

# GAO@100 Highlights

Highlights of [GAO-21-602](#), a report to congressional committees

## Why GAO Did This Study

To achieve Medicare savings and address fraud concerns, Congress required that CMS, in the Department of Health and Human Services (HHS), phase in a CBP for certain DME product categories in designated geographical (or CBP) areas. CBP Round 2021 began on January 1, 2021, and included two product categories (off-the-shelf knee braces and off-the-shelf back braces) in a total of 235 CBP area and product category combinations (known as competitions). CMS estimated that round 2021 will save Medicare more than \$600 million over the 3-year contract period.

The Medicare Access and CHIP Reauthorization Act of 2015 included a provision for GAO to evaluate the effect of the new bid surety bond requirement on small supplier participation in the CBP. CMS defines small suppliers as those generating \$3.5 million or less in total gross Medicare and non-Medicare revenue annually. This report describes 1) the extent to which small suppliers participated in CBP round 2021 and 2) what is known about how the bid surety bond requirement and other factors affected or may affect small supplier participation in the CBP. GAO reviewed bidding process and contract award data; interviewed CMS officials; and interviewed representatives from two national DME industry trade organizations, including six of their small DME supplier members, that GAO selected based on their familiarity with the CBP and the new bid surety bond requirement.

HHS provided technical comments on a draft of this report, which GAO incorporated as appropriate.

View [GAO-21-602](#). For more information, contact Michelle B. Rosenberg at (202) 512-7114 or [rosenbergm@gao.gov](mailto:rosenbergm@gao.gov).

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## MEDICARE DURABLE MEDICAL EQUIPMENT

### Effect of New Bid Surety Bond Requirement on Small Supplier Participation in the Competitive Bidding Program

## What GAO Found

The Centers for Medicare & Medicaid Services (CMS) administers a competitive bidding program (CBP) to determine which suppliers may furnish certain durable medical equipment (DME) to Medicare beneficiaries in designated geographical areas. Specifically, suppliers submit bids to provide specified categories of DME items; CMS determines winning bids based on several factors, including the bid amount, and whether the estimated capacity of suppliers would meet the projected demand for those DME items in each area. Historically, winning suppliers could reject any contract offer to furnish CBP-covered items without penalty. This allowed them to help set CBP payment amounts without being held accountable for furnishing items at those amounts. However, beginning with round 2021—the most recent round of the CBP—bidding suppliers were required by law to obtain a \$50,000 bid surety bond for each CBP area in which they submitted a bid. These bonds require a supplier to accept a contract offer when its bid amount is at or below the median of the winning suppliers' bids used to calculate the CBP payment amount offered for each product category. If it does not, the supplier forfeits the bond.

GAO found that small suppliers successfully obtained contracts in CBP round 2021. For example, small suppliers accounted for 58 percent of the suppliers awarded contracts in round 2021. Slightly more than half of the bids small suppliers submitted resulted in contracts.

#### Contract Awards by Supplier Size for the Round 2021 Competitions

Size of bidders	Suppliers that bid		Suppliers awarded contracts	
	Number	Percent	Number	Percent
Small suppliers	383	60	207	58
Large suppliers	231	36	148	42
Unknown suppliers	24	4	0	0
<b>Total</b>	<b>638</b>	<b>100</b>	<b>355</b>	<b>100</b>

Source: GAO analysis of Centers for Medicare & Medicaid Services (CMS) data. 1 GAO-21-602

Notes: CMS defines small suppliers bidding as those generating \$3.5 million or less in total gross Medicare and non-Medicare revenue annually, large suppliers as those generating more than that amount of revenue, and unknown suppliers as those whose entire bid was disqualified for a missing financial document and, therefore, did not advance to the evaluation process where a supplier's size is determined.

CMS data suggest that bid surety bonds did not negatively affect small supplier participation in CBP round 2021. Specifically, the data show that the small supplier participation rate in round 2021 was comparable to that of the five prior CBP rounds. The data also indicated that only about 5 percent of small suppliers' bids were disqualified due to submission of invalid bid surety bonds.

Representatives from two national DME industry trade organizations, as well as six of their small supplier members, told GAO that the new bid surety bond requirement did not create a barrier for small suppliers, as bid surety bonds were accessible to small suppliers and reasonably priced. However, some of these representatives reported other factors may affect small suppliers' future participation in CBP rounds, such as concerns related to small suppliers' ability to provide items at rates that are competitive with larger suppliers.