Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

CMS GENERALLY MET REQUIREMENTS IN THE DURABLE MEDICAL EQUIPMENT COMPETITIVE BIDDING ROUND 1 REBID PROGRAM

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EXECUTIVE SUMMARY

CMS generally selected durable medical equipment suppliers and computed single payment amounts in the Durable Medical Equipment Competitive Bidding Round 1 Rebid Program in accordance with its established program procedures and applicable Federal requirements. On the basis of our sample, we estimated that CMS paid suppliers $33,704 less during the first 6 months of calendar year 2011 than they would have received without any errors. The overall effect to the program was immaterial, affecting less than 0.1 percent of the $113 million paid during the period.

WHY WE DID THIS REVIEW

The Medicare Improvements for Patients and Providers Act of 2008 contains a broad mandate requiring the Office of Inspector General (OIG) to assess, through a post-award audit, survey, or otherwise, the process used by the Centers for Medicare & Medicaid Services (CMS) to conduct the competitive bidding and subsequent pricing determinations that are the basis for the pivotal bid amounts and single payment amounts under rounds 1 and 2 of the competitive bidding program (the program). CMS has awarded contracts for round 1 through the Durable Medical Equipment (DME) Competitive Bidding Round 1 Rebid Program (Round 1 Rebid Program).

For this Round 1 Rebid Program review, we conducted an audit using a combination of inquiry and verification. We focused primarily on CMS's process for selecting Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) suppliers and its computation of the pivotal bid amounts and single payment amounts. For the round 2 review, we plan to use a similar process. We are currently conducting a limited scope review of the efficacy of CMS's procedures for ensuring supplier compliance with applicable licensure requirements under round 2 of the program. On the basis of the outcome of the limited scope review, we may include licensure verification in the round 2 review.

Our objective was to determine whether CMS selected DMEPOS suppliers and computed the single payment amounts in the Round 1 Rebid Program in accordance with its established program procedures and applicable Federal requirements. A "single payment amount" is the allowed payment for an item furnished under a competitive bidding program and is the median of the bid amounts submitted by winning suppliers for an item.

BACKGROUND

Medicare Part B covers DMEPOS items, including wheelchairs, hospital beds, diabetic test strips, walkers, and oxygen. Congress mandated the program and requires CMS to pay suppliers not with a Medicare fee schedule for selected DMEPOS items but with a generally lower single payment amount determined through a competitive bidding process. Under this process, DMEPOS suppliers who submit bids, win over other suppliers' bids, and accept competitive bidding contracts—called contract suppliers—are paid the competitively determined single payment amounts to provide certain DMEPOS items to Medicare beneficiaries residing in or traveling to competitive bidding areas.

The intent of the program is to reduce beneficiary out-of-pocket expenses and save Medicare money while ensuring beneficiary access to quality items and services. CMS has determined that Medicare has saved approximately $200 million in the first year of the Round 1 Rebid Program.

HOW WE CONDUCTED THIS REVIEW

We randomly sampled 100 of the 3,011 established DMEPOS single payment amounts in the Round 1 Rebid Program, and we examined the supplier selection process for the 266 winning suppliers in the sample and related payment calculation. We reviewed 63,906 lines of service related to our sample, totaling $5,079,201, paid during the first 6-month period of the program.

WHAT WE FOUND

We determined that CMS generally selected DMEPOS suppliers and correctly computed the sampled DMEPOS single payment amounts in accordance with its established procedures and applicable Federal requirements. Specifically, we determined that for 255 of the 266 DMEPOS winning suppliers associated with the sampled single payment amounts reviewed, CMS consistently followed its procedures and applicable Federal requirements.

While the overall effect on Medicare payments to suppliers was immaterial, we determined that for 11 of the 266 winning suppliers, CMS did not consistently follow its established procedures and applicable Federal requirements, which affected 19 of the 100 sampled single payment amounts. Specifically, nine winning suppliers did not meet financial documentation requirements, and CMS incorrectly used two suppliers in one single payment computation.

On the basis of our sample, we estimated that CMS paid suppliers $33,704 less than they would have received without any errors, or less than 0.1 percent of the $113 million paid under the Round 1 Rebid Program during the first 6 months of calendar year 2011. Hence, the overall effect on Medicare payments to suppliers was immaterial.

CMS inadvertently selected winning suppliers that did not meet program requirements because it did not always consistently follow established program procedures and Federal requirements. Specifically, for the small number of winning suppliers for which we found that judgment errors occurred, CMS did not (1) correctly follow its established program procedures during the bid evaluation process and (2) ensure that all bids of winning suppliers were included in the calculation of single payment amounts before awarding supplier contracts.

