Educational Objectives

Program: Subcontracts and Networks: innovative Tools to Succeed Under Competitive Bidding

Presenter: Jeff Baird, Esq., Brown & Fortunato, P.C.

Objectives:

1. Define and describe a subcontract and network under competitive bidding.
2. Discuss how subcontracts and network can benefit the independent provider.
3. Outline the legal parameters within which a subcontract or network must be structured.
Subcontracts and Networks: Innovative Tools to Succeed Under Competitive Bidding

Presented by
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Lawyers Ask the Dumbest Questions

ATTORNEY: What is your date of birth?
WITNESS: July 18th.
ATTORNEY: What year?
WITNESS: Every year.

Lawyers Ask the Dumbest Questions

ATTORNEY: What gear were you in at the moment of the impact?
WITNESS: Gucci sweats and Reeboks.
Attorney: This myasthenia gravis, does it affect your memory at all?
Witness: Yes.
Attorney: And in what ways does it affect your memory?
Witness: I forget.
Attorney: You forget? Can you give us an example of something you forgot?

Lawyers Ask the Dumbest Questions

Attorney: How old is your son, the one living with you?
Witness: Thirty-eight or thirty-five, I can’t remember which.
Attorney: How long has he lived with you?
Witness: Forty-five years.

Lawyers Ask the Dumbest Questions

Attorney: What was the first thing your husband said to you that morning?
Witness: He said, “Where am I, Cathy?”
Attorney: And why did that upset you?
Witness: My name is Susan.
Lawyers Ask the Dumbest Questions

ATTORNEY: Do you know if your daughter has ever been involved in voodoo?
WITNESS: We both do.
ATTORNEY: Voodoo?
WITNESS: We do.
ATTORNEY: You do?
WITNESS: Yes, voodoo.

Lawyers Ask the Dumbest Questions

ATTORNEY: Now doctor, isn’t it true that when a person dies in his sleep, he doesn’t know about it until the next morning?
WITNESS: Did you actually pass the bar exam?

Lawyers Ask the Dumbest Questions

ATTORNEY: The youngest son, the twenty-one-year-old, how old is he?
WITNESS: Uh, he’s twenty-one.
Lawyers Ask the Dumbest Questions

ATTORNEY: Were you present when your picture was taken?
WITNESS: Would you repeat the question?

ATTORNEY: So the date of conception (of the baby) was August 8th?
WITNESS: Yes.
ATTORNEY: And what were you doing at that time?
WITNESS: Uh....

ATTORNEY: She had three children, right?
WITNESS: Yes.
ATTORNEY: How many were boys?
WITNESS: None.
ATTORNEY: Were there any girls?
**Lawyers Ask the Dumbest Questions**

**ATTORNEY:** Can you describe the individual?
**WITNESS:** He was about medium height and had a beard.
**ATTORNEY:** Was this a male or a female?

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**Lawyers Ask the Dumbest Questions**

**ATTORNEY:** Are you qualified to give a urine sample?
**WITNESS:** Huh?

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**Lawyers Ask the Dumbest Questions**

**ATTORNEY:** Is your appearance here this morning pursuant to a deposition notice which I sent to your attorney?
**WITNESS:** No, this is how I dress when I go to work.
Lawyers Ask the Dumbest Questions

ATTORNEY: Doctor, how many of your autopsies have you performed on dead people?
WITNESS: All my autopsies are performed on dead people.

Lawyers Ask the Dumbest Questions

ATTORNEY: ALL your responses MUST be oral, OK? What school did you go to?
WITNESS: Oral.

Lawyers Ask the Dumbest Questions

ATTORNEY: Do you recall the time that you examined the body?
WITNESS: The autopsy started around 8:30 p.m.
ATTORNEY: And Mr. Denton was dead at the time?
WITNESS: No, he was sitting on the table wondering why I was doing an autopsy on him!
Lawyers Ask the Dumbest Questions

ATTORNEY: Doctor, before you performed the autopsy, did you check for a pulse?
WITNESS: No.
ATTORNEY: Did you check for blood pressure?
WITNESS: No.
ATTORNEY: Did you check for breathing?
WITNESS: No.

Lawyers Ask the Dumbest Questions

ATTORNEY: So, then it is possible that the patient was alive when you began the autopsy?
WITNESS: No.
ATTORNEY: How can you be so sure, Doctor?
WITNESS: Because his brain was sitting on my desk in a jar.

