

## **CY2013 Actuarial Bid Training, April 2012**

### **Presentation: OACT Compliance Initiative for CY2013**

Slides and Script prepared by CMS Office of the Actuary

**[SLIDE #1]** Welcome to the training session on OACT's Compliance Initiative for Contract Year 2013 bids.

**[SLIDE #2]** This session will highlight—the standards for compliance, the possible actions that CMS may take in response to non-compliance, and results of our compliance review effort for Contract Year 2012 bids. It will also include tips and recommendations aimed at enhancing compliance and improving the accuracy and efficiency of the bid submission process. Finally, we will provide some information to assist you in planning for bid review.

**[SLIDE #3]** When preparing MA and PD bids for review by CMS, each actuary's work must comply with relevant professional standards; these include —the American Academy of Actuaries' Code of Professional Conduct, any applicable Actuarial Standards of Practice; all applicable laws, rules and regulations; and any agency guidance, including the MA and PD bid instructions, guidance promulgated by OACT during the User Group Calls, and notices released via the Health Plan Management System. Note that these standards apply not only to how actuaries prepare bids but also to their conduct during bid review and bid audit. As always, we emphasize that adequate peer review and documentation are paramount to compliance; keep in mind that your success in—using peer review to prevent errors and mistakes from being submitted (or re-submitted) to CMS and thoroughly documenting your methods and assumptions can reduce or eliminate reviewers' questions and lessen your burden during bid review.

**[SLIDE #4]** In cases where certifying actuaries fail to comply with the standards outlined above, CMS may take action, including (but not limited to) phone calls or written warnings to actuaries to identify compliance issues and to discuss their remedy; letters of non-compliance or warning letters sent to the plan sponsors to alert them to the areas of non-compliance by their actuary; Corrective Action Plans to formalize a process to remedy issues arising from non-compliant actions; placing limitations on a plan's marketing and enrollment practices until the situation is remedied; or plan termination.

**[SLIDE #5]** For the CY2012 bid review effort, OACT asked reviewers to report compliance issues and to group them into the following categories:

- Significant disregard for or deviation from CMS bid instructions;
- Missing or incomplete documentation and/or not providing documentation at the time of the initial bid submission;
- Not being responsive: that is, not answering questions completely, adequately, or in a timely manner;
- Submitting items to CMS that contain errors or inconsistencies or that are not adequately peer reviewed prior to submission;
- Demonstrating a lack of knowledge of the program requirements or of the bid itself.

**[SLIDE #6]** After examining the comments from external and internal reviewers, OACT identified 13 cases that warranted direct phone calls with actuaries to discuss compliance issues associated with contract year 2012 bid submissions. OACT forwarded six of these cases to benefit compliance groups to initiate compliance action and to notify the plan sponsor. It should be noted that the majority of certifying actuaries are highly supportive of the bid submission and review processes and *are* compliant with the requirements. So even though this presentation addresses issues with a small number of non-compliant actuaries, OACT feels that a review of these cases can be informative for all in the context of avoiding conduct that can result in unwanted action and that can significantly hinder submission of accurate bids.

**[SLIDE #7]** Some examples of issues that resulted in compliance action by OACT for Contract Year 2012 were—

A large number of errors and/or repeated errors in submissions and resubmissions, both of which demonstrate a lack of adequate peer review; Supporting documentation responses submitted in response to bid review inquiries that fails to meet the standard stated in ASOP 41 that “another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work.”; and an apparent lack of knowledge of the bid requirements when questioned by reviewers.

It should be noted that OACT did not take explicit action on every case reported by reviewers. So if you didn’t receive a compliance phone call regarding your 2012 bid, that doesn’t mean that you were 100% compliant or that there is no room for improvement.