WHAT WE RECOMMEND

We recommend that CMS:

- follow its established program procedures and applicable Federal requirements consistently in evaluating the financial documents of all suppliers and

- ensure that all bids of winning suppliers are included in the calculation of single payment amounts before offering contracts.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) contains a broad mandate requiring the Office of Inspector General (OIG) to assess, through a post-award audit, survey, or otherwise, the process used by the Centers for Medicare & Medicaid Services (CMS) to conduct the competitive bidding and subsequent pricing determinations that are the basis for the pivotal bid amounts and single payment amounts under rounds 1 and 2 of the competitive bidding program (the program).[1] CMS has awarded contracts for round 1 through the Durable Medical Equipment (DME) Competitive Bidding Round 1 Rebid Program (Round 1 Rebid Program).

For this Round 1 Rebid Program review, we conducted an audit using a combination of inquiry and verification. We focused primarily on CMS's process for selecting Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) suppliers and its computation of the pivotal bid amounts and single payment amounts. For the round 2 review, we plan to use a similar process.[2]

OBJECTIVE

Our objective was to determine whether CMS selected DMEPOS suppliers and computed the single payment amounts[3] in the Round 1 Rebid Program in accordance with its established program procedures and applicable Federal requirements.

BACKGROUND

CMS administers Medicare, which provides health insurance for people aged 65 and over and those who have disabilities or permanent kidney disease. Medicare Part B covers DMEPOS items, including wheelchairs, hospital beds, diabetic test strips, walkers, and oxygen.

[1] MIPPA, § 154(a)(1)(A)(iv), amended the Social Security Act (the Act) by adding subparagraph (E) to § 1847(a)(1), 42 U.S.C.§ 1395w-3(a)(1).

[2] We are currently conducting a limited scope review of the efficacy of CMS's procedures for ensuring supplier compliance with applicable licensure requirements under round 2 of the program. On the basis of the outcome of the limited scope review, we may include licensure verification in the round 2 review.

[3] "Single payment amount" is the allowed payment for an item furnished under a competitive bidding program (42 CFR § 414.402). It is the median of the bid amounts submitted by winning suppliers for an item under the Round 1 Rebid Program (42 CFR § 414.416(b)).

Medicare Determines Payment Amounts for Some Durable Medical Equipment Through a Competitive Bidding Program

Traditionally, Medicare paid DMEPOS using a fee schedule. Congress enacted legislation through the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA)[4] to phase in a Medicare competitive program under which prices for selected DMEPOS sold in specified areas would be determined not by a fee schedule but with a generally lower single payment amount determined through a competitive bidding process. Under this process, DMEPOS suppliers who submit bids, win over other suppliers' bids, and accept competitive bidding contracts—called contract suppliers—are paid the competitively determined single payment amounts to provide certain DMEPOS items to Medicare beneficiaries residing in or traveling to designated competitive bidding areas. The intent of the program is to reduce beneficiary out-of-pocket expenses and save Medicare money while ensuring beneficiary access to quality items and services. CMS has determined that Medicare has saved approximately $200 million in the first year of the Round 1 Rebid Program. See Appendix A for a brief history of competitive bidding for DMEPOS in Medicare.

Competitive Bidding Process

DMEPOS suppliers who wanted to supply DMEPOS to Medicare beneficiaries under the Round 1 Rebid Program were required to submit a bid for selected products through a Web-based application process and to submit a hardcopy of certain required documents. CMS evaluated[5] bids using, among other factors, the supplier's eligibility, its financial stability, the bid price, and the total supplier capacity to meet beneficiary demand in a competitive bidding area.[6] If a supplier was seeking to furnish a product category within a competitive bidding area, the supplier had to submit a separate bid for each item in that product category.[7] CMS offered contracts to as many winning suppliers as necessary to meet or exceed the demand in each competitive bidding area.[8] As full payment for competitively bid DMEPOS items, winning suppliers accept the single payment amount derived from the median of all winning bids for an item.[9] Medicare reimburses the contract suppliers at 80 percent of the single payment amount for each DMEPOS item, with the beneficiary responsible for the remaining 20 percent.[10]

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[4] MMA, § 302(b)(1), amended the Act, § 1847, 42 U.S.C. 1395w-3.

[5] According to CMS, there were three levels of review at the Competitive Bidding Implementation Contractor (CBIC) for the Round 1 Rebid Program bid evaluation: two accounting technicians (blinded to each other) and a senior-level review by a financial analyst, an accountant, or a certified public accountant.

[6] 42 CFR §§ 414.414(a), (b), (c), (d), and (e).

[7] 42 CFR § 414.412(d).

[8] 42 CFR §§ 414.414(h)(1) and (2); 42 CFR § 414.414(i). CMS also offered contracts to as many small business suppliers as necessary to meet small-supplier program requirements (42 CFR §414.412(g)).

[9] 42 CFR §§ 414.416(b)(1) and (2).

[10] 42 CFR § 414.408(a). The Act, § 1847(b)(5)(B), 42 U.S.C. 1395w-3(b)(5)(B).

