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Protect Cost-Saving Reprocessing Programs

Procurement Checklist to Preempt OEM Anti-Reprocessing Efforts

Hospitals save millions of dollars, reduce waste and emissions, and strengthen supply chains every year, thanks to regulated "single-use" device (SUD) reprocessing. Yet, some original equipment manufacturers (OEMs) threaten these gains through anti-reprocessing practices.

After a 2025 trial revealed how a major OEM deliberately sabotaged competition from reprocessing companies, a U.S. federal court banned the OEM from engaging in certain behaviors under a five-year injunction. The trial featured evidence and testimony revealing how the OEM's conduct inflated healthcare costs, stifled innovation, and potentially compromised patient care. The case provides a powerful legal precedent and illustrates how **sound healthcare purchasing starts with procurement policy**.

The following checklist outlines best practices that procurement leaders at hospitals and GPOs can implement to preserve competition, physician choice, and responsible device reuse in healthcare supply chains. **Please consider these as guiding principles in agreements with OEMs**.

☐ **Break the tie.** When purchasing capital equipment, contractually prohibit OEMs from tying (or conditioning) case support or warranties to the exclusive use of only that OEM's consumables. For example, surgical or cardiac catheter lab generators/consols should not require the exclusive use of consumable electrosurgical or electrophysiologic devices (SUDs) from the same OEM. Using reprocessed versions of these consumable devices should NOT void warranties or OEM's obligation to provide case support with the associated capital equipment.

☐ **Prohibit blocking technologies.** In the purchase of capital equipment:

- Forbid firmware updates on consols or generators designed to disable compatible reprocessed SUDs (forced obsolescence).
- For firmware updates urged by the OEM, require 30 days' advance written notice (whether equipment is owned by the original manufacturer or the hospital) and require facility approval by a specifically designated person.

☐ **Prohibit certain collections.** Used SUDs are hospital property. Contractually prohibit vendors from choking competitors' supply by hoarding or destroying them. Specify that vendors are only allowed to collect spent SUDs if they are the hospital's contractually bound SUD reprocessor.

- ☐ **Make interference costly.** Define any anti-reprocessing conduct by any OEM sales representative as a material breach of the OEM's contract with the facility. Require vendor cooperation with investigations (logs, diagnostics, access to relevant systems).
- ☐ **Reference legal support.** In new RFPs/tenders for both capital and consumable equipment, add language to agreements to reference legal precedent, including the injunction banning anti-reprocessing practices of forced obsolescence, hoarding devices or refusing to provide case support.
- ☐ **Make decisions based on evidence.** Require independent performance, cost, and life-cycle analysis in bids; reject unreviewed or internal OEM materials that misrepresent the safety or performance of reprocessed SUDs.

Procurement leaders: do your institution's procurement policies check these boxes? By implementing these practical principles, you can be a bulwark of just, cost-effective, and sustainable supply chains.

More information and resources—including a policy template for protecting reprocessing, alerts and tips about pressing issues, and a guide to understanding the regulation and safety of reprocessed SUDs—may be found at AMDR.org.