

114TH CONGRESS  
1ST SESSION

# H. R. 284

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2015

Received; read twice and referred to the Committee on Finance

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## AN ACT

To amend title XVIII of the Social Security Act to require State licensure and bid surety bonds for entities submitting bids under the Medicare durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive acquisition program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare DMEPOS  
5 Competitive Bidding Improvement Act of 2015”.

6 **SEC. 2. REQUIRING BID SURETY BONDS AND STATE LICEN-**  
7 **SURE FOR ENTITIES SUBMITTING BIDS**  
8 **UNDER THE MEDICARE DMEPOS COMPETI-**  
9 **TIVE ACQUISITION PROGRAM.**

10 (a) BID SURETY BONDS.—Section 1847(a)(1) of the  
11 Social Security Act (42 U.S.C. 1395w–3(a)(1)) is amend-  
12 ed by adding at the end the following new subparagraphs:

13 “(G) REQUIRING BID BONDS FOR BIDDING  
14 ENTITIES.—With respect to rounds of competi-  
15 tions beginning under this subsection for con-  
16 tracts beginning not earlier than January 1,  
17 2017, and not later than January 1, 2019, an  
18 entity may not submit a bid for a competitive  
19 acquisition area unless, as of the deadline for  
20 bid submission, the entity has obtained (and  
21 provided the Secretary with proof of having ob-  
22 tained) a bid surety bond (in this paragraph re-  
23 ferred to as a ‘bid bond’) in a form specified by  
24 the Secretary consistent with subparagraph (H)  
25 and in an amount that is not less than \$50,000

1 and not more than \$100,000 for each competi-  
2 tive acquisition area in which the entity submits  
3 the bid.

4 “(H) TREATMENT OF BID BONDS SUB-  
5 MITTED.—

6 “(i) FOR BIDDERS THAT SUBMIT BIDS  
7 AT OR BELOW THE MEDIAN AND ARE OF-  
8 FERED BUT DO NOT ACCEPT THE CON-  
9 TRACT.—In the case of a bidding entity  
10 that is offered a contract for any product  
11 category for a competitive acquisition area,  
12 if—

13 “(I) the entity’s composite bid  
14 for such product category and area  
15 was at or below the median composite  
16 bid rate for all bidding entities in-  
17 cluded in the calculation of the single  
18 payment amounts for such product  
19 category and area; and

20 “(II) the entity does not accept  
21 the contract offered for such product  
22 category and area,

23 the bid bond submitted by such entity for  
24 such area shall be forfeited by the entity  
25 and the Secretary shall collect on it.

1           “(ii) TREATMENT OF OTHER BID-  
2           DERS.—In the case of a bidding entity for  
3           any product category for a competitive ac-  
4           quisition area, if the entity does not meet  
5           the bid forfeiture conditions in subclauses  
6           (I) and (II) of clause (i) for any product  
7           category for such area, the bid bond sub-  
8           mitted by such entity for such area shall  
9           be returned within 90 days of the public  
10          announcement of the contract suppliers for  
11          such area.”.

12          (b) STATE LICENSURE.—

13           (1) IN GENERAL.—Section 1847(b)(2)(A) of the  
14          Social Security Act (42 U.S.C. 1395w-3(b)(2)(A)) is  
15          amended by adding at the end the following new  
16          clause:

17                   “(v) The entity meets applicable State  
18                   licensure requirements.”.

19           (2) CONSTRUCTION.—Nothing in the amend-  
20          ment made by paragraph (1) shall be construed as  
21          affecting the authority of the Secretary of Health  
22          and Human Services to require State licensure of an  
23          entity under the Medicare competitive acquisition  
24          program under section 1847 of the Social Security

1 Act (42 U.S.C. 1395w-3) before the date of the en-  
2 actment of this Act.

3 (c) GAO REPORT ON BID BOND IMPACT ON SMALL  
4 SUPPLIERS.—

5 (1) STUDY.—The Comptroller General of the  
6 United States shall conduct a study that evaluates  
7 the effect of the bid surety bond requirement under  
8 the amendment made by subsection (a) on the par-  
9 ticipation of small suppliers in the Medicare  
10 DMEPOS competitive acquisition program under  
11 section 1847 of the Social Security Act (42 U.S.C.  
12 1395w-3).

13 (2) REPORT.—Not later than 6 months after  
14 the date contracts are first awarded subject to such  
15 bid surety bond requirement, the Comptroller Gen-  
16 eral shall submit to Congress a report on the study  
17 conducted under paragraph (1). Such report shall  
18 include recommendations for changes in such re-  
19 quirement in order to ensure robust participation by

1 legitimate small suppliers in the Medicare DMEPOS  
2 competition acquisition program.

Passed the House of Representatives March 16,  
2015.

Attest:

KAREN L. HAAS,

*Clerk.*