

The Future is Now  
The Digital Medical Office of the Future

The Electronic Health Record

Contracting and Negotiations

# Contracting

- 1st – What do you want to contract for?
- 2<sup>nd</sup> – Get a quote
- 3<sup>rd</sup> – Review the quote and the Contract
- 4<sup>th</sup> – Negotiate
- 5<sup>th</sup> – Get everything in writing
- 6<sup>th</sup> – Get HELP!!!!
- 7<sup>th</sup> – Sign the Contract
- 8<sup>th</sup> – *Now is where the real work starts !!*

# Contract Terms

## Where do you start

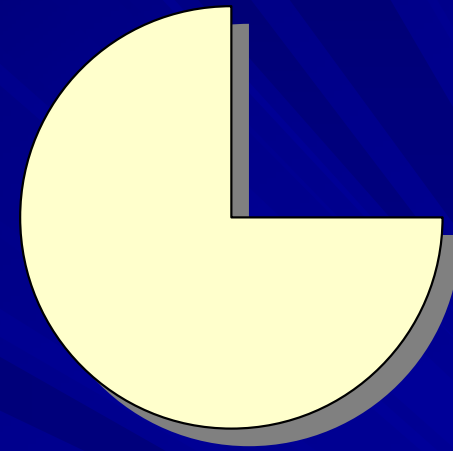
- Create a short Request for Quote (RFQ)
- Describe what you are looking for
- How many employees by job title
- Describe part-time people
- Describe your practice size and the number of patient's seen.
- Describe the type of hardware you already have.
- Tell the vendor what you want and then ask the vendor for options.



# Contract Terms

## Now that you have the RFQs

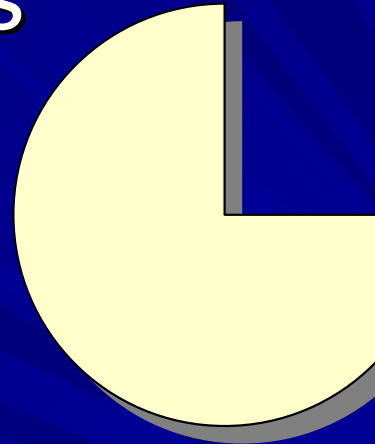
- Create a MS Excel worksheet for a side by side comparison.
- Include rows for:
  - Software costs
    - Core products and options
  - Hardware costs
    - Servers
    - Network
    - User devices (desktop, tablets)
  - Interfaces (PMS, Laboratory, Hospitals, etc)
  - Installation and Support (both hours and hourly rates)
  - 3<sup>rd</sup> Party Software (Libraries, Databases)
  - Data conversion
  - Travel costs (could be based on \$400.00 per on-site day)



# Contract Terms

## Now that you have the RFQs

- Determine your upfront costs
- Determine all annual support costs
  - Support
  - 3<sup>rd</sup> Party Software
  - Add on Costs
- Create a 3 and a 5 year total cost of ownership model.



# Contract Terms



- Over 40 changes are needed in the average contract
- Read the Contract
- Protect Your Investment
- Understand the Implementation Plan
- Make sure you have a good problem resolution process
- Negotiate favorable payment terms
- Execute a Business Associate Agreement

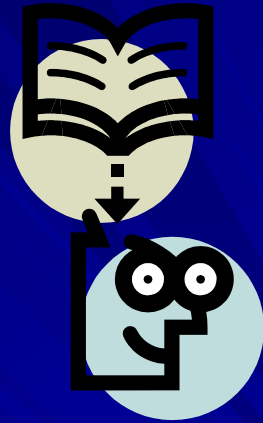
# Read the Contract

- Watch out for definition of “Provider”
  - Does it include physicians, PAs, NPs, what about other professionals
  - Part-time vs full-time
- Watch out for “7-Year” License
- Terms if the company is sold or if you sell your practice



# Contract Terms

- Did you negotiate the terms and conditions?
  - When are payments do?
    - 25% upfront
    - 25% when software is delivered
    - 25% after training
    - 25% 30-60 days after go live
  - Costs to add additional user





# Support

- Telephone support hours
  - 8:00 to 5:00 PM ET
    - Does not help those on the west coast
    - Who's time zone
    - What happens after hours
- What are their holidays?
- What does the support include
- Annual support increases
  - Increase based on index



# Support

- Escalation policy if problem exists
  - Vendor will call you back within 4 hours
    - It's been 4 –hours – now what?
    - Do you really want to wait 4-hours for a call back
  - System is down – 10 m call back, 30 m fix
  - System is running, but we have questions
  - New Enhancements



# Service Level Agreement

SEVERITY LEVEL	DESCRIPTION	INITIAL RESPONSE	STATUS NOTIFICATIONS	RESOLUTION	PERFORMANCE CREDIT PENALTY FOR FAILURE
	<p><b>EMERGENCY</b></p> <p>Production environment for the Services is unavailable</p>	<p>10 MINUTES</p>	<p>EVERY 30 MINUTES</p>	<p>1 HOUR</p>	<p>[\$_____]</p>
	<p><b>HIGH</b></p> <p>Production environment for the Services is available, but material and significant functionality of the Services or the Software is unavailable, and there is no workaround available.</p>	<p>1 HOUR</p>	<p>EVERY 2 HOURS</p>	<p>4 HOURS</p>	<p>[\$_____]</p>

