

# Contract Supplier Obligations

The Centers for Medicare & Medicaid Services (CMS) recompetes competitive bidding contracts at least once every three years and announces the specific contract periods in the Request for Bids (RFB). Contract suppliers are responsible for fulfilling all terms of their contracts, starting on the very first day of the contract period, for the duration of the contract period. Here are key contract terms suppliers should consider when preparing their bids:

- Contract suppliers must maintain Medicare billing privileges, state licensure, and accreditation throughout the contract period. Contract suppliers must also comply with all other competitive bidding program requirements. For example, 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 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 agree to furnish covered items under its contract to any beneficiary who maintains a permanent residence in or visits a competitive bidding area (CBA) and requests those items from the contract supplier. 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 either provide that specific item, consult with the physician for a suitable alternative and obtain a revised written prescription, or 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 fact sheet.
- Under the national mail-order competition, contract suppliers must furnish the brand of diabetic testing supplies that works with the home blood glucose monitor selected by the beneficiary. Contract suppliers are prohibited from influencing or incentivizing beneficiaries by persuading, pressuring, or advising them to switch from their current brand (or, for new beneficiaries, from their preferred brand) of glucose monitor and testing supplies. Contract suppliers may not furnish unsolicited information about alternative brands. For more information, please see the National Mail-Order Competition for Diabetic Supplies 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. The merger or acquisition must be reported to CMS for its review, must be in compliance with all supplier standards and accreditation requirements, and comply with all competitive bidding program requirements. A contract supplier has specific obligations to notify CMS when it is negotiating a change of ownership.

CMS may award a contract to an entity that merges with or acquires a contract supplier under specific circumstances. When a change of ownership 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.

- continued pg. 2 -

- Contract suppliers are responsible for the items and services they provide 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. A Subcontractor Disclosure form is available on the Competitive Bidding Implementation Contractor (CBIC) website ([dmecompetitivebid.com](http://dmecompetitivebid.com)). If a subcontractor does not perform in compliance with the terms of the contract, the contract supplier will be in breach of the contract. For more information about subcontractors, please see the Subcontracting fact sheet and Frequently Asked Questions.

- Contract suppliers are not guaranteed a minimum amount of business. Contract suppliers will compete among themselves for Medicare beneficiaries' business on factors such as quality and customer service.
- Each contract supplier must submit a quarterly report (Form C) indicating the manufacturer and model of the items it offers to all customers. The supplier is also expected to review the information in the Supplier Directory posted on the Medicare website ([medicare.gov](http://medicare.gov)) to determine if the information is current. Current information must be submitted to the CBIC within 10 calendar days of the close of each quarter.

Any deviation from the contract requirements, including failure to comply with governmental agency or licensing organization 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.