progress towards development of an exchange. The reviews are conducted at certain readiness benchmarks, rather than specific times.

- **Planning.** The first review is the planning review generally in the first quarter after the grant is awarded. The state must demonstrate preliminary progress towards establishing an exchange, and receives feedback. The review results in a list of tasks for the state to complete before the design review.
- **Design.** The second review is the design review, which occurs after states have selected their key contractors for exchange establishment, typically about 6 to 9 months after the planning review.

States are expected to have established business requirements and developed detailed plans and procedures for key activities for their exchange.

- **Operational.** The final operational review occurs after exchange development and implementation is complete, to test the exchange and demonstrate that it is ready to begin operation.

After each of these reviews, CCIO's procedures require project officers to prepare a postestablishment report describing deliverables by both CCIO and the grantee. These reports are designed to provide a summary of the progress the state has made in meeting the necessary requirements related to establishing an exchange. The report also serves as a guide in identifying action items and next steps to ensure adherence to mandatory timelines. According to CCIO officials, in calendar year 2012 they completed planning reviews for 24 grantees and design reviews for 28 grantees, covering 31 of the 38 states with Level 1 Exchange Establishment grants. As of March 2013, they had not completed any operational reviews, but planned to complete them between August and September 2013.

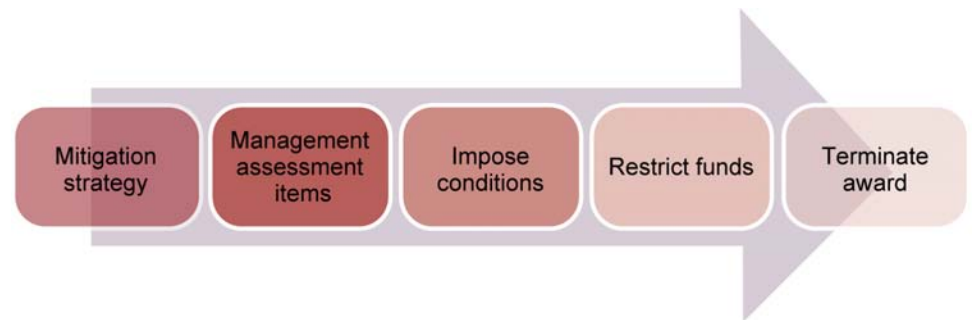
Finally, all recipients of these grants are required to obtain an A-133 Audit.³⁵ According to CCIO guidance, CCIO reviews the audit for each grantee. According to CCIO officials, they plan to use the A-133 Audit results as part of their Operational Establishment Reviews for exchange grants and as part of future Annual reviews for rate review grants. The guidance also calls for grantees to address any significant findings from the audit and to develop plans for mitigating future problems.

³⁵The Single Audit Act, as amended, requires each reporting entity that expends \$500,000 or more in federal awards, including grants and other assistance, in a fiscal year to obtain an annual "single audit," which includes an audit of the entity's financial statements and a schedule of the expenditure of federal awards, and review of related internal controls. See 31 U.S.C. §§ 7501 *et seq.* To assist the single audit community in carrying out its respective audit responsibilities, the Office of Management and Budget performs several activities, including issuing guidance for implementing single audit requirements as described in Office of Management and Budget Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and the Compliance Supplement.

HHS’s Oversight Process Includes Several Mechanisms to Address Concerns or Noncompliance Identified through Routine Monitoring and Respond to State Change Requests for Exchange and Rate Review Grants

CCIIO officials indicated that if CCIIO’s regular oversight process identifies instances when a grantee may not be complying with requirements of the grant, CCIIO uses a five-tier response to address them, in which CCIIO advances its response to the next tier if its earlier responses did not address the issue (see fig. 5).

Figure 5: Five Tiers of Center for Consumer Information and Insurance Oversight (CCIIO) Responses to PPACA Exchange and Rate Review Grantee Noncompliance



Source: GAO analysis of Center for Consumer Information and Insurance Oversight (CCIIO) information.

