MedTech Europe's Position Paper Following Response to the EU Public Procurement Directive Consultation

Building on MedTech Europe's Consultation Response: Recommendations for Improving the EU Public Procurement Directive

Introduction

Procurement plays an important role in ensuring healthcare systems purchase products, goods and services that address healthcare needs, improve patient outcomes and thus the health of the EU population, deliver value for money and support broader health sector goals.

The EU Directive 2014/24/EU on Public Procurement provides a framework for public procurement, including medical technologies. While the Directive sets out principles such as equal treatment, transparency, and strategic use of procurement to achieve societal goals, critical gaps need to be addressed regarding the procurement of medical technologies in the healthcare sector. These gaps hinder the adoption of innovative solutions, delaying better treatments for patients and improving patient outcomes.

This position paper presents MedTech Europe's perspective on these challenges and offers recommendations to improve procurement practices, ensuring that they align better with healthcare needs, foster innovation, and contribute to sustainable outcomes. Where these recommendations are already reflected in the Directives, MedTech Europe emphasises their proper, appropriate, and effective application.

1. Redefining Contract Award Criteria

In the current EU Public Procurement framework, price remains the primary or sole factor in awarding contracts, especially within healthcare procurement of medical technologies. This focus on price-only undermines the value of medical technology solutions, including their contribution to improve patient outcomes, enhance healthcare efficiency, and overall management of the total cost of care.

MedTech Europe calls for:

- A clear **definition of most economically advantageous tender (MEAT) awarding criterion** reflecting Quality over Price to ensure harmonised understanding across Member States and procurers.
- **Prohibiting contract awarding on price-only** to avoid negative impacts on competition and innovation. **Price-only awarding** of contracts should be limited to exceptional cases with clear justification upfront.
- **Balanced evaluation criteria** that include quality, sustainability and innovation. Public procurement of medical technologies should be evaluated based on **patient benefits, clinical performance**, and **impact on total cost of care delivery** (**value-based procurement**).
- Set a **maximum threshold** to limit the weight of price in price-quality evaluations.
- **Establishing harmonised quality assessment frameworks,** to ensure predictability and transparency of procurement processes across the EU.
- **Disclosing all contract evaluation and award criteria** and their weights in the tender documentation.

2. Strengthening Market Consultations

Limited **market consultation and dialogue** between public procurers and medical technology suppliers often results in misaligned specifications and missed opportunities for incorporating cutting-edge technologies. This gap stifles innovation and delays the delivery of evolving healthcare solutions that address healthcare needs and deliver value.

MedTech Europe advocates for:

- **Mandatory pre-tender consultations**, which include Open Market Consultations and Supplier Engagement sessions, as a required step in the procurement process.
- **Foster strategic procurement through structured consultation mechanisms** involving healthcare professionals, suppliers, and patient representatives to define procurement needs.
- **Structured industry dialogues** to ensure procurement aligns with healthcare needs and emerging innovations.
- **Detailed, structured post-tender feedback** to unsuccessful bidders, to support their learning and continuous improvement.

3. Flexible Tender Procedures to Support Innovation

Current procurement tenders frequently rely on the **Open Procedure**, which is insufficient for the procurement of innovative technologies. In particular, the lack of flexibility in procedures for emerging technologies results in missed opportunities for innovation.

MedTech Europe calls for:

- The **promotion of innovation-friendly and flexible procedures** such as the **negotiated procedure**, **competitive dialogue** and **innovation partnership procedure,** to accommodate the complexity and value of innovative technologies.
- **Well-balanced contract durations** for innovative technologies, allowing for regular updates and flexibility during the timeframe to incorporate new innovations to reflect the rapid advancements of the medical technology industry.

4. Fostering Innovation through Procurement

Fragmented healthcare systems and procurement bottlenecks delay the adoption of innovative medical technologies, such as AI-driven diagnostics and digital health solutions.

MedTech Europe calls for:

- The **use of innovation-friendly tender procedures** to promote innovative solutions and to be able to respond faster to healthcare delivery issues and emergencies.
- **Specific provisions for the procurement of digital healthcare technologies**, including AI, telemedicine platforms, diagnostic tools and big data analytics.
- **Including solution requirements for unmet needs into tender specifications**, to avoid the exclusion of new solutions upfront.

5. Reducing Administrative Burden

The extensive documentation required in tendering processes and supplier compliance checks place high administrative costs, especially for SMEs and new market entrants. Suppliers often duplicate efforts when bidding across multiple EU countries due to a lack of standardisation in qualification requirements.

MedTech Europe calls for:

- **Simplified documentation requirements** and **standardised electronic certification** across EU Member States to reduce administrative burdens and duplications.

- A **reduction of excessive documentation requirements**, with the goal of 'easy to use for SMEs and new entrants'.
- An **updated version (and adoption) of the TED platform** for managing the full tender process, including the functionality for bidders to submit tender bids.

6. Streamline Procurement Timelines

The lengthy procurement process often results in **delayed access** to medical innovations, which in turn affects healthcare delivery and patient care.

MedTech Europe calls for:
- **Maximum timeframes** between bid closing and contract award notification to reduce unnecessary delays.
- Mandating the **inclusion and specification of the timeframe** in the tender documents.
- **Below EU-threshold tenders:** Define a minimum number of days for bid submission.

7. Harmonising Procurement Practices across Member States

The **fragmented transposition and implementation** of EU procurement rules across Member States creates legal uncertainty, complicates compliance and leads to inefficiencies. The lack of harmonisation increases costs for suppliers and hinders cross-border cooperation in the medical technology sector.

MedTech Europe calls for:
- **Harmonised transposition and implementation** of EU procurement rules to ensure consistency across Member States.

8. Enhancing SME participation

Provisions encouraging SME participation in public procurement are optional and inconsistently applied. This creates barriers and restricts their ability to compete.

MedTech Europe calls for:
- **Mandating the division of contracts** into multiple lots for high-value tenders to ensure greater SME participation and geographical lots in case of cross-border joint procurement tenders. **Prevent excessive bundling of contracts** that restrict competition and limit SME participation.
- Allowing SME-consortia in larger contracts when lot division is not feasible (**joint bidding**).

Conclusion

Addressing the gaps identified will facilitate the adoption of innovative technologies, streamline procurement processes, reduce barriers for SMEs and incentivise sustainability, efficiency and effectiveness in healthcare. These recommendations aim to build a procurement environment that supports the challenges healthcare systems across Europe are facing, by improving patient outcomes, managing total cost of care, and the healthcare system's efficiency.

By implementing these recommendations, the EU will create a more **dynamic, efficient, and sustainable procurement ecosystem**.

About MedTech Europe

MedTech Europe is the European trade association for the medical technology industry including diagnostics, medical devices and digital health. Our members are national, European and multinational companies as well as a network of national medical technology associations who research, develop, manufacture, distribute and supply health-related technologies, services and solutions.
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