

Deposit Guarantee Fund

APPROVED

**by the Tender Committee Meeting
Minutes**

No. 606/19 of December 12, 2019

Chair of Tender Committee

S. V. Rekrut_____

CHANGES TO THE TENDER DOCUMENTS

for the procurement of services of representing the Household Deposit Guarantee Fund and/or JSC «BANK «FINANCE AND CREDIT» in judicial (criminal, civil, commercial) proceedings in respect of the recovery of damage (losses) caused to JSC «BANK «FINANCE AND CREDIT» and/or its creditors by its related parties (owners, managers, and/or other parties referred to in part 1, Article 52 of the Law of Ukraine ‘On Banks and Banking’), in foreign jurisdictions (and in the jurisdiction of Ukraine as necessary)

Kyiv 2019

The Deposit Guarantee Fund announces the following changes to the Tender documents for the procurement of services of representing the Household Deposit Guarantee Fund and/or JSC «BANK «FINANCE AND CREDIT» in judicial (criminal, civil, commercial) proceedings in respect of the recovery of damage (losses) caused to JSC «BANK «FINANCE AND CREDIT» and/or its creditors by its related parties (owners, managers, and/or other parties referred to in part 1, Article 52 of the Law of Ukraine ‘On Banks and Banking’), in foreign jurisdictions (and in the jurisdiction of Ukraine as necessary) (hereinafter referred to as the ‘Tender documents’).

1. Paragraph 3.3. The tender documents should be presented in the following wording:
«3.3. Deadline for submissions: **by 10:00 AM on December 23, 2019.**

2. Paragraph 4.2. The tender documents should be presented in the following wording:
«4.2. Date and time: **2:30 PM on December 23, 2019**».

3. The last paragraph of the Terms of Reference (annex 1 of the Tender documents) shall be read in the following wording:

«The detailed information and necessary documents will be provided to representatives of the bidders for acquaintance once the confidentiality agreements are signed (in the format of Annex 5 to Tender Documents) (for non-resident participants - upon receipt of the DGF a scanned copy of the signed non-resident participant privacy agreement by e-mail: fgvfo@fg.gov.ua) from November 14, 2019, till December 21, 2019, between 10:00 AM and 5:00 PM at: 48 Degtyarevskaya Street, Kyiv, 04114. Bidders are requested to contact the officer in charge of technical matters in order to acquaint with the documents».

4. Annex 3 of the Tender documents shall be read in the following wording:

«Annex 3

Qualification Requirements to Bidders

Qualification Criteria	Requirements under the Criterion	Supporting Documents
1. The availability of staff with relevant qualifications, necessary expertise, and experience	<p>1. Bidders must be in possession of employees and/or a contractor (contractors) employed to represent the DGF and/or the Bank in foreign jurisdictions who have experience in representing Customers (corporate creditors / affected parties) for the purposes of the recovery of funds, including losses, and the enforcement of decisions of foreign jurisdiction authorities, specifically:</p> <ul style="list-style-type: none"> - a lawyer (lawyers) vested with the right to represent Customers before the courts foreign jurisdictions, including member states of the European Union and the United Kingdom and the courts of Ukraine); - an auditor (auditors), a forensic 	<p>1. A free-format statement signed by the bidder on the list of employees (including employees of the contractor (contractors)) who will be engaged for the Service Delivery.</p> <p>2. Copies of diplomas, certificates, other documents confirming the specialist area and legal status of employees listed in the statement. *</p> <p>3. A portfolio for each employee with an indication of the education degree, places of prior employment, the experience of performing similar assignments, and other details essential to assess the qualification of such an employee.</p> <p>4. A copy of a contract (memorandum, etc.) of cooperation (service delivery, etc.) with the contractor (contractors), on whose basis the services of</p>

