

113TH CONGRESS
2D SESSION

H. R. 4920

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2014

Mr. TIBERI (for himself, Mr. LARSON of Connecticut, Mrs. BLACK, Mr. VISCLOSKEY, Mr. JOHNSON of Ohio, and Mr. JOYCE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to require State licensure and performance guarantees 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medicare DMEPOS
3 Competitive Bidding Improvement Act of 2014”.

4 **SEC. 2. REQUIRING STATE LICENSURE AND PERFORMANCE**
5 **GUARANTEES OF BIDDING ENTITIES UNDER**
6 **THE MEDICARE DMEPOS COMPETITIVE AC-**
7 **QUISITION PROGRAM.**

8 (a) IN GENERAL.—Section 1847(a)(1) of the Social
9 Security Act (42 U.S.C. 1395w–3(a)(1)) is amended by
10 adding at the end the following new subparagraphs:

11 “(G) REQUIRING STATE LICENSURE AND
12 PERFORMANCE GUARANTEES FOR BIDDING EN-
13 TITIES.—With respect to rounds of competi-
14 tions beginning under this subsection on or
15 after the date of enactment of this subpara-
16 graph, the Secretary may not accept a bid from
17 an entity for an area unless, as of the deadline
18 for bid submission—

19 “(i) the entity meets applicable State
20 licensure requirements for such area for all
21 items in such bid for a product category;
22 and

23 “(ii) the entity has obtained (and pro-
24 vided the Secretary with proof of having
25 obtained) a bid and performance surety
26 bond (in this paragraph referred to as a

1 ‘bid and performance bond’) in a form
2 specified by the Secretary consistent with
3 subparagraph (H) and in an amount that
4 is not less than \$50,000 for each such
5 area.

6 “(H) TREATMENT OF BID AND PERFORM-
7 ANCE BONDS SUBMITTED.—

8 “(i) FOR SUCCESSFUL BIDDERS.—In
9 the case of a bidding entity that is offered
10 a contract for an area for a product cat-
11 egory, if the entity’s composite bid—

12 “(I) is at or below the product
13 category’s median composite bid rate
14 for the area and the entity does not
15 accept the contract offered for the
16 product and area, the bid and per-
17 formance bond submitted shall be for-
18 feited by the bidding entity and the
19 Secretary shall collect on it; or

20 “(II) is above such median com-
21 posite bid rate and the entity chooses
22 not to accept a contract for the prod-
23 uct category, the bid and performance
24 bond submitted shall be returned

1 within 90 days of the date of notice of
2 nonacceptance.

3 “(ii) CONVERSION INTO PERFORM-
4 ANCE GUARANTEE UPON CONTRACTING.—

5 If a bidding entity is offered and accepts
6 the contract, the bid and performance
7 bond submitted shall be retained as a per-
8 formance guarantee under the contract
9 and—

10 “(I) shall be returned to the enti-
11 ty within 90 days of the date of com-
12 pletion of the contract; or

13 “(II) shall be collected on by the
14 Secretary if the contract is terminated
15 before the expiration of the contract.

16 “(iii) RETURN OF BOND FOR LOSING
17 BIDDERS.—If a bidding entity submits a
18 bid that is not accepted for an area, the
19 bid and performance bond submitted for
20 the entity for such area shall be returned
21 within 90 days of the date of notice of
22 nonacceptance.”.

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