



How to win a Tender:

17 practical advices



1. The language of the proposal



According to Clauses 1 and 12 of Part 2 of Art. 22 of the Law of Ukraine "On Public Procurement" of 25.12.2015 № 922-VIII (hereinafter - the Law). Tender documents must contain the following information: instructions for preparing tenders and information about language(s) to be used for preparing tenders. The law does not specify in what language the tenderers must submit documents as part of the tender. The customer, specify in what language tender proposal should be submitted and what information is important in a case of language divergence, in a tender documentation by his own. As usual, the customer requires the submission of tender documents in Ukrainian language. In such case, when submitting even one document in a foreign language (including Russian), the bidder's proposal may be rejected. Pay attention to the requirements on setting of translation of the documents submitted as part of the tender proposal (notarization of translator's signature, arbitrary translation, certified by the signature and seal of the tenderer, etc.) that are required by customer



2. Formal errors



According to Part 3 of Art. 22 of the Law Tender documents may contain (but not necessarily) description and examples of typical technical (unessential) errors that shall not result in rejecting a tender if detected therein. Technical (unessential) errors shall mean errors related to the form of the tender that do not affect the tender's content, namely technical and typing errors.

The customer can predict description and examples of typical technical (unessential) errors that shall not result in rejecting a tender if detected therein. The list of formal (irrelevant) errors specified by the customer in the tender documentation is exhaustive. If the customer did not predict formal (irrelevant) errors in the tender documentation, any mistake made by the tenderer in the preparation of the tender proposal may be a ground for rejection.



3. Forms set out by the customer in the tender documentation



Pay attention to the form set out by the customer in the tender documentation, such as: requirements for submission of certificates on the provision of certain information, forms of the tender proposal, etc. Specify exactly the information required by the customer.

For example, the customer requires the following information in the certificate: the number and date of the similar contract, the subject of the contract, the contact details of the contracting party with whom the contract was concluded, etc. If the customer requires to specify the name (N.S.P.) of the contractor, then the tenderer must completely indicate name, surname and patronymic.



4. Plural or singular: how do not do a mistake?



Pay attention to the fact that in plural or singular form the contracting authority requires information. For example, if there is a requirement to provide information on the availability of employees who have the necessary knowledge and experience, the tender proposal should include information on the availability of two or more employees. The same applies to vehicles, contracts and other information.



5. Submit the document in full



All documents should be submitted in full with all pages and annexes (copy of similar contract, copy of charter, diploma, etc.), unless the customer requires only separate pages of the document.



6. Submit the documents that are required by the customer



If the tenderer considers that the document required by the customer does not comply with the current legislation or is not provided in accordance with the current legislation for conducting his business activity, then the tenderer shall ask the customer with the requirement to amend the tender documentation and to align it with the rules of the current legislation or submit a complain to Antimonopoly Committee of Ukraine.

It happens that the participant cannot provide the document required by the customer and replace it with a similar document (for example, an excerpt from the register of VAT is required, a VAT payer certificate is provided). In such case, the tenderer's proposal may be rejected by the customer as one that does not meet the requirements of the tender documentation.



7. provide truthful information in the documents of the tender proposal



Check the information that you provide during the preparation of documents (in references, letters, reviews, etc.). According to p. 7 of Art. 28 Customer shall have the right to request public authorities, enterprises, institutions and organizations to confirm the information provided by a tenderer within the scope of their competence.

If reliable information about non-compliance with the requirements of the qualification criteria, the existence of the grounds specified in part 1 of Art. 17 of the law, or the fact that any false information, which is essential in determining the results of the procurement procedure is received, the customer rejects the tender offer of such participant.



8. Restrictions on signature in statutory documents



Check that there is no statute restrictions on the signing of contracts if the amount of the transaction exceeds the limit specified in the determined statute. If they are available, additional documents confirming the authority to sign the contract for the appropriate amount of the tender must be provided

Beside that, the Law of Ukraine “On Limited and Additional Liability Companies” establishes giving the consent of the general meeting to commit certain contract (agreements), regardless of whether the power to sign the contract in the statute is provided or not.



9. Reference according to Article 17 of the Law



According to clause 6 of Part 1 of Art. 17 of the Law, the contracting authority makes the decision to refuse participation on taking part in procurement procedure and is obliged to reject the tenderer's proposal in a case, if an officer (official) of tenderer who signed the tender has been convicted of an acquisitive crime, for which the conviction has not been lifted or cancelled in accordance with the procedure established by law;





If the tender proposal is signed by several persons, all references of the Ministry of Internal Affairs and all other documents required by the customer for the person who signed the tender proposal shall be provided by all persons who have signed the tender offer.



10. Tender security



In accordance with the provisions of the Law of Ukraine “On Public Procurement”, a tender security, in particular, providing assurance of fulfillment of obligations to the customer that arising due to submission of the tender offer is a guarantee.

Pay particular attention to the bank guarantee, check in detail the tender documentation for compliance with the requirements of the Regulations on the procedure for banks to perform guarantees operations in national and foreign currencies, approved by the Resolution of the Board of the National Bank of Ukraine dated December 15, 2004 No. 639, which regulates the procedure, conditions for granting and receiving by banks guarantees and their fulfillment. Check the amount of the tender security, the term of the tender security and the electronic signature that the guarantor signs the electronic guarantee.





At present, a large number of bank guarantees are not executed in accordance with the requirements of the tender documentation, which is the basis for rejection of the tender offer of such a tenderer.