Regulations authorize CMS to contract with a CBIC (42 CFR §414.406(a)). CMS contracted with Palmetto GBA, the CBIC, and used its services to implement the program.[11]

HOW WE CONDUCTED THIS REVIEW

We reviewed CMS's process for selecting DMEPOS suppliers and its computation of single payment amounts. We randomly sampled 100 of the 3,011 established DMEPOS single payment amounts in the Round 1 Rebid Program, and we examined the supplier selection process for the 266 winning suppliers in the sample and related payment calculation. Our review covered all lines of service[12] on Medicare claims for all competitively bid DMEPOS items with dates of service from January 1 through June 30, 2011. During this period, Medicare paid $112,868,133 for 1,317,346 lines of service. We reviewed 63,906 lines of service related to our sample, totaling $5,079,201, paid during the first 6-month period of the program.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B contains the details of our audit scope and methodology, Appendix C contains our statistical sampling methodology, Appendix D contains our sample results and estimates, and Appendix E contains a summary of the single payment amount differences.

FINDINGS

We determined that CMS generally selected DMEPOS suppliers and correctly computed the sampled DMEPOS single payment amounts in accordance with its established procedures and applicable Federal requirements. Specifically, we determined that for 255 of the 266 DMEPOS winning suppliers associated with the sampled single payment amounts reviewed, CMS consistently followed its established program procedures and applicable Federal requirements.

While the overall effect on Medicare payments to suppliers was immaterial, we determined that for 11 of the 266 winning suppliers, CMS did not consistently follow its established procedures and applicable Federal requirements, which affected 19 of the 100 sampled single payment amounts. Specifically, CMS selected nine winning suppliers that did not meet financial statement requirements, and CMS incorrectly used two suppliers in one single payment computation.

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[11] Palmetto, acting on behalf of CMS and with CMS oversight, performed the majority of tasks under the program.

[12] A Medicare DME claim can contain up to 13 lines of service.

On the basis of our sample, we estimated that CMS paid suppliers $33,704 less than they would have received without any errors, or less than 0.1 percent of the $113 million paid under the Round 1 Rebid Program during the first 6 months of calendar year 2011. Hence, the overall effect on Medicare payments to suppliers was immaterial.

CMS inadvertently selected winning suppliers that did not meet program requirements because it did not always consistently follow established procedures and Federal requirements. Specifically, for the small number of winning suppliers for which we found that judgment errors occurred, CMS did not (1) correctly follow its established procedures during the bid evaluation process and (2) ensure that all bids of winning suppliers were included in the calculation of single payment amounts before awarding supplier contracts.

NINE WINNING SUPPLIERS DID NOT MEET FINANCIAL DOCUMENTATION REQUIREMENTS

To be eligible to participate in the program, each supplier must meet several eligibility requirements and meet financial standards. In order to meet financial standards, suppliers must submit certain financial documentation specified in the Request for Bids.[13] This documentation includes an income statement, a balance sheet, a statement of cash flow, a tax return extract, and a credit report.[14] CMS uses this documentation to determine supplier compliance with financial standards.[15]

The Round 1 Rebid Program bid instructions list several requirements for financial documentation, including the following:

(1) the amounts for the same account on related financial statements should match;

(2) the amounts within the financial statements must total properly;

(3) the statement of cash flow should be sectioned into operating, financing, and investing activities;

[13] 42 CFR § 414.414(d)(1) and 42 CFR § 414.402.

[14] Request for Bids Instructions, page 16. Accessed at http://www.DMEcompetitivebid.com/cbic/cbicrd1.nsf/files/Request_for_Bid_Instructions.pdf/$FIle/Request_for_Bid_Instructions.pdf on July 17, 2013.

[15] CMS, Financial Measures for the DMEPOS (Durable Medical Equipment, Prosthetics, Orthotics, and Supplies) Competitive Bidding Program. Accessed at http://www.DMEcompetitivebid.com/cbic/cbicrd1.nsf/DocsCat/852573EE00644C008525763B0073EAB3?Open&cat=Suppliers~Bid Evaluation on July 17, 2013.

(4) the balance sheet should identify current liabilities; and

(5) the credit report must be specific to the supplier organization.[16]

To determine whether CMS evaluated suppliers consistently, we obtained documentation from CMS explaining its reasons for not selecting 57 of the nonwinning suppliers. We noted that CMS did not offer contracts to some of these suppliers because they did not comply with the financial documentation requirements detailed above.[17]

Of the 266 winning suppliers associated with our sampled single payment amounts, we determined that CMS did not consistently follow its established procedures for 9 winning suppliers. These 9 winning suppliers submitted deficient financial documentation but were selected, resulting in 18 single payment amounts' being calculated incorrectly.[18] Specifically:

- five winning suppliers submitted related financial statements that did not match;
- two winning suppliers submitted financial statements that did not total properly;
- one winning supplier submitted a statement of cash flow that was not sectioned into operating, financing, and investing activities;
- one winning supplier submitted a balance sheet that did not identify current liabilities; and
- one winning supplier submitted a credit report that was not specific to its organization.

