

Opportunity for Networks (42 C.F.R. §414.418)

Small suppliers have the option to form networks for bidding purposes. Networks are two to 20 small companies joining together via some type of legal contractual relationship to submit bids for one or more product category under competitive bidding. CMS believes this option would allow small suppliers to band together to lower bidding costs, expand service options, or attain more favorable purchasing terms. CMS is limiting network participation to small suppliers which are defined as suppliers that generate gross revenue of \$3.5 million or less in annual receipts.

If suppliers do decide to form networks, the following rules must be met:

- A legal entity must be formed for the purpose of competitive bidding, such as a joint venture, limited partnership, or contractor/subcontractor relationship, which would act as the applicant and submit the bid.
- All legal contracts must be in place and signed before the network entity can submit a bid
- Each member of the network must be independently eligible to bid.
- Each member must meet any accreditation and quality standards that are required.
- The network cannot be anti-competitive. The network members' market shares for competitive bid product category when added together, cannot exceed 20 percent of the *Medicare* market for that product category within a competitive bidding area, at the time of bidding.
- A supplier may only join one network and cannot submit individual bids if part of a network. The network must identify itself as a network and identify all members in the network.
- Each network member will be responsible for billing Medicare and receiving payment.
- In response to comments voicing concern that the network formation process could implicate the Federal antitrust laws, CMS will now require that each network member sign a statement in the bid submitted by the network certifying that the supplier joined the network because it is unable 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.
- The size of each network will be limited to 20 suppliers because with 20 suppliers, each network member would generally be responsible for furnishing items to no more than 5 percent of the geographic area of the CBA.