**[SLIDE #8]** In our phone conversations with certifying actuaries who had compliance issues, we heard statements that demonstrated a lack of understanding of the bid instructions, guidance, or the bid review process in general. This slide highlights lessons learned from those conversations; many of these articulate responsibilities of the certifying actuary. For example, the certifying actuary must know and understand All of the bid instructions, guidance, and requirements. CMS expects actuaries to raise questions and reach understanding on any “gray” areas prior to bid submission. And it is not acceptable during bid review to claim compliance with the instructions because (quote) “the reviewer we had last year said it was okay” (end quote). It is the certifying actuary’s responsibility to obtain all materials needed to complete the bid on time; it is not acceptable to submit a bid that is incomplete or not adequately peer reviewed or not adequately documented due to time constraints. The certifying actuary is responsible for all work carried out by others on his or her behalf; this includes documentation, resubmissions, and responses to reviewers’ questions. Using models to develop bids is a common and acceptable practice; however, OVER-reliance on models—such as blaming errors on a model—is inappropriate and not acceptable. Certifying Actuaries—NOT MODELS—are accountable for and must be able to explain all values and assumptions that comprise the bid.

**[SLIDE #9]** For the review of bids for Contract Year 2013, OACT will continue—and will seek to improve and update—its compliance initiative. OACT maintains historical feedback from reviewers and will incorporate that information into future reviews as needed. Although compliance issues may not necessarily warrant OACT action in one year, continued non-compliance over several years is likely to result in OACT action. The over-arching goals of OACT’s compliance initiative are to produce more accurate and transparent bids, and to enable more efficient and effective bid reviews.

**[SLIDE #10]** Compliance issues are treated like audit findings and observations, which means that 2012 issues must be remedied in 2013 bids, and a description of those remedies must be included in supporting documentation for the bid. Note that for audit findings and observations, themselves, this requirement applies to ALL findings and observations even those with which the certifying actuary disagreed.

**[SLIDE #11]** OACT expects all actuaries to work towards complete compliance with the many requirements of the bidding process. Knowledge of these requirements is essential. It should be pointed out that activities that can directly lead to a more accurate and well supported bid, such as reading the bid instructions, Actuarial Standards of Practice and the Code of Professional Conduct, may be a valid part of an actuary's continuing education. Seeking and obtaining adequate peer review is each actuary's responsibility and necessary for ensuring compliance. As always, OACT expects certifying actuaries to conduct themselves courteously and professionally throughout the review process.

**[SLIDE #12]** We offer tips and recommendations taken from comments made by both internal and external bid reviewers. They are intended to help actuaries avoid the pitfalls that have constrained the bid process in the past. Of primary importance is adequate and thorough documentation that meets the standard that “another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work.” By definition, this will prevent many reviewers’ questions and can significantly increase the efficiency of the review. CMS requires that plan sponsors develop and upload bid-specific information. Supporting documentation should include ALL the necessary information about that bid, without providing extraneous information that is applicable to other bids or contracts. The support must explain why the pricing assumption is appropriate for the circumstances of the bid, especially when data and studies are not available. Plan sponsors must upload additional supporting documentation during bid review to explain any bid values that have been revised.

**[SLIDE #13]** Ensuring that BPT to PBP consistency exists is another pro-active way to lessen the burden of the bid review process and/or make it more efficient. It is also recommended that certifying actuaries check the consistency of projected allowed costs and risk scores and check that utilization types and values match across worksheets.

**[SLIDE #14]** Attention to detail is critical to avoiding resubmissions. It is recommended that plan sponsors and certifying actuaries—review all flagged data validations and correct those that are in error; check the accuracy of every upload; and avoid carelessness (for example: repeatedly uploading incorrect files and/or uploading files to the wrong bid).

**[SLIDE #15]** Since we're working with the same timeline as we did in 2012 and since responsiveness is one of the evaluation categories in OACT's compliance initiative, we provide information on this slide to assist certifying actuaries in planning resource availability for bid review. OACT expects its contracted reviewers to send all initial correspondence by June 29. Additionally, OACT will be conducting several reviews internally. These include a review of red-circle validations and other data checks; MA BPT to PBP consistency; MA Worksheet 2 versus Worksheet 3 utilization consistency; and optional supplemental pricing. None of these reviews is new; we are just making you aware of the various areas for which you may receive inquiries. These reviews are conducted by different individuals; previously each individual sent correspondence related only to his or her area of review. In response to industry feedback, OACT will attempt to consolidate correspondence on these areas of review. However, inquiries can be avoided through the due diligence described throughout this presentation, namely peer review and thorough documentation.

**[SLIDE #16]** For more information concerning the topics covered in this training session, please refer to the resources indicated on this slide. This concludes the session on OACT's Compliance Initiative for CY2013.