According to CMS officials, the inconsistent evaluation of the nine winning suppliers occurred because personnel responsible for performing the first-level review of supplier documentation did not always have the accounting background necessary to appropriately evaluate the suppliers. CMS officials told us that CMS has since implemented a requirement that all reviewers of supplier financial documentation have accounting degrees, have another business degree with experience in accounting, or be certified public accountants.

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[16] Request for Bids Instructions, Appendix B, pages 1 and 2. Accessed at http://www.DMEcompetitivebid.com/cbic/cbicrd1.nsf/files/Request_for_Bid_Instructions.pdf/$FIle/Request_for_Bid_Instructions.pdf on July 17, 2013.

[17] On the basis of our review of CMS's procedures for both winning and nonwinning suppliers, we determined that personnel performing the first-level review were supposed to reject suppliers who did not meet CMS's documentation requirements detailed above, including requirements regarding what "should" be submitted. Three of the nine winning suppliers did not meet CMS requirements regarding what "must" be submitted, and seven of the nine winning suppliers did not meet CMS requirements regarding what "should" be submitted. One of the winning suppliers had an error in both the "should" and "must" categories.

[18] One of the nine winning suppliers had more than one financial documentation deficiency. Seven of the 18 single payment amounts had 2 different types of errors, and 3 single payment amounts had 3 different types of errors.

TWO WINNING SUPPLIERS WERE INCORRECTLY USED IN ONE SINGLE PAYMENT COMPUTATION

For each combination of a product category and a competitive bidding area (competition), CMS evaluates the bids submitted by suppliers for items. The evaluation process includes calculating the expected beneficiary demand for each competition. The process also includes determining the number of suppliers necessary to meet the demand in each competitive bidding area.[19] We found that CMS initially excluded one supplier (Supplier A) and, to ensure that demand was met in the competitive bidding area, offered a contract to another supplier (Supplier B) that would not otherwise have been selected. Thus, CMS excluded Supplier A's bid and included Supplier B's bid in the calculation of the single payment amount. Next, CMS calculated the single payment amount and offered contracts to winning suppliers. Later, during its validation process, CMS determined that Supplier A had been improperly excluded from the Round 1 Rebid Program. To address this mistake, CMS offered Supplier A a contract and allowed Supplier B to retain a contract already offered and accepted. However, because CMS had already offered contracts to winning suppliers and had acceptances, CMS did not adjust the single payment amount to reflect Supplier A's bid. As a result, one single payment amount was not correctly calculated.

This error resulted because CMS did not ensure that all winning suppliers' bids were included in the calculation of single payment amounts before offering suppliers contracts.[20]

CONCLUSION

CMS generally followed its established procedures and applicable Federal requirements for selecting winning suppliers and computing the single payment amounts for the sampled DMEPOS items. For our 100 sampled single payment amounts during the first 6 months of calendar year 2011, CMS paid suppliers about $5.1 million for competitively bid items. Of these 100 single payment amounts, 19 in our sample were affected by financial documentation and single payment amount determination errors. As a result, suppliers received $1,119 less than they would have received without those errors.

On the basis of our sample results, we estimated that CMS paid less than it would have without any errors by just $33,704 during the first 6 months of the Round 1 Rebid Program (less than 0.1 percent of the $113 million in supplier payments during the period). This occurred because CMS did not always follow its established procedures and applicable Federal requirements.

Because a supplier must bid on every item in a competition, any error in determining eligibility can potentially affect single payment amounts for all the items in the competition. However, calculating single payment amounts using the median of winning bid amounts reduces the influence of each bid on the calculated single payment amount when compared with a

[19] 42 CFR §§ 414.414(b), (c), (d), and (e).

[20] The single payment amount calculations do not include bids from the winning suppliers that are offered contracts to meet small-supplier requirements in each competition (42 CFR § 414.414(g)(2)).

competitive bidding system in which the single winning bid determines the payment amount. The design of the single payment amount calculation CMS has established for the program creates some stability even in the presence of minor errors, as shown in the resulting small estimated impact on aggregate payments to winning suppliers.

RECOMMENDATIONS

We recommend that CMS:

- follow its established program procedures and applicable Federal requirements consistently in evaluating the financial documents of all suppliers and

- ensure that all bids of winning suppliers are included in the calculation of single payment amounts before offering contracts.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations. CMS's comments, excluding technical comments we addressed as appropriate, are included as Appendix F.