11. Submit a tender proposal that fully meets the technical and quality specifications required by the customer

Sometimes the tenderer submits a tender with better characteristics than those that were required by the contracting authority, but the customer rejects it, as one that not meeting the requirements of the tender documentation.

Read carefully, what kind of product parameter the customer has required in the tender documentation and whether it allows to provide an equivalent.

The proposed equivalent must meet the technical and qualitative characteristics.



12. Check the changes made by the customer to the tender documentation



The customer may make substantial changes to the documentation and may establish additional requirements before the deadline for submission of tender, that the tenderer will not pay attention to and submit a tender proposal without such changes, which may lead to rejection of his tender proposal.

Confirm your proposal if, after its submission, the customer has made changes to the tender documents, as all the proposals of the tenderers were submitted before the time of the changes have become invalid and need to be confirmed.

If the customer makes changes to the tender documentation after submitting your tender proposal as a tenderer, consult the technical support of the site (from which the tender was submitted) regarding the further algorithm on the site to change / confirm of the tender proposal.





13. Pay attention to the validity of the documents you submit as part of the tender proposal (certificates from banks, SFS, etc.) and terms of their validity

Sometimes the customer states in the tender documentation that the document must be submitted "no later" or "no earlier" or a very specific request. For example, the customer stated in the tender documentation: "The term of the bank guarantee is 90 days".

Therefore, if the customer has made such a clear requirement on the validity of the documents, then such term should be observed.



14. Notarial certificate of contracts



Check whether the contract they make as part of the proposal is a subject to a compulsory notarial certificate. For example, if a tenderer submits a rental agreement or a transport service as a part of his proposal to the party of which is an individual, the contract shall be a subject to mandatory notarization. According to Part 2 of Art. 799 of the Civil Code of Ukraine, the contract of lease of a vehicle with the participation of an individual is a subject to a notarization certificate.

If the owner, and therefore the landlord, is a natural person, then the lease must be certified by a notary. According to Part 1 of Art. 220 of the Civil Code of Ukraine in case of non-compliance by the parties with the requirement of the law on notarization the contract is invalid. Therefore, the submission of such a contract as part of the tender offer does not confirm the right to own or use the vehicle.



15. Follow the deadlines for submitting a tender proposals



According to Part. 3 of Art. 25 of the Law, According to Part. 25 of the Law, the electronic tenders received by the electronic procurement system after the deadline for the submission of tenders shall not be accepted and shall be automatically returned to the tenderer. Documents uploaded by the tenderer after the auction are not a part of the tender proposal and are not considered by the customer.

Do not delay the submission of the proposal until the last moment, as there is a risk of technical failure in the work of the participant's computer equipment or the work of the site, which may prevent successful participation in the auction. In addition, according to the rules of the system, with the same tender proposal of participants, preference for the last move in the first round of the auction will be given to the participant who has registered his offer earlier.



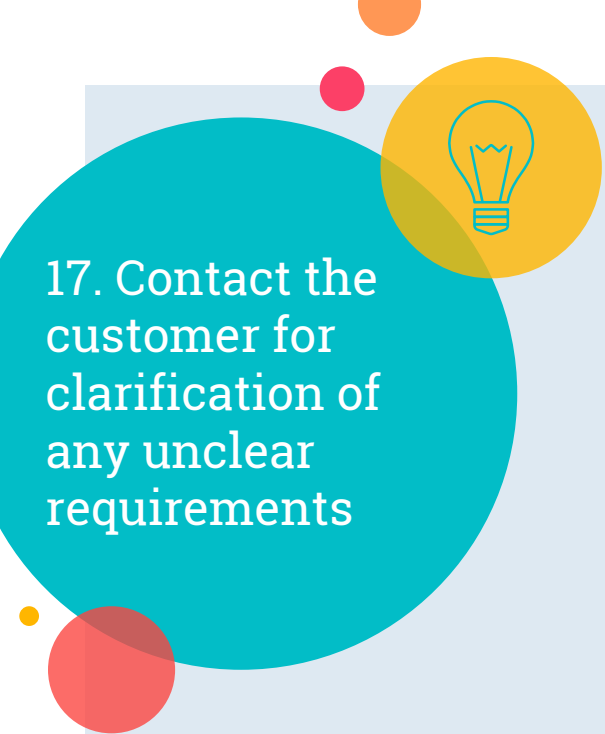
16 During the auction, consider carefully every step of the price reduction



During the auction only 2 minutes are given for each participant to announce his proposal (rate). It is advisable to consider each step of the auction in advance and immediately set the lowest price to which the participant can lower, to avoid a mistake in the calculation during the auction it is advisable to involve another person to the calculation.

According to the requirements of Part 4 of Art. 36 of the Law the terms and conditions of the procurement contract shall not deviate from the tender submitted as a result of the auction (also in terms of the price for an item of supplies) by the successful tenderer. The contract concluded with the violation of the requirement is unlawful (wrongful).





17. Contact the customer for clarification of any unclear requirements

If the tenderer think that the requirements set out in the tender documentation are discriminatory or unintelligible, he may not later than 10 days before the expiry of the term for submitting tenders. to apply through the electronic procurement system to the customer for clarification of the tender documentation and / or to request the contracting authority to remove the violation during the procurement procedure, to complain unlawful and discriminatory claims to the Complaint Review Authority

Summarizing the above, we advise participants to be attention while preparing their tender proposals and during releasing the documents . And then you won't lose the chance to win the tender!



**Thank You for your
attention!**