	<p>specialist (specialists);</p> <p>- an asset tracing specialist (specialists);</p> <p>Note: Preference will be given to a bidder, whose employees and/or contractors have represented a bank institution Customer as a creditor/affected party in damage (loss) recovery proceedings in foreign jurisdictions and which has the successful experience of enforcing the decisions of foreign jurisdiction authorities.</p>	<p>representing interest will be provided in foreign jurisdictions and at the stage of the enforcement of decisions of foreign jurisdiction authorities.</p> <p>5. A copy of the valid contract (s) of professional insurance of the professional activity of the lawyer (s) empowered by the participant, which are empowered to represent interests in the courts of foreign jurisdictions, in particular in the countries of the European Union, the United Kingdom and the courts of Ukraine.</p>
<p>2. Experience in the performance of similar contracts</p>	<p>1. A bidder must have the successful experience of representing its Customers (corporate creditors / affected parties) in cases of the recovery of funds, including losses, and the enforcement of decisions of foreign jurisdiction authorities.</p> <p>Note: Preference will be given to a bidder, whose employees and/or contractors have represented a bank institution Customer as a creditor/affected party in damage (loss) recovery proceedings in foreign jurisdictions and which has the successful experience of enforcing the decisions of foreign jurisdiction authorities.</p>	<p>1. Bidder-authenticated copies of decisions of foreign jurisdiction authorities (without disclosing personal data of the Customers) in cases involving the representation of Customers (corporate creditors / affected parties) claiming funds (including losses), where the Customers were represented by the bidder and/or the contractors;</p> <p>a free-format statement of the bidder with a detailed description of the litigation of the aforementioned cases of the representation of Customers (corporate creditors / affected parties) in foreign jurisdictions in terms of claiming funds (including losses), where the Customers were represented by the bidder and/or contractors, with the indication of the specific positive outcomes achieved;</p> <p>a free-format statement by the bidder with a detailed description of the support to enforcement of the aforementioned decisions of foreign jurisdiction authorities (without disclosing personal data of the Customers) by the bidder and/or its contractors.</p>

3. Impeccable business reputation	The corpus of verified information about the entity, which enables a conclusion that it operates in accordance with legislation.	Reference letters from at least three (3) Customers, to which the bidder and/or its contractors provided services: - representing them in foreign jurisdictions to recover funds, including losses, caused to a legal entity (bank); - of enforcing the decisions made by foreign jurisdiction authorities; - of tracing the assets used to recover losses (damage); - of exercising comprehensive researches required to detect and document the facts of causing losses (damage).
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* The winner of the Contest submits documents - apostilled (legalized) and with a notarized translation into Ukrainian within ten days from the moment of receiving the notification about the tender results. The Ukrainian text shall prevail in the case of differences between texts in English and Ukrainian.

General Requirements for Bidders *

№	Question	Answer
Section 1. General information about the participant:		
1.1.	Full name	
1.2.	Registration Date	
1.3.	Bank details	
1.4.	Code of the legal entity - participant **	
1.5.	Tax Identification Number (Individual Tax Number) **	
Section 2. Participant Leader Information:		
2.1.	Name, position, passport data, registration number of taxpayer's account card (if any) manager **	
2.2.	Name, passport details, taxpayer's registration card registration number (if applicable) chief accountant	
2.3.	Name, position, passport data, registration number of the taxpayer's account card (if any) of the authorized person **	
Section 3. Information about the owner and beneficiaries of the participant:		
3.1.	Name, legal form and code - for legal entities / name, passport data and registration number of the taxpayer's account card (if any) - for individuals **	
Section 4. Contact information of the participant:		
4.1.	Location	
4.2.	Phone / Fax	
4.5.	E-mail	
4.6.	Website	
<u>Position</u>	<u>Signature</u>	<u>Full Name</u>

