

Public procurement workshop

How to take patient outcome aspects into account?

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Competition law reminder



There is not only one way...



Several ways of taking patient outcome into consideration



What do we want to buy?



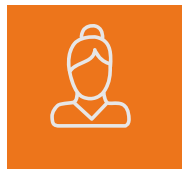
Definition of the **subject matter** of the contract can be “patient centric”



Do we want to impose patient « performance » aspects?



Specifications can impose “patient outcome results”



How do we want to differentiate the bidders?



Award criteria can focus on patient outcome and make the difference



Subject matter

**Patient centric
definition**

Ex.: buying a solution to decrease post operation infection

Subject matter is more open and
focusses on a **result/proposition**

Procedure shall be more **flexible**

Implementation of contract focusses
on the **monitoring** of the results



Subject matter

Example: subject matter of the contract:

patient hypothermia solution

Le réchauffement du patient – best value procurement -

YouTube





Subject matter

Competitive procedure with negotiation

Competitive dialogue

Innovation partnership

What we buy is a solution (not a product/service)

Need to be able to discuss/negotiate the propositions

Criteria shall recognize the quality of the results even if the ways to achieve it are different

Make sure you are still able to compare comparable solutions

Room for variants





Specifications

Specifications are minimal requirements

If not met:

- Exclusion of tender during the procedure → verify the information in the tender
- Penalties and breach of contract during the implementation of the contract → monitor the results during the implementation of contract



Technical specifications



- The technical specifications drawn up by public purchasers need to allow public procurement to be open to competition

- Functional and performance requirements

- Tenders should reflect the diversity of technical solutions standards and technical specifications in the marketplace

- Contracting authorities shall avoid artificially **narrowing down competition** through requirements that favor a specific economic operator by **mirroring key characteristics** of the supplies, services or works habitually offered by that economic operator

- No reference to a specific trademark nor **source, nor a particular process** which characterises the products or services provided by a specific economic operator or to **trade marks, patents, types or a specific origin or production** with the effect of favoring or eliminating certain undertakings or certain products



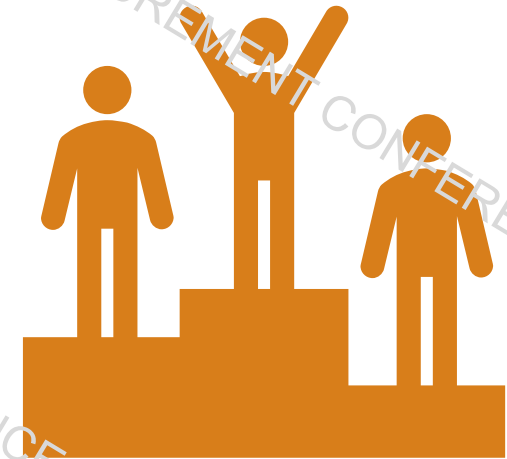
Award criteria

Award criteria serve to differentiate the bidders

Patient outcome can be one of the awarding factors: weight will determine the importance of it

BUT:

- Be sure it is measurable during the award phase
- Be sure it will be monitored during the implementation phase



Award criteria: conditions

Linked to subject matter of the contract

OK if they relate to supplies of services in any respect and at any stage of their life cycle including a specific process for another stage of their life even if such factors do not form part of their material substance

No unrestricted freedom of choice

This could be the case if the contracting authority is free to put a value next to an internal cost or bonus proposed by the tenderers without providing this information upfront to tenderers or use an objective method fixed before the opening of the tenders