Lawyers Ask the Dumbest Questions

ATTORNEY: But could the patient have still been alive, nevertheless?
WITNESS: Yes, it is possible that he could have been alive and practicing law!
Section 302(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, usually referred to as the MMA, requires the Secretary of Health and Human Services to implement a competitive acquisition program for durable medical equipment and supplies, enteral nutrition, and off-the-shelf orthotics provided to Medicare beneficiaries.

The statute requires CMS to conduct bidding in 10 of the largest metropolitan statistical areas (MSAs) in 2007, additional large MSAs in 2009, and additional areas after 2009. It provides that competitive bidding may be phased in first among the highest cost and highest volume items and services or those items and services that have the largest savings potential.

CMS has the authority to exempt items for which the application of competitive bidding is not likely to result in significant savings. In addition to the competitive bidding program, the MMA requires CMS to establish a mandatory accreditation program for DME suppliers, to be implemented by independent accreditation organizations using quality standards established by CMS.
CURRENT STATUS OF THE COMPETITIVE BIDDING PROGRAM

On April 2, 2007, CMS issued final regulations implementing the DMEPOS competitive bidding program.

On the same day, the agency announced the MSAs where the initial round of bidding will be conducted and the products that will be included in the initial round. The selected MSAs are:

- Charlotte-Gastonia-Concord, NC-SC
- Cincinnati-Middletown, OH-KY-IN
- Cleveland-Elyria-Mentor, OH
- Dallas-Fort Worth-Arlington, TX
- Kansas City, MO-KS
STATUS OF COMPETITIVE BIDDING PROGRAM

- Miami-Fort Lauderdale-Miami Beach, FL
- Orlando, FL
- Pittsburgh, PA
- Riverside-San Bernardino-Ontario, CA
- San Juan-Caguas-Guaynabo, PR

The boundaries of competitive bidding areas (CBAs) more or less follow MSA boundaries, but not necessarily correspond exactly to MSAs.

For bidding purposes, products are grouped into categories that correspond generally, but not always exactly, to policy groups defined by the Statistical Analysis DMERC.

The product categories included in the 2007 bidding round are:
STATUS OF COMPETITIVE BIDDING PROGRAM

- Oxygen supplies and equipment
- Standard power wheelchairs, scooters, and related accessories
- Complex rehabilitative power wheelchairs and related accessories
- Mail-order diabetic supplies
- Enteral nutrients, equipment, and supplies
- Continuous positive airway pressure (CPAP) devices, respiratory assist devices (RAD), and related supplies and accessories

STATUS OF COMPETITIVE BIDDING PROGRAM

- Hospital beds and related accessories
- Negative pressure wound therapy pumps and related supplies and accessories
- Walkers and related accessories
- Support surfaces (group 2 and 3 mattresses and overlays) (Miami and San Juan only)

STATUS OF COMPETITIVE BIDDING PROGRAM

The bid submission deadline has been moved back from July 13, 2007 to September 25, 2007.

CMS originally expected to announce winning bidders in December, 2007, and to begin making payments under the competitive bidding program in the first ten CBAs on April 1, 2008.
STATUS OF COMPETITIVE BIDDING PROGRAM

The new date to announce winning bidders will likely be February 2008. The new date for payments to be made will likely be July 1, 2008.

In 2009 (i) CMS may begin to adjust payment rates in areas outside of CBAs for items included in the competitive bidding program, and (ii) implementation of competitive bidding will occur in an additional 70 CBAs.

STATUS OF COMPETITIVE BIDDING PROGRAM

After 2009, competitive bidding may be implemented in additional areas.

CMS has contracted with Palmetto Government Benefits Administrators, the former Region C DMERC, to be the Competitive Bidding Implementation Contractor (CBIC) that will handle many of the implementation tasks.

STATUS OF COMPETITIVE BIDDING PROGRAM

The CBIC will issue requests for bids (RFBs), evaluate bids, select contract suppliers and establish single payment amounts for all CBAs.

The Medicare Administrative Contractors (MACs) will continue to process claims and perform other MAC functions.
STATUS OF COMPETITIVE BIDDING PROGRAM

CMS intends to conduct an education campaign to ensure that Medicare beneficiaries receive information about the Competitive Bidding Program.

CMS is planning a supplier education campaign, including special bidders’ conferences, to provide information about the bidding process and to ensure that DME suppliers are aware of all aspects of the Competitive Bidding Program.

