

# Contract Supplier Obligations

The Centers for Medicare & Medicaid Services (CMS) is required by law to re compete competitive bidding contracts at least once every three years and announces the specific contract periods in the Request for Bids (RFB) instructions. Contract suppliers are responsible for fulfilling all terms of their contracts, starting on the first day of the contract period and must remain in compliance for the duration of the contract period. Following are key contract terms suppliers should consider when preparing their bids. However, contract suppliers should carefully review the obligations and requirements under their contracts for additional details.

- Contract suppliers must comply with the Medicare enrollment rules specified in [42 CFR §424.57\(c\)](#) throughout the contract period, which includes maintaining Medicare billing privileges and complying with state licensing and accreditation requirements. For example, for every item in a product category, a contract supplier must have at least one location eligible to furnish the item(s) within the competitive bidding area (CBA). Only the qualified location(s) on the contract will be eligible to furnish and bill Medicare for the competitively bid item(s).
- Contract suppliers must accept assignment on all items under their contracts. Payment for items under the contract will be based on the single payment amount.
- Contract suppliers are responsible for completing the intake and assessment process, delivering and setting-up the equipment timely, and providing training and instruction to the beneficiary and/or caregiver(s).
- Contract suppliers cannot discriminate against Medicare beneficiaries. The items a contract supplier makes available to Medicare beneficiaries under its contract must be the same items furnished to other customers.
- A contract supplier must furnish all items in the product category under its contract to any beneficiary who maintains a permanent residence in or visits a CBA and requests those items from the contract supplier. The contract supplier must furnish bid items and services throughout the entire CBA. A list of the [Round 1 2017 ZIP codes](#) is on the Competitive Bidding Implementation Contractor (CBIC) website at [www.dmecompetitivebid.com](http://www.dmecompetitivebid.com).

The only exception to this rule is a skilled nursing facility (SNF) or nursing facility (NF) that has been awarded a contract as a specialty supplier. SNFs and NFs that are specialty suppliers may only furnish contract items to their own residents. For more information on specialty suppliers, please see the [Specialty Suppliers](#) fact sheet.

- If a physician or other treating practitioner orders a specific brand or mode of delivery to avoid an adverse medical outcome for a beneficiary, the contract supplier must: 1) furnish that specific item, or 2) consult with the physician or treating practitioner for a suitable alternative and obtain a revised written prescription, or 3) assist the beneficiary with locating a contract supplier that will furnish the item. For more information, please see the [Prescription for Specific Brand or Mode of Delivery to Avoid an Adverse Medical Outcome](#) fact sheet.
- The sale of a competitive bidding contract is prohibited. If CMS determines that a contract



supplier sold its competitive bidding contract, that contract will be terminated. This rule does not prevent a contract supplier from entering into a change of ownership (CHOW) transaction. For example, a contract supplier could merge with or acquire a non-contract supplier if it chooses to do so. However, a contract supplier has specific obligations to notify CMS when it is negotiating a CHOW. The merger or acquisition must be reported to CMS for review, must be in compliance with all supplier standards and accreditation requirements, and comply with all Competitive Bidding Program requirements.

CMS may award a contract to an entity that merges with or acquires a contract supplier under specific circumstances. When a CHOW is reported, CMS will evaluate whether the new owner complies with the appropriate quality standards and accreditation requirements, supplier enrollment requirements, financial standards, and all other applicable program requirements. Please see the [RFB instructions](#) and Change of Ownership fact sheet for more information.

- Contract suppliers are responsible for the items and services they furnish directly or through the use of subcontractors. The only permissible subcontracting arrangements are those that comply with the DMEPOS Supplier Standards and applicable accreditation requirements. If a contract supplier decides to use a subcontractor for those services permitted by the Supplier Standards, the contract supplier as well as the subcontractor must have the applicable state licenses.

Contract suppliers must notify CMS of any subcontracting relationships that they have entered into for purposes of furnishing items and services under the program. They must also disclose whether the subcontractor meets accreditation requirements necessary to furnish these services. After the award of contracts, suppliers must notify CMS within 10 business days of entering into an agreement with subcontractors. If a subcontractor does not perform in compliance with the terms of the contract, the supplier will be in breach of the contract. For more information, please see the [Subcontracting](#) fact sheet.

- Contract suppliers are not guaranteed a minimum amount of business. Contract suppliers are responsible for furnishing all items and services in the product category in the CBA even if they have reached the estimated capacity included on their bid.

Any deviation from the contract requirements, including a failure to comply with governmental agency or state licensing requirements, constitutes a breach of contract. If a supplier breaches the contract, CMS has the right to take corrective action. For example, CMS could require a corrective action plan, suspend or terminate the contract, preclude the contract supplier from participating in the Competitive Bidding Program, or revoke the contract supplier's billing number.