APPENDIX A: HISTORY OF COMPETITIVE BIDDING FOR DURABLE MEDICAL EQUIPMENT

Historically, Medicare pays for most DMEPOS on the basis of fee schedules.[21] Unless otherwise specified by Congress, fee schedule amounts are updated each year by a measure of price inflation. In the 5-year period before CMS implemented the program in 2008, annual Medicare Part B expenditures for DMEPOS items ranged from $7 billion to $8 billion.

Over the years, Medicare has paid above-market prices for certain items of DME. Such above-market payments may be due partly to the fee schedule mechanism of payment, which does not reflect market changes, such as new and less expensive technologies, changes in production or supplier costs, or variations in prices in comparable locations.

The Competitive Bidding Program Pays Suppliers a Single Payment Amount

To address market changes and the increased Medicare Part B expenditures for DMEPOS items, Congress enacted legislation through the MMA to phase in a Medicare competitive program under which prices for selected DMEPOS sold in specified areas would be determined not by a fee schedule but with a generally lower single payment amount determined through a competitive bidding process. Congress required CMS to establish a DMEPOS competitive bidding program as a permanent part of Medicare, beginning in 2007 with the initial phase of competition.[22] On July 1, 2008, CMS completed the process for awarding contracts for the Round 1 competition. However, on July 15, 2008, Congress terminated the Round 1 contracts and imposed additional requirements. It directed CMS to conduct a Round 1 rebid.[23]

On January 1, 2011, CMS implemented the Round 1 Rebid Program in nine competitive bidding areas for nine product categories. Competitive bidding areas are defined by specific ZIP Codes related to Metropolitan Statistical Areas. The nine competitive bidding areas in the Round 1 Rebid Program were Cincinnati-Middletown (Ohio, Kentucky, and Indiana); Charlotte-Gastonia-Concord (North Carolina and South Carolina); Cleveland-Elyria-Mentor (Ohio); Dallas-Fort Worth-Arlington (Texas); Kansas City (Missouri and Kansas); Miami-Fort Lauderdale-Pompano Beach (Florida); Orlando-Kissimmee (Florida); Pittsburgh (Pennsylvania); and Riverside-San Bernardino-Ontario (California).[24]

The nine product categories in the Round 1 Rebid Program were complex rehabilitative power wheelchairs and related accessories (group 2); continuous positive airway pressure devices,

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[21] The Act, § 1834(a)(1)(A), 42 U.S.C. § 1395m(a)(1)(A).

[22] The Act, § 1847(a)(1)(B)(i)(I), 42 U.S.C. § 1395w-3(a)(1)(B)(i)(I) (originally enacted by the MMA, § 302(b)(1)).

[23] The Act, § 1847(a)(1)(D), 42 U.S.C. § 1395w-3(a)(1)(D) (originally enacted by the MIPPA, § 154(a)(1)(A)(iv)).

[24] Accessed at http://www.DMEcompetitivebid.com/Palmetto/Cbic.nsf/files/Fact_Sheet_Competitive_Bidding_Areas.pdf/$File/Fact_Sheet_Competitive_Bidding_Areas.pdf on July 17, 2013.

respiratory assist devices, and related supplies and accessories; enteral nutrients, equipment, and supplies; hospital beds and related accessories; mail-order diabetic supplies; oxygen supplies and equipment; standard power wheelchairs, scooters, and related accessories; support surfaces (group 2 mattresses and overlays) in Miami-Fort Lauderdale-Pompano Beach, Florida, only; and walkers and related accessories.[25]

Each combination of a product category and a competitive bidding area is referred to as a competition. There were 73 competitions in the Round 1 Rebid Program.[26] Each product category is made up of related items, and each item is identified by a Healthcare Common Procedure Coding System (HCPCS) code or payment class.[27]

On April 9, 2013, CMS announced contract suppliers for the Round 2 competition and on July 1, 2013, implemented the Round 2 Program in 100 competitive bidding areas for 8 product categories. On October 31, 2013, CMS announced contract suppliers for the Round 1 Recompete with a targeted implementation date of January 1, 2014.

[25] Accessed at http://www.DMEcompetitivebid.com/cbic/cbicrd1.nsf/files/Fact_Sheet_Items_and_Services.pdf/$FIle/Fact_Sheet_Items_and_Services.pdf on July 17, 2013.

[26] The 73 competitions are made up of 8 product categories in 9 competitive bidding areas plus support surfaces only in the Miami-Fort Lauderdale-Pompano Beach, Florida, competitive bidding area.

[27] HCPCS codes are used throughout the health care industry to standardize coding for medical procedures, services, products, and supplies.

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the Round 1 Rebid Program in nine competitive bidding areas and covered nine product categories. Bidding began October 21, 2009, and ended December 21, 2009. In July 2010, CMS announced single payment amounts, and in November 2010, it announced the winning contract suppliers. On January 1, 2011, CMS implemented the contracts and prices for the Round 1 Rebid Program.