STATUS OF COMPETITIVE BIDDING PROGRAM

CMS will also provide education to ensure that referral sources and staff who work for them are prepared to refer people with Medicare to DME contract suppliers.

BIDDING ELIGIBILITY
To be eligible to submit bids, a supplier must be accredited or pending accreditation by an organization approved by CMS to accredit suppliers under the new quality standards.

The deadline for first round bidders to obtain accreditation has been moved back from August 31, 2007 to October 31, 2007.

To be eligible for a contract award, suppliers must

(i) be enrolled in Medicare in good standing and with no current sanctions;
(ii) disclose any previous legal actions, sanctions, or disbarments of any employees, officers or affiliated companies or subcontractors;

(iii) have all necessary state and local licenses; and
(iv) agree to the terms of the RFB and the resulting contract.
BIDDING ELIGIBILITY

A supplier may submit bids in as many CBAs and as many product categories as it wishes, but if it bids in a product category, it must submit a bid on every product in that category.

BIDDING ELIGIBILITY

Special rules apply to commonly-owned suppliers (defined to mean that one supplier has an ownership interest of 5% or more in another supplier) and commonly-controlled suppliers (defined to mean that an owner of one supplier is an officer, director or partner in another supplier).

BIDDING ELIGIBILITY

If two or more suppliers are commonly-owned or controlled, they may submit only one bid to furnish a product category in a particular CBA.

All commonly-owned or controlled suppliers that are located in the CBA, and all commonly-owned or controlled suppliers that are not located in the CBA but that will furnish the product category to beneficiaries within the CBA, must be included in the bid.
BIDDING ELIGIBILITY

Mail-order suppliers that furnish items included in the bidding categories must submit bids if they wish to furnish these items to beneficiaries in a CBA.

OTHER SIGNIFICANT PROVISIONS OF THE FINAL REGULATIONS

PRESCRIPTION FOR SPECIFIC BRAND

A physician or treating practitioner may prescribe a particular brand of a competitively-bid item, or a particular mode of delivery, if he or she determines that the particular brand or mode of delivery would avoid an adverse medical outcome for the beneficiary, and documents the reason for the determination.
**PRESCRIPTION FOR SPECIFIC BRAND**

When a physician or treating practitioner prescribes a particular brand or mode of delivery, the contract supplier must either

(i) provide the brand or mode of delivery prescribed;
(ii) consult with the physician or treating practitioner to find an appropriate alternative brand of item or mode of delivery and obtain a revised prescription; or

(iii) assist the beneficiary in locating a contract supplier that can furnish the prescribed brand or mode of delivery.

Medicare will pay the supplier only the single payment amount. The regulations specify that there is no extra payment for a specific brand or mode of delivery ordered by a physician.

**REPAIR AND MAINTENANCE**

Repair and maintenance of competitively bid items, including replacement parts, may be provided by any supplier with a Medicare billing number.

Payment for parts and labor will be generally as it is now, unless a part that is needed is itself a competitively-bid item (such as a wheelchair battery), in which case the single payment amount will apply.
TERMINATION OF CONTRACT

A supplier will not be permitted to terminate a contract before the end of its term.

CHANGE OF OWNERSHIP

If a contract supplier is acquired by or merges into a non-contract supplier, and the non-contract supplier meets the requirements for contract suppliers, CMS may award a contract to the acquiring supplier.

CMS believes that a supplier should not automatically become a contract supplier by merging with or acquiring a contract supplier.

ITEMS FURNISHED BY PHYSICIANS AND OTHER PRACTITIONERS

Physicians and certain other practitioners (physician assistants, nurse practitioners and clinical nurse specialists) may furnish a few competitively bid items, to their own patients only, without submitting bids or being awarded contracts.

The items are crutches, canes, walkers, folding manual wheelchairs, blood glucose monitors, and infusion pumps that are DME.
ITEMS FURNISHED BY PHYSICIANS AND OTHER PRACTITIONERS

Physical therapists in private practice and occupational therapists in private practice may furnish off-the-shelf orthotics to their own patients without submitting bids or being awarded contracts.

In all of these cases, payment will be based on the single payment amount.

REBATES

The proposed regulations included provisions under which contract suppliers could provide rebates to beneficiaries under certain conditions.

Those provisions have been omitted from the final regulations, and rebates will not be permitted.

SMALL SUPPLIER PROVISIONS
The MMA 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: the 30% requirement and networks.

