

Ask Your GPO For These 10 Valuable Contract Concessions

BY NEIL OLDERMAN

By 2022, Group Purchasing Organizations (GPOs) are estimated to save the U.S. health care system as much as \$864.4 billion¹. While traditionally relied on exclusively for volume contracting, they often have more to offer than mere bulk pricing. Like others in the healthcare industry, GPOs continue to innovate and collaborate with their members to meet evolving demands by using tools, such as financial guarantees and fixed rates, to improve margins. Also, by providing data analytics and consultative services, GPOs can ensure hospitals and providers remain at the forefront of health care quality and developments.

Whether your relationship with a GPO is up for renewal, or is just beginning, be sure to address these 10 important and valuable concessions from your GPO participation agreement:

1. Savings Guarantee

Can the GPO guarantee savings over current spending?

GPOs want you to buy through them and may be willing to guarantee savings (based on a member's current spend) for contracts migrated to their portfolio within a certain window of time. This is particularly true in forming new relationships with GPOs. A GPO may offer a 1 to 3 percent savings on a single year's baseline spend for the first two years, with each year being assigned a specific guaranteed amount. Typically, savings are confirmed against the baseline on a quarterly or semi-annual basis. The guarantee is usually a cash guarantee, but may be capped at an amount not to exceed administrative fees or a percentage of administrative fees retained by the GPO. Such caps are typically removed in best in class guaranteed savings provisions. The savings may be valued net of any expense to achieve the savings (e.g., replacement of capital, loss on prior inventory, acquisition of software) and any increase in price on specific single line-items within the contract category covered under the savings initiative.

2. Reduce Total Cost of Ownership

Can the GPO lower the total cost of ownership for select capital or purchased services?

Work with your GPO to identify and target capital and purchased services costs that can be lowered over an agreed-to period of time. Learn from this process and use the tools and approach to pursue similar initiatives and savings in other areas.

¹ DaVanzo & Associates, LLC, for Healthcare Supply Chain Association, A 2014 Updated of Cost Savings and Marketplace Analysis of the Group Purchasing Industry (July 7, 2014), https://c.yomcdn.com/sites/higpa.site-ym.com/resource/resmgr/research/hasca_cost_savings_group_purc.pdf.

3. Cash Return Guarantee

Can the GPO offer tiered return of the administrative fee?

GPOs benefit from increased volume, and may be willing to increase your share of the administrative fee for achieving defined volume benchmarks. For example, the GPO may guarantee X percent of all administrative fee revenue payable to the GPO based on annual spend of \$80 million; X+5 percent at \$90 million; and X+10 percent above \$100 million. Be sure to clarify whether the participation rate will apply to the entire rebate amount, or just to the marginal amount. Standard in the market is for the incremental increases to be eligible for the higher shareback and not retroactive to dollar one of spend. The dollar amount of the shareback is treated as an offeror rebate (discount) under the Safe Harbor regulations to the federal Anti-Kickback Statute.

4. Limits on Other Charges

Can the GPO limit fees to the administrative fee retention or some small amount depending on the services, technology and resources made available from the GPO?

This may require a critical look at where the GPO can charge fees, and what the expected needs will be over the duration of the agreement. The goal should be to pack as many of the service fees, technology charges, consulting, and EDI charges as possible into the GPO's administrative fee retention. Hospitals and providers commonly lose sight of the fact that the administrative fees retained by the GPO are supposed to cover the basic components of GPO participation, including many of the items charged on an a la carte basis today.

5. GPO Spending Account

Does the GPO offer credit towards purchases of its consulting services, resources and technology?

The GPO may offer a line of credit that can be used for its products and services at the member's discretion, freeing up cash within your organization. Often, members that are willing to switch GPOs are able to negotiate a pool of credits toward consulting services, technology or on-site resources needed to achieve savings targets or goals.

6. Supply Chain Innovation

How can the GPO help create an innovative supply chain solution to enhance functions and services?