# Service Level Agreement

SEVERITY LEVEL	DESCRIPTION	INITIAL RESPONSE	STATUS NOTIFICATIONS	RESOLUTION	PERFORMANCE CREDIT PENALTY FOR FAILURE
3	<p><b>PROBLEM/ERROR</b></p> <p>Resolution may require inclusion of correction in upcoming release of Software or implementation of change through appropriate change control mechanisms, to maintain system reliability</p>	1  BUSINESS DAY	EVERY  SECOND BUSINESS DAY	AS SOON AS COMMERCIALY PRACTICABLE THROUGH REASONABLE CHANGE CONTROL PROCESS OR SOFTWARE RELEASE MANAGEMENT	[\$_____]
4	<p><b>MODIFICATION REQUEST</b></p> <p>Resolution may require inclusion of correction in upcoming release of Software or implementation of change through appropriate change control mechanisms, to maintain system reliability</p>	2  BUSINESS DAYS	EVERY  THIRD BUSINESS DAY	AS SOON AS COMMERCIALY PRACTICABLE THROUGH REASONABLE CHANGE CONTROL PROCESS OR SOFTWARE RELEASE MANAGEMENT	[\$_____]

# Service Level Agreement

SEVERITY LEVEL	DESCRIPTION	INITIAL RESPONSE	STATUS NOTIFICATIONS	RESOLUTION	PERFORMANCE CREDIT PER FAILURE
5	<b>ENHANCEMENT</b> Request for new or additional NextGen Software functionality.	30 DAYS	EVERY MONTH	AS COMMERCIAL LY REASONABLE	[\$_____]
F	<b>FAST TRACK</b> Splash pages for Web portal, or content of Web portal, needs to be updated	1 BUSINESS DAY	EVERY BUSINESS DAY	48 HOURS	[\$_____]

# Contract Terms

- Terms if the company is sold or if you sell your practice.
- Terms if you are purchased by another group.
- What if you reduce your staff?
- What if you add staff?
- Source Code
  - Is there a cost?



# Contract Terms

- What is the cost for on-going support
- Is the % based on purchase price or “list” price. Could be a difference of 30%.
- Phone support
- Software upgrades
- What about software “enhancements”
- What about “New” modules



# Protect your Investment

- Assure that you will not be charged for a new version if the release of one will occur in the near future
- Lock in a reasonable period of time within which the version you go live will be supported
  - Some have only been supported for 6 months after purchase
- Annual or a perpetual license



# PMS and EHR

- Are you purchasing both?
- If not, interface or integration?
- Both from the same vendor?
  - Are the products really supported by the same vendor
  - Are they truly integrated or only interfaced?
  - How good is the support for each product
  - Does one group support all products?

# Hardware

- Assume hardware will not be obsolete
- Many vendors do not sell hardware
- Many vendors do not support hardware
- Do not take delivery of hardware until software is ready to train.
- Does it cover parts and labor?
- Make sure you have coverage when you need it.

# Software Warranty

- **Question:** “Does your software provide “XYZ” functionality.
- **Answer:** “Yes, we can do that, or Yes our product can do that”
- **Meaning:** “Sure, some day for some price, we can do that..... I think...”
- **Demand:** Yes, the current version that we are proposing for you provides that function and is included in the cost proposal. **Then get it in writing**

# Software Warranty

- In some cases, the vendor cannot demonstrate certain functionality.
  - How do you insure the function will work?
  - Get it in writing
- Some time the vendors will tell you that they will get back to you on our question.
  - Did they write it down?
  - Too many times promises are not in writing

# Software Warranty

- There is NO implied warranty. Be sure to define what is warranted.
- Software should comply with federal, state and accreditation organization regulations.
- Ask for copies of user documentation and specifications in advance and review them.

# Implementation

- The vendor sells you a car, they do not teach you to drive.
- Define Implementation
  - Installation of Software
  - Testing of software
  - Reviewing of practice Policies and Procedures
  - Resigning workflow
  - Designing of modified screens
- Are hours and cost fixed?
- What about travel costs?



# Training

- How many hours? Is that enough?
  - 40 hours of training
    - Does that include travel time?
- Hourly rate? Does hourly rate include travel time?
- Internet vs on-site Training
- Where will the training be conducted?
- Train the trainer or other method?
- Written reference guides
- Training Manuals
- On-line help
- Internet “ask the expert”



# Bottom Line

- Most vendor contracts are written to protect the vendor – not the practice
- If is not in writing, it does not exist
- Sale person promises = nothing
- Read the contract and service levels
- Ask for help – Get Help



# For More Information

Mark R. Anderson, FHIMSS, CPHIMS

CEO and Healthcare Futurist

AC Group, Inc.

118 Lyndsey Drive

Montgomery, TX 77316

(281) 413-5572

eMail: [mark.anderson @ acgroup.org](mailto:mark.anderson@acgroup.org)

[www.acgroup.org](http://www.acgroup.org)