There is a third approach that CMS has not emphasized: subcontract arrangements.

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.
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.
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.

Each member of the network must satisfy the same eligibility requirements as individual bidders, including accreditation requirements.

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.
SMALL SUPPLIER PROVISIONS

Networks

Each network must form a "single legal entity" to submit its bid.

Networks will be assigned bidder numbers, but will not receive supplier numbers.

SMALL SUPPLIER PROVISIONS

Networks

If a network is awarded a contract, each supplier in the network will submit claims and receive payment under its own supplier number.

When submitting bids, networks must submit copies of all contracts with and among their members.

SMALL SUPPLIER PROVISIONS

Networks

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.
### SMALL SUPPLIER PROVISIONS

**Subcontracts Example**

ABC Medical Equipment is located on the east side of the Missouri River in Kansas City. ABC does not have the capacity to serve patients on the west side the river. ABC is awarded a competitive bid contract for all of the Kansas City CBA.

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### SMALL SUPPLIER PROVISIONS

**Subcontracts Example**

XYZ Medical Equipment is located on the west side of the Missouri River. XYZ is not awarded a contract. ABC and XYZ may enter into a Subcontract Agreement ("Agreement") whereby ABC subcontracts to XYZ some of the responsibility to serve ABC’s patients on the west side of the river.

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### SMALL SUPPLIER PROVISIONS

**Subcontracts Example**

Under the Agreement, ABC will place some of its inventory on the premises of XYZ.

If a patient living on the west side of the Missouri River ("west-side patient") calls ABC for equipment (or if a physician refers a west-side patient to ABC), then ABC will notify XYZ of the west-side patient's needs.

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At the direction of ABC, XYZ will deliver the equipment (out of ABC’s inventory) to the west-side patient.

At the time of the delivery and set-up, XYZ will obtain the necessary signatures from the west-side patient and will forward the documentation to ABC.

ABC will bill the MAC for the equipment and will pay XYZ in accordance with the fee schedule set out in the Agreement.

The obligation of ABC to pay XYZ will be unconditional. That is, ABC will pay XYZ regardless of whether ABC receives payment from the MAC.

In the event that the west-side patient needs equipment that is not contained in ABC’s inventory on XYZ’s premises, then XYZ will provide the equipment from its inventory and ABC will purchase the equipment from XYZ.

This latter scenario will be the exception, not the rule.
In implementing the Agreement, the parties need to be careful. At the end of the day, ABC is the supplier.

When ABC bills the MAC, it is representing that it has the operational responsibilities and financial risk for providing the product to the west-side patient.

If XYZ handles the west-side patient on a turnkey basis, then the OIG’s April 2003 Special Advisory Bulletin (“Contractual Joint Ventures”) may be violated.

Equally as ominous, the government might take the position that ABC is, in fact, not the supplier; XYZ is, in fact, the supplier; ABC submitted a claim to the MAC for a product that it did not provide; as a result, ABC submitted a false claim; and XYZ conspired to assist ABC in submitting a false claim.
The bottom line is that in a subcontract arrangement, the contract supplier must have “skin in the game” (operational responsibilities and financial risk).

A subcontract arrangement can be entered into when a contract supplier can cover the entire CBA but does not provide a particular product (e.g., liquid oxygen) in a product category (oxygen supplies and equipment).

Looking at a different scenario, suppose that a DME supplier (“DEF Medical Equipment”) is based in Cleveland and only transacts business in Cleveland.
DEF desires to expand its business into Pittsburgh and Charlotte. DEF can submit a bid for the Cleveland, Pittsburgh and Charlotte CBAs.

If DEF is awarded the contract, then it can serve Cleveland with its own personnel and serve Pittsburgh and Charlotte through subcontract arrangements.

A losing bidder can serve as a subcontractor; a company that does not submit a bid can serve as a subcontractor; and a winning bidder can serve as a subcontractor for another winning bidder.
CMS does not require that a subcontractor be accredited. In fact, CMS does not require that a subcontractor even have a Medicare supplier number.

However, the contract supplier must be accredited and its accrediting organization will likely require that the contract supplier insure that a subcontractor follow the same quality standards that the accrediting organization imposes on the contract supplier.

