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Drafting contractual clauses: what are the goals/objectives we tend to achieve with the purchase ?

Questions to be asked –

What is the expected outcome?



Focus on performances/results and openness for any solution?

Focus on direct price/cost?

Focus on reduction of costs on a broader and more long term scale (ex. length of stay; time spent by care providers)?

Focus on direct quality of the device/the services (ex. user friendliness of the device, less risks of infection etc.)?

Attention point: ask for answers one can compare/assess/verify/enforce during the procurement process (even if no evidence yet but at least verify the realistic character of the commitments) AND the implementation of the contract.

It is possible to liaise with economic operators (firms) before launching the procurement process!

Drafting contractual clauses: how do we want to work with the firms?

- Which is the type of relation/partnership we want to establish with the firms:
 - Establishing a “Value-Based Contract”: Value-Based Contracting enables risk sharing when expected outcomes or benefits or the cost impact are less clear or lack detailed evidence at time of contract negotiations. Value-Based Contracting is broader than outcomes-based contracting as it focuses on value, which includes (i) outcomes, (ii) other benefits for stakeholders and (iii) total cost of care impact.
 - When drafting the contractual requirements, it is important to project itself in the real implementation of the contract and draft clauses that “work” (about delivery modalities, sanctions, monitoring of results, etc.);
 - *We see often abstract (or copied pasted) clauses which lead to contractual provisions that do not fit with the reality of the future implementation of the contract*

Drafting contractual clauses: how do we want to work with the firms?

- Anticipate potential problems (out of stock, delays etc.); organise “plan B” for them (if appropriate);
- If appropriate : set realistic KPIs and SLA’s (use KPI’s and SLA’s that you can actually verify/assess);
- Anticipate the termination of the contract (possible termination if a new product/generics enters on the market? Compensation? etc.);
- Ask to stakeholders nurses/clinicians some reporting on what went well/ what went wrong and take this into account for the next preparation.