GPOs often can assist in devising and documenting creative supplier-provider partnerships around customer training, marketing initiatives, risk allocation or cost budgeting. This kind of tailored arrangement typically is not a part of the GPO's aggregated purchasing portfolio. However, the GPO staff and its larger, more sophisticated hospital members are knowledgeable about these types of cutting-edge relationships, and can help a member develop these types of relationships with certain vendors or can curate helpful knowledge-sharing between members.

7. Technology Integration

Can the GPO provide the services necessary to integrate its technology solution with the member's supply chain management application (e.g., SAP)?

Technology interfaces can burden the supply chain process, but GPOs may be willing to assume all or part of the interfacing costs that a member will incur when the member is switching GPOs. Each member needs to work with the GPO to ensure that communications among supply chain applications will be seamless. The GPO likely has dealt with all of the major supply chain management applications and, therefore, likely already has experience in diagnosing and resolving potential issues.

8. Firm, Fixed Pricing for Technology

Can the GPO lock in prices for technology for the duration of the participation agreement?

Members should try to avoid pricey technology updates, upgrades, or add-ons. Be careful to include technology upgrades, especially if regular or required updates are already provided at no cost. A member can reduce its annual participation costs in the GPO by assuring that the GPO technology package includes any state-of-the-art improvements or upgrades at no additional cost.

9. Strategic Account Executive

Can the GPO designate a Strategic Account Executive and a Custom Service Specialist to the member's account?

Members often do not realize the types of personnel resources that GPOs will provide at little or no cost. Having a designated GPO representative ensures that your organization is apprised of all the various technology, resources, analytic capabilities, change management, custom contracting, capital, construction, purchased services, revenue cycle and other solutions available through the GPO. It also ensures that the member is equipped to utilize these tools to their full potential. Having GPO representatives on-site one or two days per week enables a multitude of benefits:

- Staff training on how to use the GPO's technology and services.
- Staff education on technology and services available to the supply chain.
- Assistance with custom contracting, cost savings, item master cross-referencing, benchmarking analytics, utilization, and standardization project initiatives and other services.

10. Pharmacy Protection

Can a member retain access to captive specialty pharmacy services and current arrangements with distributors?

What happens if there is a shortage of branded pharmaceutical products or ingredients used in preparation of specialty drug products? Can members protect their pricing (cost minus) arrangements with their prime distributors as well as other terms and conditions of those arrangements without having to swap its contract for the form negotiated by the GPO? Both of these circumstances can be addressed favorably by the hospital in its arrangement with the GPO, and should be requested and included in the GPO participation agreement. Also, GPOs that offer consultative services around formulary development may be willing to provide a review and assessment at no cost to the member.

Bonus – Food Distribution

Can a member retain its food distribution pricing and terms?

GPOs offer essential tools to help your hospital or health system flourish. Understanding what your GPO can offer, and how you can work together to identify cost-saving opportunities and prevent problems that may erode your organization's cost savings, will enable you to derive the most value from your GPO. To state the obvious, all of the protections highlighted above need to be carefully drafted and included in your organization's GPO participation agreement. Similar to the pharmacy context, work with your GPO upfront if it is important to keep your existing food distribution pricing and terms intact.

ABOUT OUTSOURCING & COST MANAGEMENT



Neil Olderman | Partner

Neil Olderman leads Drinker Biddle's Outsourcing and Cost Management team. Neil has over 20 years' experience representing hospitals and health systems in connection with the negotiation of GPO participation

agreements and purchased service contracts. Neil has created and counseled regional hospital GPOs and specialty GPOs; represented GPOs in connection with their vendor negotiations; and advised on a wide variety of supply chain and strategic sourcing initiatives. Neil was associate general counsel to Premier Health Alliance for seven years.

Drinker Biddle Health Care

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Our Outsourcing & Cost Management Team uses a sophisticated, informed process for refreshing group purchasing organization (GPO) participation agreements for our hospital clients. Over the past 20 years the group has sourced, negotiated and documented more than 100 long-term GPO participation arrangements for both regional hospital and specialty GPOs. They also advise on supply chain and strategic sourcing initiatives and have represented clients in a diverse group of supply and distribution service agreements with vendors.

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