In the first tier, CCIIO officials indicated they discuss compliance issues with the exchange or rate review grantee and request a mitigation strategy, which CCIIO documents in the project records. The second tier calls for production of management assessment items by the state, such as a documented business plan to address the compliance issue in a specific time frame. In the third tier, CCIIO imposes conditions on the grant award, which identifies the reason for the condition and limits the grantee’s access to funds, until the grantee provides requested documentation. In the fourth tier, CCIIO restricts the grantee’s access to funds until it reviews and approves the grantee’s corrective action. CCIIO’s final action in the fifth tier is to terminate the grant. According to OAGM officials, to date they have not had to impose conditions or restrictions on grants based on their regular oversight. Further, OAGM officials said that so far they had not identified any misuse of grant funds on the basis of established program criteria.

If a state seeks to make certain changes to the terms of its exchange or rate review grant, CCIO requires that the state obtain prior approval, and has established procedures to review the appropriateness of any such requests. CCIO refers to these as postaward actions, and they include instances such as when a state wants to alter substantially the allocation of funds between major activities funded by a grant (called a budget revision), or extend the time frames for performing grant activities without changing the award amount (called a no-cost extension). Eight types of routine, grantee-initiated postaward actions are described in table 6 below.

Table 6: Listing of Routine PPACA Exchange and Rate Review Grantee-Initiated Postaward Action Requests

Grantee postaward request	Description of grantee request
Budget revision	A grantee requests approval to reallocate its budget when expenditures in a budget category deviate (increase or decrease) from the level established at the time of the award by 25 percent or more of the total amount awarded.
Remove condition	A grantee requests that a condition be removed when it believes it has sufficiently addressed an issue of noncompliance.
No-cost extension	A grantee requests extension of the original grant award period to complete the project goals and objectives with the remaining grant funds without changing the award amount.
Change in grantee of record	A grantee requests to make a change in the grantee of record from one entity to another.
Change in key personnel or authorizing official	A grantee requests approval to make key personnel changes, for example due to resignation of a key official.
Carryover of unobligated balances	A grantee with an award that may be spent over more than 1 year requests approval to carry over unobligated funding from one year to the next year.
Administrative supplements	A grantee requests additional funding to cover costs within the original scope of the approved project.
Remove funds restriction	A grantee requests access to funds that have been previously restricted.

Source: GAO analysis of Center for Consumer Information and Insurance Oversight (CCIO) procedures.

For example, if a state wants to reallocate more than 25 percent of an exchange grant among budget categories, CCIO requires the state to work with the appropriate project officer to obtain approval by OAGM. Under its procedures, CCIO requires the state to provide supporting documentation to justify the proposed rebudgeting. The project officer will review the request and make a recommendation to the OAGM. If approved, OAGM will amend the grant agreement to reflect the revised budget. Officials indicated that the same general procedures apply to other types of postaward actions.

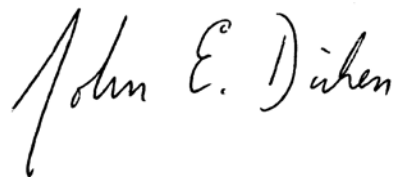
Officials indicated that CCIIO also requires states in which the anticipated exchange type changes (e.g., from a state-based exchange to a federally facilitated exchange) to obtain approval for a change in the scope of services permitted under the state's original grant or to terminate the grant. As of April 11, 2013, CCIIO officials indicated they are working with 11 states to determine the appropriate adjustments for their grants to reflect changes in the scope of services they will provide. For example, CCIIO officials indicated that Arizona was originally awarded funding to establish a state-based exchange, but the state subsequently decided to default to a federally facilitated exchange. CCIIO and the state are currently determining the extent to which the state will continue to participate in the grant program.