Effective competition

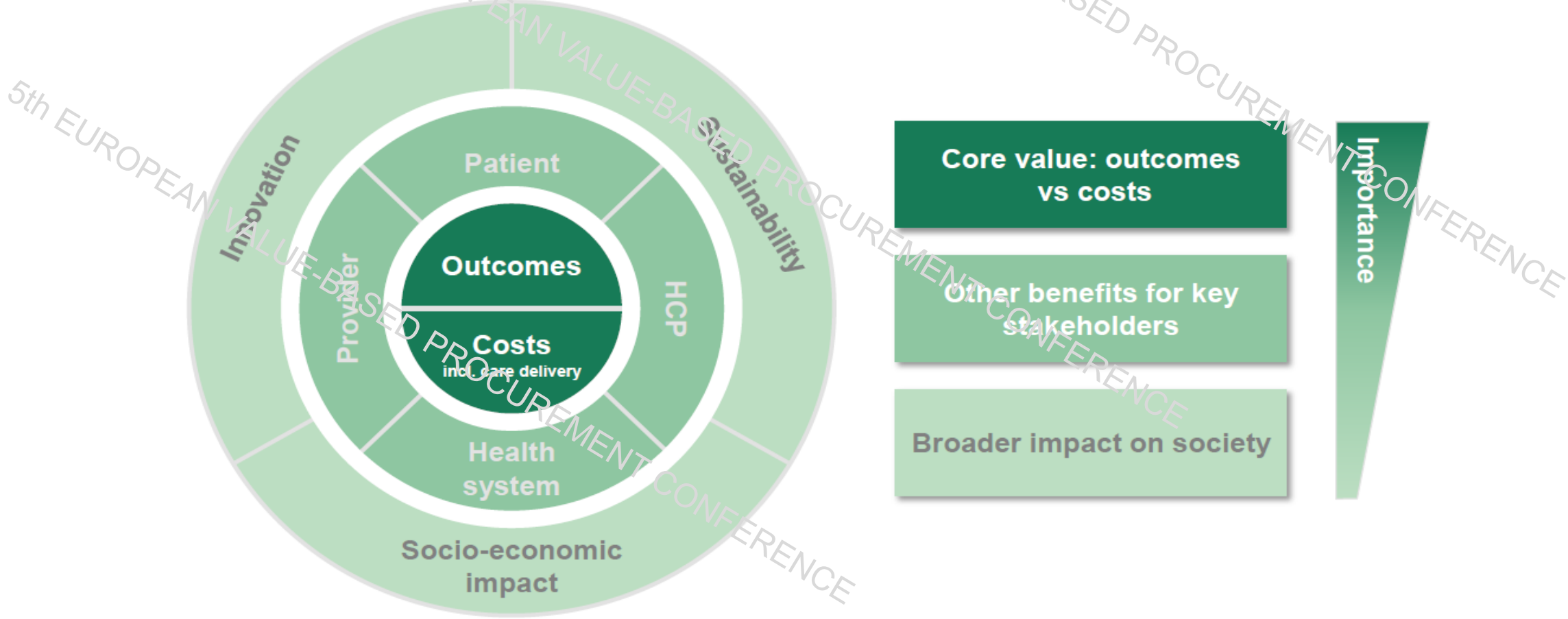
The contracting authority should make sure to compare comparable tenders/propositions (for example: the calculation and content of the life-cycle cost should be the same for all tenderers)

Possibility to verify the information/ assess

The contracting authority should make sure that it values verifiable (and, if necessary enforceable) commitments

