

Contract Supplier Obligations

The Centers for Medicare & Medicaid Services (CMS) re-competes competitive bidding contracts at least once every three years and announces the specific contract periods in the Request for Bids. In order to avoid any overlap of the Round 1 Rebid contract period for mail-order diabetic supplies and a possible contract period resulting from a national mail-order competition, the Round 1 Rebid contract period for mail-order diabetic supplies will be two years. The contract period for all other Round 1 Rebid product categories will be three years.

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 with which contract suppliers must comply throughout the contract period:

- Contract suppliers must maintain Medicare billing privileges, state licensure, and accreditation at all times. 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 (SNF or NF) 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 in locating a contract supplier that will furnish the item. For more information about this issue, please see the Prescription for Specific Brand or Mode of Delivery Fact Sheet.
- The sale or transfer of a competitive bidding contract is prohibited unless by a business organization's change of ownership (CHOW). 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 CHOW transaction. For example, a contract supplier could merge with or acquire a non-contract supplier if it chose to do so. The merger or acquisition must be reported to CMS for its review, must be in compliance with all supplier enrollment 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. The following chart summarizes the required notifications:

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Entity	Requirement	Number of Days to Meet Requirement
Successor Entity and New Entity	Must meet all requirements applicable to contract suppliers for the applicable competitive bidding program.	N/A
	The existing contract supplier must notify CMS if it is negotiating a CHOW.	60 calendar days before the anticipated date of the change
	Must submit to CMS the documentation in 414.414(b)-(d), if not submitted previously by the successor or the contract supplier or if no longer current. Duplicates of previously submitted information need not be submitted if that information is still current.	Within 30 calendar days prior to the anticipated effective date of the CHOW
Successor Entity Only	The successor entity that is acquiring the assets of the existing contract supplier must submit to CMS, a signed novation agreement acceptable to CMS, stating that it will assume all obligations under the contract.	At least 30 calendar days before the anticipated effective date of the change of ownership.
New Entity Only	If a new entity will be formed as a result of the merger or acquisition, the existing contract supplier must submit to CMS its final draft of a novation agreement as described in 414.422(d)(2)(iii).	At least 30 calendar days before the anticipated date of the CHOW
	The new entity must submit to CMS an executed novation agreement acceptable to CMS.	Within 30 calendar days after the effective date of the CHOW

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.

- 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 durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) supplier standards and applicable accreditation requirements. If you decide to use a subcontractor for those services permitted by the supplier standards, you as 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 your subcontractor does not perform in compliance with the terms of the contract, you would be in breach of the contract. For more information about subcontractors, please see the Subcontracting Fact Sheet and FAQs.

- 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 10169c) indicating the manufacturer, model name, and model number for the items it has furnished to Medicare beneficiaries during the previous quarter. The supplier is also expected to review the information in the Supplier Directory posted on the Medicare website (medicare.gov) to determine if the information is current. Current information must be submitted to the Competitive Bidding Implementation Contractor (CBIC) within 10 calendar days of the close of each quarter.

Any deviation from the contract requirements, including a 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.