



SMALL SUPPLIER PROVISIONS

The Medicare Modernization Act directs CMS to “take appropriate steps to ensure that small suppliers of items and services have an opportunity to be considered for participation in the program.” CMS has chosen two approaches in implementing this direction in the final regulations. First, if fewer than 30% of the successful bidders in a product category in a CBA are small suppliers, CMS will offer contracts to additional small suppliers. Second, small suppliers will be permitted to form networks that will submit bids on behalf of all network members. For purposes of both of these provisions, CMS has defined “small supplier” to mean a supplier with annual gross revenues of \$3.5 million or less.

Additional Small Supplier Contracts

After evaluating composite bids in each product category in each CBA, CMS will set a target number of small suppliers that will be awarded contracts. The target will be 30% of the number of successful bidders in the category. CMS will count the number of small suppliers among the successful bidders, and will then offer contracts to additional qualified small suppliers, beginning with the lowest unsuccessful composite bid, until the target for small supplier participation is reached. The bids of the additional small suppliers will not be used in the calculation of single payment amounts.

Networks

1. Only small suppliers may participate in networks. A network may include up to twenty small suppliers. Each member of the network must submit a statement certifying that it joined the network because it cannot furnish all of the items in the product category to beneficiaries throughout the CBA.
2. Each member of the network must satisfy the same eligibility requirements as individual bidders, including accreditation requirements.
3. The combined market share of the members of a network in a product category in a CBA may not exceed 20% of the Medicare demand for that product category in the CBA.
4. Each network must form a “single legal entity” to submit its bid. Networks will be assigned bidder numbers, but will not receive supplier numbers. If a network is awarded a contract, each supplier in the network will submit claims and receive payment under its own supplier number.
5. When submitting bids, networks must submit copies of all contracts with and among their members



6. A small supplier may join more than one network, but may not join multiple networks that submit bids to furnish the same product category in the same CBA. A supplier that joins a network may not submit an individual bid to furnish the same product category in the same CBA as a network of which it is a member.