We did not review the overall internal control structure of CMS's competitive bidding program. Rather, we reviewed only those controls related to meeting our objectives.

We met with CMS officials in Baltimore, Maryland, and we performed our fieldwork at the CBIC, Palmetto GBA (Palmetto), in Columbia, South Carolina, in February 2012.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal statutes, regulations, and other guidance related to the Round 1 Rebid Program;
- obtained an understanding of the process for selecting suppliers and computing single payment amounts from CMS and Palmetto;
- interviewed CMS and Palmetto officials to inquire about its process for ensuring suppliers met basic supplier eligibility requirements;
- inquired about the process used to ensure each application had:
    - an active National Supplier Clearinghouse status,
    - a CMS-approved accreditation for the product category for which the suppliers submitted a bid,
    - applicable State licenses,
    - a bona fide bid,[28] and

[28] A bona fide bid is a bid that when considered by itself, passes scrutiny as a rational and feasible price for furnishing the item (42 CFR § 414.414(b)(4) and page 5 of the Request for Bids Instructions. Accessed at http://www.dmecompetitivebid.com/cbic/cbicrd1.nsf/files/Request_for_Bid_Instructions.pdf/$FIle/Request_for_Bid_Instructions.pdf on December 3, 2013.

- only one bid submitted if suppliers had common ownership;

- determined high-risk aspects of the program for review by performing a risk assessment based on program implementation requirements, applicable Federal criteria, and CMS and CBIC inquiries;

- obtained paid claims data with dates of service from January 1 through June 30, 2011;

- selected a random sample of 100 single payment amounts (Appendix C);

- identified the 43 competitions related to the DMEPOS items listed in our 100 single payment amounts;

- identified the 266 winning suppliers that were offered contracts within the 43 competitions;

- verified that the 266 winning suppliers in our sample met basic eligibility requirements for the high-risk aspects of the program identified by verifying that each application had:

  - the necessary network documentation if the winning supplier was part of a network,

  - the proper financial documentation[29] and met financial standards, [30] and

  - a bid that met the "small supplier" classification if submitting a bid as a small supplier;

- calculated the weighted bid[31] for each winning supplier's DMEPOS item in each competition;

- calculated the composite bid[32] by adding all the weighted bids for a winning supplier in each competition;

[29] From suppliers' financial documentation, we verified whether CMS correctly computed certain financial ratios and credit scores in determining whether suppliers met the program's established financial standards.

[30] Financial standards are established to reasonably ensure that suppliers will be able to fulfill their contractual obligations and provide beneficiaries the necessary DMEPOS items.

[31] "Weighted bid" is a specific DME item's weight (the volume of units of service for the DME item relative to the rest of the DME items in the product category) multiplied by the supplier's bid price for an item (42 CFR § 414.402).

[32] "Composite bid" is the sum of a supplier's weighted bids for all items within a product category that allows a comparison across suppliers (42 CFR § 414.402).

- verified the pivotal bid[33] calculations by:
    - arraying all of the winning supplier composite bids from smallest to largest,
    - determining the demand for each competition of our sample, and
    - computing the pivotal bid for each sampled competition by determining the accumulated supplier capacity of arrayed eligible suppliers[34] that met the demand;
- compared our calculated pivotal bid to that of CMS for any discrepancy;
- verified that the single payment amounts in the 100 randomly selected samples were calculated correctly by:
    - arraying the winning suppliers by their bid amount for each item in the product category and
    - computing the sampled single payment amount by calculating the median bid amount for all the winning bids in the competition;
- compared our calculated single payment amount to CMS's amount;
- verified that nonwinning suppliers that were not offered contracts because of reasons other than price were properly disqualified by:
    - identifying 57 suppliers in our sample that were disqualified for either not meeting financial standards or submitting unacceptable financial documentation and
    - reviewing the validity of the disqualifying decisions in the hardcopy documentation for all 57 disqualified suppliers; and
- discussed the results of our reviews with CMS.

See Appendix C for the details of our statistical sampling methodology and Appendix D for our sample results and estimates.

[33] "Pivotal bid" is the lowest composite bid based on bids submitted by suppliers for a product category that includes a sufficient number of suppliers to meet beneficiary demand for the items in that product category (42 CFR § 414.402).

[34] The eligible suppliers whose composite bids are less than or equal to the pivotal bid are considered the winning suppliers (42 CFR § 414.414(e)(6)).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C: STATISTICAL SAMPLING METHODOLOGY

POPULATION

The population consisted of single payment amounts[35] for the HCPCS codes in the Round 1 Rebid Program for the 73 competitions.

SAMPLING FRAME

The sampling frame contained 3,011 single payment amounts for HCPCS in 73 competitions. For these 3,011 single payment amounts, Medicare paid $112,868,133 for 1,317,346 lines of service from January 1 through June 30, 2011.