Agency Comments

We provided a draft of this report to HHS for its review and comment. HHS provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Secretary of Health and Human Services. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7114 or dickenj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



John E. Dicken
Director, Health Care

Appendix I: Overview of PPACA Exchange and Rate Review Grants to States

Grant type	Grant name	Purpose	Award amount	Award dates
Exchange	Planning	Provided states with 1 year of funding to assist with background research and initial planning activities related to the potential implementation of a state-based exchange, including plans for stakeholder involvement, governance structure, technical infrastructure, and necessary policy actions related to the exchange. States could only receive one grant.	<i>\$0-1 million</i> ; depends on states' proposed activities and budget (along with the Department of Health and Human Services' [HHS] assessment of the proposal).	September 2010 ^a
	Early Innovator	Provided 2 years of funding to a select number of states or groups of states that demonstrated leadership in establishing state-based exchanges, in particular by beginning development of cutting-edge, cost-effective, consumer-friendly IT for their exchanges. Awards were intended to allow the states to develop rigorous IT models and best practices that could be adopted and tailored by other states. States could only receive one grant.	<i>Variable</i> ; depends on states' proposed activities and budget (along with HHS's assessment of the proposal).	February 2011
	Level 1 Establishment	Provides up to 1 year of funding to support states' continued progress in carrying out activities in connection with a state-based or federally facilitated exchange, including a partnership exchange. Funding is awarded to help states undertake specific establishment activities relevant to a state's chosen exchange model. For example, states pursuing state-based exchanges may receive funding for activities within 12 categories, including legal authority and governance, consumer and stakeholder engagement and support, and plan management. States preparing to support federally facilitated exchanges are eligible to use grant funding for a subset of these activities, as outlined in the funding opportunity announcement. States may receive multiple grants.	<i>Variable</i> ; depends on states' proposed activities and budget (along with HHS's assessment of the proposal).	May 2011– December 2014
	Level 2 Establishment	Provides up to 3 years of funding to states that are further in their exchange establishment process and are specifically establishing state-based exchanges. Funding is awarded to help states undertake all exchange activities. To be eligible, states must have met certain milestones, including (1) obtaining the necessary legal authority to establish and operate the exchange; (2) establishing a governance structure for the exchange; and (3) submitting (to HHS) an initial plan for funding the long-term operational costs of the exchange. States may only receive one grant.	<i>Variable</i> ; depends on states' proposed activities and budget (along with HHS's assessment of the proposal).	May 2011– December 2014

Appendix I: Overview of PPACA Exchange and Rate Review Grants to States

Grant type	Grant name	Purpose	Award amount	Award dates
Rate review	Cycle I	Provided 1 year of funding to states or U.S. territories to help develop or enhance their rate review processes as well as their processes for reporting their rate increase patterns to HHS. States/territories could only receive one grant.	\$1 million	August 2010– March 2011
	Cycle II	Provides up to 3 years of funding (depending on the date of award) to further assist states or U.S. territories with developing or enhancing their rate review and reporting processes, with the specific purpose of helping states meet HHS's criteria for effective rate review programs. To be eligible, states that at the time of application do not have effective rate review programs in their individual or small group health insurance markets, or both, must commit to using grant funds to develop effective programs within 12 months of receiving the grant. States that at the time of application meet the effective rate review requirements must commit to using grant funds to further enhance their rate review programs. States are eligible for a second Cycle II grant if they have drawn down at least 60 percent of their previous Cycle II grant by August 1, 2013, and if HHS determines that sufficient funding is available after all eligible applications are considered for an initial Cycle II award. Additionally, California is eligible for two Cycle II grants because it has two regulatory agencies that are each primarily responsible for regulating a portion of the state's private health insurance market.	Total award amounts are made up of the following subawards: <u>Baseline award:</u> \$3 million (for grants awarded in 2011) or \$2 million (for grants awarded after 2011). <u>Workload award:</u> variable; depends on states' population and the number of health insurance issuers with 5 percent or more market share in the state. <u>Performance award:</u> approximately \$600,000 (for grants awarded in 2011) or \$400,000 (for grants awarded after 2011); given to states that have the legal authority to disapprove unreasonable rate increases in their individual or small group markets.	September 2011– September 2013

Source: GAO analysis of HHS information.

Notes: For the purposes of this table, we consider "states" to include the 50 states and the District of Columbia.

^aHHS also issued an Exchange Planning grant funding opportunity announcement in January 2011 for the two states (Minnesota and Alaska) that did not previously receive a Planning grant. The agency awarded a Planning grant to Minnesota in February 2011.

