

Forming Small Supplier Networks under the Medicare Competitive Bidding Program

The Medicare federal regulations governing the DMEPOS competitive bidding program (CBP) include a provision that allows small suppliers to form networks that can submit bids in the CBP.

Following are frequently asked questions regarding the Medicare rules for forming these networks. These FAQ include all the information contained in the regulations (see 42 C.F.R. §414.418).

What is the definition of “small supplier”?

CMS defines a small supplier as one that has no more than \$3.5 million in total annual revenues.

How many small suppliers can form a network?

A network can be comprised of at least 2 but no more than 20 small suppliers. All participants must have no more than \$3.5 million in total annual revenues.

How does the network form?

The small suppliers must form a single legal entity that acts as the bidder and submits the bid. Any agreement that the suppliers enter into for purposes of forming a network must be submitted to CMS. The network must identify itself as a network and identify all of its members.

What about antitrust laws?

Networks cannot be anticompetitive, all Federal laws and regulations regulating anticompetitive behavior apply to networks.

How does a small supplier network submit a bid?

The single legal entity that the small suppliers form submits a bid as a single entity.

If a network wins a bid, who submits the claims?

If the network is awarded a contract, each supplier must submit its own claims and will receive payment directly from Medicare for the items that it furnishes under the competitive bidding program.

What rules apply to networks?

- Each member of the network must satisfy the requirements in 42 C.F.R. §414.414(b)through(d).
 - 42 C.F.R. §414.414(b) – suppliers must meet the Medicare DMEPOS enrollment requirements (Medicare Supplier standards) and disclose legal actions/sanctions/exclusions and possess all required state and local licenses
 - 42 C.F.R. §414.414(c) – suppliers must be accredited by a CMS-approved organization for all the items in the product category of the bid

- 42 C.F.R. §414.414(d) – Suppliers must submit a business credit report with a numerical credit score or rating
- A small supplier may join one or more networks but cannot submit an individual bid to furnish the same product category in the same CBA as any network in which it is a member.
- A small supplier may not be a member of more than one network if those networks submit bids to furnish the same product category in the same CBA.
- A bid submitted by a network must include a statement from each network member certifying that the network member joined the network because it is unable independently to furnish all of the items in the product category for which the network is submitting a bid to beneficiaries throughout the entire geographic area of the CBA.
- At the time that a network submits a bid, the network's total market share for each product category that is the subject of the network's bid cannot exceed 20 percent of the Medicare demand for that product category in the CBA.

Disclaimer: *This material is intended solely for informational and educational purposes. If you want to learn more about creating networks within the Medicare DMEPOS competitive bidding program, we recommend consulting a healthcare attorney.*