SAMPLE UNIT

The sample unit was a single payment amount for HCPCS codes in competitive bidding areas and all of its corresponding lines of service.

SAMPLE DESIGN

We used a cluster sample of single payment amounts for the basic HCPCS codes, including the modifiers for the basic HCPCS codes in the Round 1 Rebid Program. For each HCPCS code selected, we reviewed all lines of services containing that HCPCS code and any modifiers in the nine competitive bidding areas. By reviewing the calculation of the single payment amounts, we reviewed all lines of service paid containing the HCPCS codes for the sample items.

SAMPLE SIZE

We selected a random sample of 100 single payment amounts.

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the Office of Inspector General, Office of Audit Services (OIG/OAS), statistical software.

METHOD FOR SELECTING SAMPLE ITEMS

We consecutively numbered the sampling frame. After generating 100 random numbers, we selected the corresponding frame items.

[35] The 3,011 basic HCPCS codes were competitively bid at the rate for new equipment. HCPCS codes can have modifiers that indicate that they are not for new equipment. These modifiers do not have a separate bidding process. Rather, they are reimbursed at a rate based on the new equipment single payment amount. Rental items (modifier RR) are paid at 10 percent of the new amount. Used items (modifier UE) are paid at 75 percent of the new amount. Maintenance (modifier MS) on items is paid at 5 percent of the new amount.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to estimate the net impact on any single payment amount miscalculation.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Table 1: Sample Details and Results

Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Sample Items With Inaccurately Calculated Amount[36]	Value of Sample Items With Inaccurately Calculated Amount
3,011	$112,868,133	100	$5,079,201	19	-$1,119

Table 2: Estimated Value of Impacted Claims
(Limits Calculated for a 90-Percent Confidence Interval)

Point estimate	-$33,704[37]
Lower limit	-139,130
Upper limit	71,722

[36] Of the 19 incorrectly computed single payment amounts, only 11 had monetary impact on actual claims paid to suppliers.

[37] This represents projected underpayments on the $112,868,133 in the sampling frame.

APPENDIX E: SUMMARY OF SINGLE PAYMENT AMOUNT DIFFERENCES

Table 3: OIG Review Determinations for the 100 Single Payment Amounts

Legend

Error Type	Description
1	Amounts for the same account on related financial statements did not match
2	Amounts within the financial statements did not total properly
3	Statement of cash flow was not sectioned into operating, financing, and investing activities
4	Balance sheet did not identify current liabilities
5	Credit report was not specific to the supplier organization
6	Not all winning bids were included in the single payment amount calculation
0	No Error

Sample No.	Single Payment Amount Computation: Over (Under)[38]	Percentage Change From CMS Calculation	Error Type
1	$0.00	0.00%	0
2	($3.45)	(1.54%)	1, 2
3	$0.00	0.00%	0
4	$335.00	6.86%	1
5	$0.00	0.00%	0
6	$0.00	0.00%	0
7	$0.00	0.00%	0
8	($0.80)	(1.14%)	1
9	$0.00	0.00%	0
10	$0.00	0.00%	0
11	($0.12)	(1.00%)	2, 3, 5
12	$0.00	0.00%	0
13	$0.00	0.00%	0

[38] This column shows only the amount for the error in the single payment amount and not the total effect created by multiplying the error times the number of instances. Therefore, the total will not add up to -$1,119.

Sample No.	Single Payment Amount Computation: Over(Under)	Percentage Change From CMS Calculation	Error Type
14	$0.00	0.00%	0
15	$0.00	0.00%	0
16	$0.00	0.00%	0
17	$0.00	0.00%	0
18	$0.00	0.00%	0
19	$0.00	0.00%	0
20	$0.00	0.00%	0
21	$0.00	0.00%	0
22	$0.00	0.00%	0
23	$0.00	0.00%	0
24	$0.00	0.00%	0
25	$0.00	0.00%	0
26	$0.00	0.00%	0
27	$0.00	0.00%	0
28	$0.00	0.00%	0
29	$0.00	0.00%	0
30	$0.00	0.00%	0
31	$0.00	0.00%	0
32	$0.00	0.00%	0
33	$0.00	0.00%	0
34	$0.00	0.00%	0
35	$0.00	0.00%	0
36	$0.00	0.00%	0
37	$101.81	8.51%	1
38	$0.00	0.00%	0
39	$0.00	0.00%	0
40	$0.00	0.00%	0
41	$0.00	0.00%	0
42	$0.21	0.73%	1
43	$0.00	0.00%	0
44	($0.40)	(2.64%)	6

