

# Healthcare Informatics

## A Deal From the Top of the PACS

*Organizations have more power than they realize to negotiate with PACS vendors.*

*by Vince Ciotti and Brian Fitzpatrick*

**Y**ou've just finished selecting your new picture archiving and communications system (PACS). Now it's time to sit down with the chosen vendor and negotiate the deal, right? Wrong! If you want to get the lowest price and best contract terms, you should negotiate during the selection process, when competition gives you clout. Once you declare a "winner," you've lost most of your negotiating power.

The following are negotiating strategies and suggestions that might be useful in helping you make the legal agreement for your new PACS almost as attractive as products sound in the brochures.

### **Start negotiating early**

As part of your request for information (RFI), ask each vendor you're considering for copies of its "boilerplate" agreements. These will reveal early on any one-sided clauses, such as governing of con-



tracts by laws of the vendor's state, not yours; assigning payments a fixed due date, regardless of when the system goes live; and lack of any penalties or remedies for extended down-times or system deficiencies.

As part of your RFI or request for proposal (RFP), ask vendors to complete a contract questionnaire that indicates which of their one-sided clauses they would be willing to change. Assign weights to the clauses and vendors' responses to score how willing they are to modify their agreements.

Then narrow the field to two finalists. Hold concurrent negotiating sessions between them, and pick your winner on the basis of what each is willing to give in discounts, terms and conditions.

### **Include physicians**

The primary users of PACS are physicians, so they

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should be an integral part of your selection and negotiating teams. Show them the noxious clauses in a vendor's boilerplate agreement and emphasize why change is essential. Present the scores of contract questionnaires and comparative pricing; often, physicians' astute business judgment tempers their desire for a "perfect" system. And if a physician has a favorite PACS, ask him or her to explain to the vendor that although the product is engaging, major contract problems block a deal.

PACS vendors know that physicians play a major role in selection. Involving physicians in the contracting process helps close the "back door" to your CIO, attorney and other members of the negotiating team, whom vendors sometimes approach for support.

### **Check technical specifications**

PACS involve many arcane details that the selection team might be tempted to not bother with in contract negotiations. Take interfaces, for example, such as between PACS and equipment in the radiology department (e.g., magnetic resonance imaging, ultrasound, computed tomography). Are all devices DICOM compatible? Can the vendor communicate with them? How about interfaces among PACS and radiology and hospital information systems, critical for today's computerized physician order entry and electronic medical records. With what version of HL7 is the vendor compliant? Are interfaces one-way or bidirectional? Do they include ADT, charges, orders *and* results?

How robust is communication among devices at nurses' stations, radiology and emergency departments, and physicians' offices? With the enormous size of PACS images, what response times can be achieved for T1, T3 and fiber optic lines? What speed Internet connections and how much disk storage do physicians' home and office PCs need?

If you skip over such technical minutiae until implementation, that is when the vendor will point to certain contract clauses that make resolution of these issues the hospital's financial responsibility, leading to cost overruns and user problems. If physicians have to wait a few seconds too many for the hundreds of images they view each day, you'll wish you had ensured these specifications in the contract.

### **Use the calendar**

Plan your negotiation process to take advantage of the time pressures on vendors. They want to maximize the dividends and good news (your contract) given to shareholders at their fiscal year-end. Don't assume that's December 31, because for some, the fiscal year ends in May or October. Quarter-ends are the second-best time to bring positive-earnings news to Wall Street, regardless of fiscal year-end. And sales reps' commissions and bonuses are usually calculated on the calendar year-end to coincide with W-2s. Make all three dates coincide and you can create the "perfect storm" for a high-pressure negotiation.

### **Avoid problems**

- Don't negotiate at vendors' "Taj Mahal" offices. Nearly all companies have imposing facades and thick rugs to convince you of their success. Instead, have vendors come to your facility's most impressive building so they want you as their next flagship.
- Don't grant low-level sales reps and regional managers access to your executives. Keep the level of negotiating personnel equal: director to director or vice president to vice president, for example. If a vendor wants access to your CEO, insist that its CEO comes to yours. In advance of negotiations, give your CEO a target discount rate and list of unacceptable terms.
- Don't accept "term licenses" requiring that you pay every year. Insist on a perpetual license—one license fee for perpetuity. Radiological images are valuable for many decades, during which term license fees will cost several orders of magnitude over a perpetual license.

### **Go for genuine value**

Spending millions of your hospital's scarce capital for a new PACS is the easy part. Getting the system to work and physicians to use it is the hard part. The document that can ensure success is not the RFP but the contract. Negotiate it well.



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