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General news

CRE on CMS

'They know that we've been around this game before'
By **Liz Beaulieu** Editor - 03.26.2010 [email](#)

WASHINGTON - The Center for Regulatory Effectiveness (CRE) is on a mission to make CMS's competitive bidding program more fair, or at least make it more transparent. Most recently, the government watchdog group asked the agency to release the financial standards it will use to select winning bids and winning bidders in June and September of this year. It's something CMS is required to do: The statute states that no bids can be awarded unless bidders meet the financial standards "specified" by the secretary of the Department of Health and Human Services. The CRE filed a formal petition asking CMS to release the standards late last year and got no response. The group raised the issue again at the Open Door Forum and the Program Advisory and Oversight Committee (PAOC) meeting, both in March. Here's what Jim Tozzi, who heads up the CRE, had to say about the group's nearly yearlong investigation into the controversial program.

HME News: How did competitive bidding show up on the CRE's radar?

Jim Tozzi: We looked all around the government asking, "What program is there where it's not about a big company being sued by an environmental group?" We wanted a program that involved some real people. After doing some research, we found the competitive bidding program.

HME: Why is it important for CMS to release the financial standards?

Tozzi: The law is very clear. It says people have to see these financial standards, because you have to meet those before you can even play in the program, yet CMS won't release them. They've released some background information, but not the important things, like the algorithm and thresholds they're using.

HME: Why won't CMS release the financial standards?

Tozzi: From what I've heard, they feel that people would "game the system." Well, in any financial system, all of us, within the law, will try to game the system. We all try to pay as few taxes as we can. There's nothing new about that.

HME: What has been CMS's response to your request?

Tozzi: I said at the PAOC meeting, "Alright, don't release the financial standards, but until you release them, you have to defer awarding the bids." I think they're a little concerned about that, because legally, they have to release them. So we're in a bit of a tug of war.

HME: What other communication has the CRE had with CMS about competitive bidding?

Tozzi: We suggested to CMS, "After you go through the program, we want you to adopt what we call the small business enhancement option." What we were saying was, "After you choose the prices and the winners, any supplier that's willing to meet the posted prices ought to be able to participate in the program." As we know, they rejected that.

HME: Has this been the CRE's first run-in with CMS?

Tozzi: No, we've been on them for years. I'll tell you something that people may or may not like: We were instrumental in killing Hillary Clinton's healthcare bill. We were the ones that created that big spaghetti chart that they took on the Senate floor that showed all the processes and all the regulations involved. So we have a track record. They know that we've been around this game before.

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