Sample No.	Single Payment Amount Computation: Over(Under)	Percentage Change From CMS Calculation	Error Type
45	$0.00	0.00%	0
46	$0.00	0.00%	0
47	($0.10)	(0.49%)	1, 5
48	$0.38	0.69%	2, 3, 5
49	($0.25)	(0.03%)	1
50	$0.00	0.00%	0
51	$0.00	0.00%	0
52	$0.00	0.00%	0
53	$0.00	0.00%	0
54	$0.00	0.00%	0
55	$0.00	0.00%	0
56	($0.27)	(0.22%)	2, 3
57	$0.00	0.00%	0
58	($0.19)	(0.01%)	1, 2
59	$0.00	0.00%	0
60	$0.00	0.00%	0
61	$0.00	0.00%	0
62	$0.00	0.00%	0
63	($0.19)	(0.81%)	2, 3
64	$0.29	0.08%	1
65	$0.00	0.00%	0
66	$0.00	0.00%	0
67	$0.00	0.00%	0
68	$0.00	0.00%	0
69	$0.00	0.00%	0
70	($0.53)	(0.06%)	1, 2
71	$0.00	0.00%	0
72	$0.00	0.00%	0
73	$0.07	0.35%	4
74	$0.00	0.00%	0
75	$0.00	0.00%	0

Sample No.	Single Payment Amount Computation: Over(Under)	Percentage Change From CMS Calculation	Error Type
76	$0.00	0.00%	0
77	$0.00	0.00%	0
78	$0.00	0.00%	0
79	$0.00	0.00%	0
80	$0.00	0.00%	0
81	$0.00	0.00%	0
82	$0.00	0.00%	0
83	$0.00	0.00%	0
84	$0.00	0.00%	0
85	$0.00	0.00%	0
86	($0.73)	(2.32%)	2, 3
87	$0.00	0.00%	0
88	($11.86)	(3.86%)	2, 3, 5
89	$0.00	0.00%	0
90	$0.00	0.00%	0
91	$0.00	0.00%	0
92	$0.00	0.00%	0
93	$0.00	0.00%	0
94	$0.00	0.00%	0
95	$0.00	0.00%	0
96	$0.00	0.00%	0
97	$0.00	0.00%	0
98	$2.00	1.98%	4
99	$0.00	0.00%	0
100	$0.00	0.00%	0

APPENDIX F: CMS COMMENTS

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

FEB - 6 2014

TO: Daniel R. Levinson
Inspector General

FROM: Marilyn Tavenner
Administrator

SUBJECT: Office of Inspector General Draft Report: CMS Generally Met Requirements in the Durable Medical Equipment Competitive Bidding Round 1 Rebid Program (A-05-12-00067)

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the above subject OIG draft. The draft report evaluated the supplier selection process for a subset of winning suppliers to determine if CMS followed its process in determining winning suppliers and correct single payment amounts for competitively bid items. OIG's objective was to determine whether CMS selected DMEPOS suppliers and computed the single payment amounts in the Round 1 Rebid Program in accordance with established program procedures and applicable federal requirements.

The OIG concluded that CMS generally followed their requirements when determining contract suppliers and associated single payment amounts. The limited examples presented where CMS did not appear to apply their process consistently resulted in a minimum reduction in payments, less than 0.1 percent ($33,704) to contract suppliers.

OIG Recommendation

The OIG recommends that CMS follow its established program procedures and applicable federal requirements consistently in evaluating the financial documents of all suppliers.

CMS Response

The CMS concurs with OIG's recommendation and makes every attempt to consistently apply all program procedures and applicable federal requirements during all phases of bid evaluation. CMS has enhanced the financial review process and all reviewers are accountants or certified public accountants (CPA).

OIG Recommendation

The OIG recommends that CMS ensure that all bids of winning suppliers are included in the calculation of single payment amounts before offering contracts.

CMS Response

The CMS concurs. All efforts are made to accurately determine if a bidder meets all competitive bidding requirements before we determine the single payment amounts. Multiple quality assurance steps have been developed and implemented to enhance this process and ensure the highest possible degree of accuracy before offering contracts.

We would like to stress that changing the single payment amounts after offers have been accepted is not contemplated by the current regulations and we are concerned that it may not be permissible under contracting law. Even if this practice were permitted, it might void all accepted offers, which might require issuance of new contract offers based on the new payment amounts. We continue to have concerns about this reverse contracting approach, which could require multiple iterative rounds of contract negotiations. We also note that suppliers that initially accepted contract offers might not be willing to accept different single payment amounts (particularly if the amounts go down).

After we have completed our bid evaluation, all non-winning bidders are notified and an explanation is provided as to why they did not qualify. Bidders are then provided an opportunity to file an inquiry with CMS, requesting that we re-evaluate our decision. If CMS finds that an error was made by CMS, we would then address the error by offering the bidder a contract for that competitive bidding area and product category.

The CMS thanks OIG for their efforts on this issue and looks forward to working with OIG on this and other issues in the future. CMS has additional general and specific comments that are attached to this response.