Competitive bid contracts have three year terms. During the course of the term, the contract supplier can terminate its relationship with the subcontractor and replace it with a new subcontractor.
SURVIVAL STEPS IF YOU ARE NOT A SUCCESSFUL BIDDER

Continue as a “Grandfathered” Supplier

- There will be a “grandfathering” process for:
  - oxygen equipment and supplies;
  - inexpensive or routinely-purchased items furnished on a rental basis;
  - items requiring frequent and substantial servicing; and
  - capped rental items furnished on a rental basis.

Continue as a “Grandfathered” Supplier

- Only suppliers that began furnishing the grandfathered item listed above prior to implementation of competitive bidding may be eligible to participate as a grandfathered supplier.
Continue as a “Grandfathered” Supplier

• Beneficiaries may choose to continue renting the item from the grandfathered supplier, provided the grandfathered supplier is willing to continue furnishing the item under the same terms as the contract supplier (e.g., at the same price as the contract supplier).
• The beneficiary may choose to switch from a grandfathered supplier to a contract supplier at any time.

Continue as a “Grandfathered” Supplier

• If a supplier chooses to be a grandfathered supplier, then it must do so for all beneficiaries who request the services.
  – For items requiring frequent and substantial servicing and oxygen equipment, the supplier will be paid the bid payment amount.
  – For capped rental items and inexpensive or routinely-purchased items, the supplier will be paid the lower of the actual charge or rental fee schedule amount.

Continue as a “Grandfathered” Supplier

• Grandfathering is also applicable to suppliers that lose their contract status in a subsequent competitive bidding period.
Subcontract With a Contract Supplier

- Contract suppliers may need subcontractors for sales.
  - For example, a contract supplier may not be able to service the entire MSA or CBA.

Subcontract With a Contract Supplier

- Some suppliers may choose to be subcontractors, rather than submit bids.
- Those suppliers will need to execute legal contracts and Letters of Intent to enter into an Agreement with bidding suppliers, and have those documents submitted by the bidding suppliers during bidding.

Subcontract With a Contract Supplier

- Some suppliers may choose to be subcontractors after “losing” the bidding process.
- More details on subcontracting will be known when CMS releases the competitive bidding contracts.
Provide Products and Services Not Subject to Competitive Bidding

• The competitive bidding program only covers defined product categories, featuring enumerated items.
• Suppliers may sell products and services not covered in the competitive bidding program’s product categories without going through the bidding process.

Diversify or Seek Alternative Sources of Revenue

• Retail
  – Most suppliers significantly undervalue retail sales.
  – There is virtually no delay in reimbursement in retail sales; unlike delays associated with claims submissions.

Diversify or Seek Alternative Sources of Revenue

• Supplier is statutorily prohibited from charging Medicare substantially in excess of the supplier’s usual charges, unless there is good cause.
• In two advisory opinions and a guidance letter, the OIG made some efforts to define “substantially in excess” and “usual charges.”
Diversify or Seek Alternative Sources of Revenue

• 9/15/03 proposed rule stated that “usual charge” would be the average or median of the supplier’s charges to payors other than Medicare.
• Under the proposed rule, a supplier’s usual charge should not be less than 83% of the Medicare fee schedule amount.
• Exception for good cause: supplier can prove unusual circumstances requiring additional time, effort or expense, or increased costs of serving Medicare and Medicaid beneficiaries.

Diversify or Seek Alternative Sources of Revenue

• Proposed rule would include charges of affiliated companies into the calculation of a supplier’s usual charges.
• Affiliated entity is any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the supplier.
• CMS declined to convert the proposed rule into a final rule.

Diversify or Seek Alternative Sources of Revenue

• There is no bright line rule as to when a discount will require a showing of good cause.
• Relatively large differential between Medicare and non-Medicare prices will more readily be viewed as “substantially in excess.”
• If a supplier asserts cost savings to justify discounts to cash customers, then the supplier needs to be able to document the savings.
Long Term Care Facilities

• Most residents in long term care facilities may receive durable medical equipment reimbursed by Medicare Part B as if those patients were residents of their own homes.

Long Term Care Facilities

• For those long term care facilities that are not paid a per diem rate for the patient’s care, DME suppliers may either bill Medicare directly for provision of the equipment, or, in some cases, facilities may choose to contract with the DME supplier to provide the equipment directly to the facility and the facility will then provide it as a benefit to its residents.