Appendix III: Projected Exchange Type and PPACA Exchange Grant Funding Awarded, Drawn Down, and Returned by State

Projected exchange type as of March 7, 2013 ^a	State ^b	Exchange grant funding awarded as of March 27, 2013 (dollars)	Amount drawn down as of February 29, 2013 (dollars)	Amount of award returned to HHS as of March 27, 2013 (dollars) ^c
State-based exchange	California	\$910,606,370	\$71,538,730	\$470,106
	New York	368,999,996	7,057,584	0
	Oregon	305,206,587	48,217,602	0
	Kentucky	253,698,351	8,155,064	530,912
	Massachusetts ^d	179,036,455	20,477,899	0
	Maryland	157,462,123	14,086,483	0
	Washington	151,791,012	36,071,703	0
	Vermont	129,954,081	8,389,298	0
	Connecticut	118,705,826	8,005,598	1,200,683
	Minnesota	113,169,007	25,558,741	0
	District of Columbia	82,186,049	4,363,877	0
	Hawaii	77,255,636	5,883,272	0
	Nevada	74,754,285	15,844,716	0
	Rhode Island	74,007,528	6,856,936	0
	Colorado	62,685,346	19,438,393	0
	New Mexico	35,279,483	3,105,794	0
	Idaho	21,376,556	998,220	0
Utah	2,000,000	973,677	0	
	Total	\$3,118,174,691	\$305,023,587	\$2,201,700
Federally facilitated partnership exchange	Iowa	42,221,578	10,347,769	0
	Michigan	41,517,021	919,955	0
	Illinois	38,989,615	2,508,684	71,412
	Arkansas	27,461,483	3,029,520	44,928
	Delaware	12,936,638	2,057,685	0
	West Virginia	10,667,694	3,091,052	0
	New Hampshire	1,894,406	919	0
		Total	\$175,688,435	\$21,955,584
Federally facilitated exchange	North Carolina	87,357,315	4,188,929	0
	Oklahoma	55,608,456	897,980	54,710,476
	Wisconsin	38,757,139	5,481,783	0
	Pennsylvania	34,832,212	583,319	0
	Kansas	32,537,465	818,383	31,527,075
	Arizona	30,877,097	11,894,252	0
	Missouri	21,865,716	2,279,248	0

**Appendix III: Projected Exchange Type and
PPACA Exchange Grant Funding Awarded,
Drawn Down, and Returned by State**

Projected exchange type as of March 7, 2013^a	State^b	Exchange grant funding awarded as of March 27, 2013 (dollars)	Amount drawn down as of February 29, 2013 (dollars)	Amount of award returned to HHS as of March 27, 2013 (dollars)^c
	Mississippi	21,143,618	5,287,692	329,875
	Alabama	9,772,451	3,129,650	0
	Tennessee	9,110,165	2,142,712	0
	New Jersey	8,897,316	1,060,889	0
	Indiana	7,895,126	6,078,967	34,585
	South Dakota	6,879,569	988,206	0
	Maine	6,877,676	999,841	5,877,835
	Nebraska	6,481,838	1,898,981	104,925
	Virginia	5,320,401	1,000,000	0
	Georgia	1,000,000	781,235	0
	North Dakota	1,000,000	231,978	0
	Montana	1,000,000	977,142	0
	Ohio	1,000,000	918,095	0
	Texas	1,000,000	96,425	903,575
	Florida	1,000,000	0	1,000,000
	South Carolina	1,000,000	304,996	693,004
	Louisiana	998,416	29,391	969,025
	Wyoming	800,000	578,652	221,348
	Alaska	0	n/a	n/a
	Total	\$393,011,976	\$52,648,746	\$96,371,722
Grand total		\$3,686,875,102	\$379,627,916	\$98,689,762

Source: GAO analysis of HHS data.

Notes: n/a = Not applicable.

^aProjected exchange types as listed are based on the Department of Health and Human Services' (HHS) conditional approval for 18 states to establish state-based exchanges and for 7 states to participate in partnership exchanges, which will begin operating on January 1, 2014.

^bFor the purposes of this table, we consider "states" to include the 50 states and the District of Columbia.

