

Health Information Compliance Alert

Have A Good Contingency Plan

Don't let unforeseen vendor disputes derail your electronic storage system.

It's a good idea to plan ahead for worst-case scenarios, such as bankrupt vendors or heated contract disputes.

Keep in mind that sometimes the third-party provider's contract is set up to give the vendor ownership of your data -- if this condition doesn't make sense for you, rewrite the contract or find a new vendor, advises **Jim Sheldon-Dean**, HIT consultant and founder and director of compliance services at Lewis Creek Systems in Vermont.

Continuous access: If your data is housed off-site, consider how you will access it if an unanticipated event occurs, such as the vendor going out of business or breaking the contract over a dispute, Sheldon-Dean says.

Tip: Consider establishing in the contract a right to court intervention to force the turnover of data, advises **Andrew B. Serwin**, partner in the San Diego office of Foley & Lardner and founding chair of the firm's privacy, security, and information management practice. Vendors have been known to refuse to provide data when arguing over whether the contract has been breached and having a right to appeal to a third-party can be an important fail-safe, he says.

Ensure that the vendor is formatting your data in a transferable format so your access isn't compromised if the third party breaks the contract, offers Sheldon-Dean.

Takeaway: To provide quality care, your data must be available when you need it. Don't forget to plan for the availability issues that can arise when someone else is in control of your information.