Hospices

• The hospice benefit paid to the provider includes the equipment and products used to service the beneficiary.
  – DME suppliers are not entitled to receive reimbursement from Medicare for equipment provided to hospice patients.
  – Hospices, however, may purchase this equipment directly from DME suppliers.
### Veterans Administration (“VA”) Hospitals and Facilities

- The VA is a large purchaser of durable medical equipment and routinely sends out requests for proposals asking that DME suppliers submit a bid to different VA regions or facilities that service patients.
- More detailed information on the claim submission process and the regions involved is available online at [http://www1.va.gov/oamm/index.htm](http://www1.va.gov/oamm/index.htm).

### State Prison Systems

- Many state prison systems require durable medical equipment or pharmaceuticals for prisoners.
- Many states have moved towards having specific prison facilities designated as “medical detention centers.”

### Resort Hotels and Casinos

- Many large resort hotels have begun providing wheelchairs, scooters, and other medical equipment to their guests as a way of making the guests feel more at home.
- DME suppliers who live in a marketplace with large hotels and casinos should contact the hotels directly to determine if there is a contracting process and how companies may participate.
**Airports**

- Airports are frequent purchasers of wheelchairs and other medical equipment for use by customers traveling through the airport. Many of these pieces of equipment are provided by local medical equipment companies.

**Commercial Insurance**

- The supplier can make a concerted effort to serve enrollees covered by commercial insurance plans.

**Additional Survival Steps**

- Expanding into geographic areas not covered by competitive bidding.
- Sell the business to a successful bidder.
- Legal Hurdles
  - Anti-Kickback Statute
  - Stark Statute
  - Anti-Solicitation Statute
  - Beneficiary Inducement Statute
The Medicare Durable Medical Equipment Access Act was introduced in the House in July 2005 and in the Senate in September 2006.

The Bills would not repeal competitive bidding.

The goal of the Bills is to protect patient access and to ensure that small suppliers can participate in the bidding process.

The Bills would allow qualified small suppliers, that submit a bid below the current allowable, to participate at the selected award price.

Under the MMA, CMS can extend the reimbursement established under competitive bidding to non-competitive bid areas.
THE HOBSOON-TANNER/HATCH-CONRAD BILLS

• However, before extending reimbursement to non-competitive bid areas, the Bills would require CMS to conduct a comparability analysis for those areas to ensure the rate is appropriate to cost and does not reduce access to care.

THE HOBSOON-TANNER/HATCH-CONRAD BILLS

• The Bills also include provisions that:
  – Would restore judicial or administrative review of a number of CMS decisions related to competitive bidding.
  – Would require the quality standards to be in place before competitive bidding is implemented.
  – Would exempt small rural (populations under 500,000) MSAs.

THE HOBSOON-TANNER/HATCH-CONRAD BILLS

• Provisions (continued):
  – Would exempt items and services unless a 10% savings could be demonstrated.
  – Would subject the Program Advisory and Oversight Committee to the Federal Advisory Committee Act which requires public access to meetings and proceedings.
Learning Assessment Questions

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Questions:
1. According to the MMA, CMS bidding will be conducted in ____ of the largest metropolitan statistical areas in 2007 and 2009.
   a. 5
   b. 10
   c. 7
   d. All 52 states

2. The final deadline for bid submission was pushed back from July 13, 2007 to September 25, 2007.
   a. True
   b. False

3. CBIC stands for
   a. Community building inspection contractor
   b. Competitive buying implementation contractor
   c. Competitive bidding implementation contractor
   d. None of the above

4. CBIC will handle many of the implementation tasks except
   a. Evaluate bids
   b. Process claims
   c. Select contract suppliers
   d. Establish single payment amount for all competitive bidding areas (CBA)

5. Deadline for first round bidders to obtain accreditation has been moved back from August 31, 2007 to ________.
   a. October 31, 2007
   b. December 31, 2007
   c. November 30, 2007
   d. The date is still the same

6. To be eligible for a contract, suppliers must
   a. Be enrolled in Medicare in good standing and with no current sanctions
b. Disclose any previous legal actions, sanction, or disbarments of any employees, officers or affiliated companies or subcontractors

c. Have all necessary state and local licenses

d. All of the above

7. “Grandfathered” suppliers are suppliers that began furnishing the grandfathered items prior to implementation of competitive bidding.
   a. True
   b. False

8. The goal of the HOBSOON-TANNER/HATCH-CONRAD Bills is to protect patient access and to ensure that small suppliers can participate in the bidding process
   a. False
   b. True
Learning Assessment Answers

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Answers:
1. b
2. a
3. c
4. b
5. a
6. d
7. a
8. b