

Centers for Medicare and Medicaid Services
Office of Acquisitions and Grants Management
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DATE: April 10, 2013

FROM: Mary Beth Greene, Director, Division of Grants Management

MB 4.11.2013
GH 4/11/2013

TO: Daniel Kane, Director, Office Acquisitions and Grants Management

THRU: Ed Hughes, Director, Acquisition and Grants Group

SUBJECT: Review/Clearance of Class Deviation Requests for no cost extensions for the CMS Nationwide Program for National and State Background Check Grants under the Affordable Care Act (ACA)

ISSUE:

The Centers for Medicare & Medicaid Services (CMS) has received \$160 million from Congress to fund the ACA Nationwide Program for National and State Background Checks. The purpose of this letter is to request a deviation from Departmental discretionary budget period funding rules as outlined in GPD 2.04 (H) (1) to allow an adjustment and implementation period of the ACA National and State Background Check Grants for Grantees awarded under the First Solicitation to apply for a second one year no cost extension to the original grants. The request would also allow Grantees awarded under subsequent solicitations to apply for a single one-year cost extension. Under this request grantee States would each be eligible to expend their grant funds for up to 48 months. This option is necessary to allow Grantees to use their funds to implement the various stages of the ACA Background Check program.

BACKGROUND/FACTS:

Under Title VI, Subtitle B, Part III, Subtitle C, Section 6201 of the ACA statute, CMS is directed to implement a National and State Background Check program that will identify efficient, effective and economical procedures for long term care facilities and providers to conduct background checks on a national and statewide basis on all prospective direct patient/resident access employees. The ACA statute appropriated a total of \$160 million for this funding opportunity. In order to participate in this nationwide program, a State must guarantee that it will make available non-Federal funds to cover a portion of the cost to be incurred by the State to carry out the program in their State. It is anticipated that many States will be able to provide matching up front and as it becomes available during various stages of the grant. CMS will provide Federal grant funds to each participating State that enters into this agreement with CMS at a rate of three times the amount that the State guarantees, not to exceed \$3 million dollars in Federal funds for the period of the grant.¹ Under the First Solicitation, State grant awards were for a period of 24 months. Subsequent grant awards have been for 36 months.

¹ (A) IN GENERAL-Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide for the transfer to the Secretary of Health and Human Services of the amount specified as necessary to carry out the nationwide program under paragraph (1). Such amount shall remain available until expended.

A previous deviation allowed initial grantees of two-year grants to receive a one year no cost extension to their grants. This request would allow an additional one year no cost extension for two year grantee States, and a single one year no cost extension for those States that received three year grants. These extensions will allow States to make the most effective use of federal funds made available under the grant.

DISCUSSION OF THE ISSUE:

CMS continues to invite proposals from all States and U.S. territories to be considered for inclusion in this National Background Check Program. Federal matching funds are available to all States and U.S. territories that meet the requirements described in section 6201 of the ACA. As of the date this communication, 22 States have received grants under the program. The resources allocation method for this program vary significantly State by State, beginning at the application period and continuing throughout the program development and implementation. For effective implementation and compliance with statutory requirements, it is vital that the States be assured of the full 36-month amount of Federal funds at the outset of the grant period. However, Grantee States under the First Solicitations were not originally presented with the option to apply for a one year no cost extension. The first deviation which allowed a single one year no cost extension to the First Solicitation States allowed additional time imperative to the success of this program.

Since the law's implementation, uptake has been slower than expected due to State funding constraints as well as uncertainty regarding the future of the Affordable Care Act. However, with improving State budgets allowing more access to State matching funds and the Supreme Court ruling upholding the ACA, spending on NBCP activities has increased and implementation is moving forward both in current grantee States and in those which have not yet applied for funding. Most grantee States are currently in early implementation and we anticipate many States will benefit from an additional year to implement their programs within the funds made available in the original grant. This applies to all States that have received funding under the grant program.

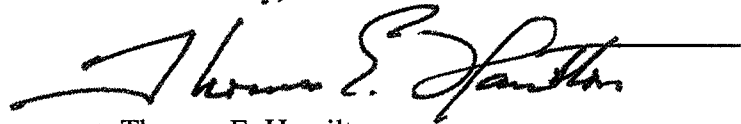
PROPOSED DEVIATION:

To be consistent with Congressional intent and Congressional language for the ACA National Background Check Demonstration Grant Awards, CMS requests a class deviation from Departmental discretionary grants funding as outlined. This request would allow Grantee states awarded under the First Solicitation to utilize grant funds over a total 48-month budget period through a second one year no cost extension. Furthermore, the request would allow states which received three year grants under later solicitations to apply for and receive a one year no cost extension to provide them a total budget period of 48 months as well.

RECOMMENDATION:


The CMS Survey and Certification group (SCG) recommends that CMS, Office of Acquisitions and Grants Management (OAGM) request a deviation from Departmental discretionary grants funding as outlined in GPD 2.04 (H) (1) to allow the FY 2010 ACA statute National Background Check Demonstration Grant Awards under the First Solicitation the option to apply for a second one year no cost extension and to allow Awards under later solicitations the option to apply for a single no-cost extension. The recommendation would allow Grantee States to continue implementation over a 48-month period and achieve the intended program outcomes.

Sincerely,



Thomas E. Hamilton
Director

DECISION:

Approved  Disapproved _____ Date 4/17/2013

Daniel Kane, Director, Office of Acquisitions and Grants Management