Award criteria: value based procurement

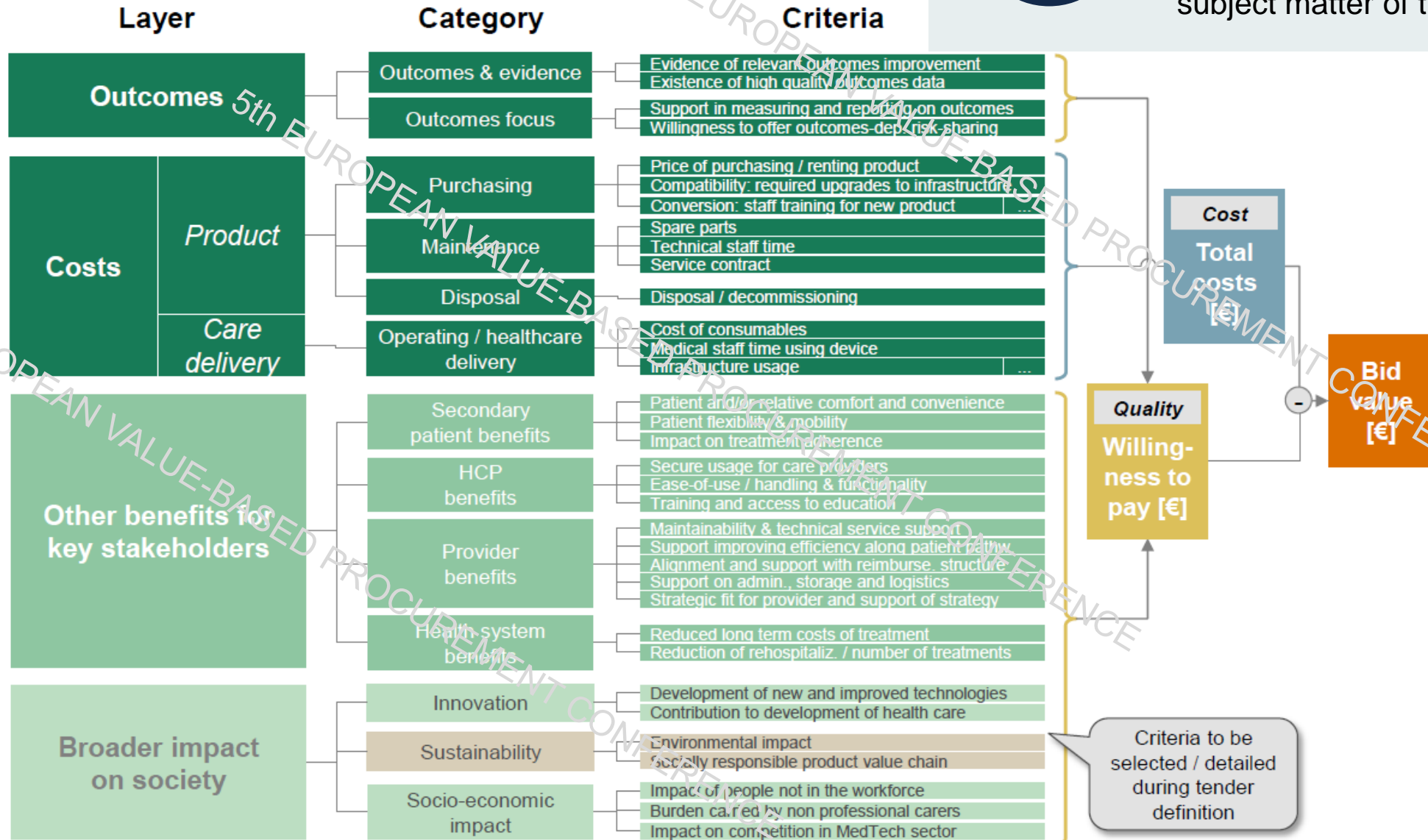
(source The Boston Consulting group)



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Should be applied on a case by case basis, depending on the subject matter of the contract



Criterion: “pain” (purchase of catheters - Norway) *



- Purchase of catheters by a central purchase body
- Criteria (notably): price and “pain”
- Objective evaluation method on a large scale of patients
- Objectivity of the criterion was criticised
- Courts of Norway decided that the criterion had been objectively applied



* Example provided by Kjetil Marius Istad

Criterion: “humidity” (purchase of diapers)



- Purchase of diapers by a hospital
- Criteria (notably): price and “humidity retention”
- “Artisanal” evaluation method by the purchasers of the hospital
- Reliability?

Other criteria

Beds: patient comfort

Sutures: infection risks

Blood glucose meters:
easiness to use,
connectivity, pain, ...



Linked to subject matter of contract?

Competition?

Verifiable? How to assess?

→ During the procurement procedure

→ After



Patient outcome is certainly relevant



But make sure the process is predictable, transparent, fair, objective and monitored

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