^cAccording to CCIO, states "returned" grant funding to HHS for reasons such as a state's decision not to pursue a state-based exchange.

^dThe total amount awarded to Massachusetts includes a \$35.6 million Early Innovator grant, which was awarded to the University of Massachusetts Medical School as part of a consortium of five states, including Connecticut, Maine, Massachusetts, Rhode Island, and Vermont.

Appendix IV: PPACA Rate Review Grant Funding Awarded, Drawn Down, and Returned by State

State ^a	Rate review grant funding awarded as of March 27, 2013	Amount drawn down as of March 13, 2013	Amount of award returned to the Department of Health and Human Services (HHS) as of March 27, 2013 ^b
New York	\$5,469,996	\$1,119,886	\$0
California	5,324,242	2,028,787	176,320
Pennsylvania	5,312,084	296,868	780,158
New Jersey	5,146,261	1,369,589	138,932
Ohio	5,091,507	1,802,777	0
Oregon	5,040,777	2,452,788	0
Colorado	5,031,188	2,083,075	0
Michigan	4,994,728	1,154,451	0
North Carolina	4,984,080	1,253,111	344,439
Tennessee	4,979,002	459,904	570,893
Maryland	4,961,072	493,573	0
Nevada	4,959,972	902,164	0
Wisconsin	4,958,844	2,031,573	0
Indiana	4,890,752	2,085,567	70,262
Arkansas	4,874,098	2,036,619	0
Vermont	4,804,045	815,142	594,107
District of Columbia	4,803,324	583,669	440,894
Mississippi	4,783,208	1,355,763	559,296
Rhode Island	4,724,651	1,539,085	29,478
New Hampshire	4,564,938	1,892,066	479,804
Illinois	4,531,085	563,598	0
Massachusetts	4,385,165	1,220,536	375,097
Utah	4,315,679	1,462,899	0
Kentucky	4,225,170	1,085,257	531,983
South Dakota	4,000,923	283,157	911,862
Hawaii	4,000,000	131,483	979,268
West Virginia	4,000,000	294,474	819,404
New Mexico	4,000,000	785,032	0
Minnesota	3,900,899	165,946	0
Arizona	3,000,000	684,340	388,441
Nebraska	3,000,000	660,528	0
South Carolina	1,000,000	669,670	0
Virginia	1,000,000	932,800	67,200

**Appendix IV: PPACA Rate Review Grant
Funding Awarded, Drawn Down, and Returned
by State**

State^a	Rate review grant funding awarded as of March 27, 2013	Amount drawn down as of March 13, 2013	Amount of award returned to the Department of Health and Human Services (HHS) as of March 27, 2013^b
Maine	1,000,000	407,532	0
North Dakota	1,000,000	200,137	0
Kansas	1,000,000	415,549	0
Florida	1,000,000	0	1,000,000
Connecticut	1,000,000	465,840	534,160
Texas	1,000,000	941,774	0
Oklahoma	1,000,000	19,981	980,019
Delaware	1,000,000	120,013	0
Idaho	1,000,000	40,622	959,378
Washington	1,000,000	768,535	231,465
Louisiana	1,000,000	875,475	0
Alabama	1,000,000	226,598	773,401
Missouri	1,000,000	91,072	908,928
Montana	1,000,000	999,300	0
Alaska	0	n/a	n/a
Georgia	0	n/a	n/a
Iowa	0	n/a	n/a
Wyoming	0	n/a	n/a
Total	\$159,057,690	\$42,268,603	\$13,645,190

Source: GAO analysis of HHS data.

Notes: n/a = Not applicable.

^aFor the purposes of this table, we consider "states" to include the 50 states and the District of Columbia.

^bCCIIO officials told us this funding was largely "returned" because it had not been used during its period of availability to the grantee.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

John E. Dicken, (202) 512-7114 or dickenj@gao.gov

Staff Acknowledgments

In addition to the contact named above, Randy DiRosa, Assistant Director; Priyanka Sethi Bansal; David Lichtenfeld; Laurie Pachter; and Stephen Ulrich made key contributions to this report.

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