Other Requirements for Bidders *

Requirement	Supporting Documents **
1. The bidder is not a party related to other bidders in the same bidding procedure and/or a member (members) of the Committee.	A free-form statement signed by the authorized officer of the bidder to certify that the bidder in the qualification-based selection is not a party related to other bidders in the same bidding procedure and to members of the tender committee.
2. The bidder is not subject to a solvency restoration procedure initiated in accordance with the procedure prescribed by law; the bidder has not been found bankrupt and is not subject to a liquidation procedure.	An information statement from the Single Register of Enterprises in Bankruptcy Proceedings or a free-form statement signed by the authorized officer of the bidder to certify that the bidder has not been subject to the solvency restoration procedure initiated in accordance with the procedure prescribed by law, that the bidder has not been found bankrupt, and that the bidder is not subject to the liquidation procedure.
3. The bidder on no date has been a qualified shareholder of an insolvent bank or a bank in liquidation, or a member of the governing body of a corporate bidder, has not held a position for more than six months in governance and controlling bodies of a bank classified as insolvent or a bank in liquidation, or has not worked as the chief internal auditor of such bank.	A statement in any form signed by the authorized officer of the bidder to certify that the bidder has not been a qualified shareholder of an insolvent bank or a bank in liquidation and a statement in writing by a member of the governing body of a corporate bidder that he or she has not held a position for more than six months in governance and controlling bodies of a bank classified as insolvent or a bank in liquidation, or has not worked as the chief internal auditor of such bank.
4. The information about the corporate bidder has not been recorded in the Single State Register of Individuals Who Perpetrated Corruption Offences or Corruption-Related Offences.	A statement in any form signed by the chief executive officer of the corporate bidder to certify that the information about the bidder has not been recorded in the Single State Register of Individuals Who Perpetrated Corruption Offences or Corruption-Related Offences.
5. The individual bidder or the chief executive officer of the corporate bidder has not been prosecuted for perpetrating a corruption offence.	An information statement from the Single State Register of Corruption Offenders in respect of the individual bidder / the chief executive officer of the corporate bidder, or a statement in any form signed by the authorized officer of the bidder to certify that the individual bidder / the chief executive officer of the corporate bidder has not been prosecuted for perpetrating a corruption offence, or a print-screen from the website http://corrupt.informjust.ua/ in respect of the individual bidder / the chief executive officer of the corporate bidder.
6. The bidder has not been prosecuted for the violations covered by clause 4, part 2, Article 6, Section 2 or clause 1, Article 50, Section 8 of the Law of Ukraine 'On Protecting the Economic Competition' in the form of concerted anti-competition practices over the last three years.	A statement in any form signed by the authorized officer of the bidder to certify that the bidder has not been held liable for violations covered by clause 4, part 2, Article 6, Section 2 or clause 1, Article 50, Section 8 of the Law of Ukraine 'On Protecting the Economic Competition' over the last three years.
7. The individual bidder / the chief executive officer of the corporate bidder has not been convicted of an offense perpetrated on mercantile motives, or any conviction has been cleared or expunged in accordance with	A statement in the prescribed format (for instance, obtained online) issued by a territorial body of the Ministry of Interior of Ukraine to certify that the individual bidder / the chief executive officer of the corporate bidder has not been convicted of an offense perpetrated on mercantile motives or that his/her

the procedure prescribed by law.	conviction has been cleared or expunged in accordance with the procedure prescribed by law. The statement must be issued on or after _____ 2019.
8. The information about the ultimate beneficial owner (controller) of the Ukrainian resident legal entity, which is a bidder in the qualification-based selection procedure, is available in the Single State Register of Legal Entities, Sole Traders, and Public Associations as prescribed by Article 9(2) of the Law of Ukraine ‘On State Registration of Legal Entities and Sole Traders, and Public Associations.’ Note: If the corporate bidder is not a resident of Ukraine, the information about the ultimate beneficial owner (controller) of this corporate entity must be available in a state register functioning under the laws of the bidder’s country of incorporation.	An excerpt from the Single State Register of Legal Entities, Sole Traders and Public Associations, or a print-screen from the website https://usr.minjust.gov.ua/ua/freesearch . If the aforementioned Register does not contain details of the ultimate beneficial owner of the bidder, the bidder must submit an explanatory statement together with the Excerpt or the print-screen to specify the grounds for the missing record in the Single State Register. This statement shall be signed by an authorized officer of the bidder. An excerpt from the appropriate state register that functions under the laws of the country of incorporation of a corporate bidder, which not resident in Ukraine. If the Register in question lacks details of the ultimate beneficial owner of the bidder, the bidder must submit an explanatory statement together with the excerpt or the screen-print to specify the grounds for not recording the information in question in the Register. This statement shall be signed by an authorized officer of the bidder.
9. The bidder does not have any debt related to the payment of taxes, duties, and fees.	A statement in the prescribed format (including in the electronic form) or a letter issued by a territorial body of the State Fiscal Service of Ukraine (or, for non-residents of Ukraine, a statement by the appropriate fiscal agency of the bidder’s country of incorporation) to certify that the bidder has no debt related to the payment of taxes, duties, or fees outstanding as of the qualification bid submission date. If a letter is submitted, its date must not be before the qualification bids submission date under this selection procedure.
10. The Bidder exercises business in accordance with provisions of its constituting documents.	A copy of constituting documents authenticated with the signature of the authorized officer of the bidder.

A bidder may discretionary provide additional materials to evidence the conformity with the above requirements. All the documents (other than original statements, excerpts, and other documents issued to the bidder by state authorities, institutions, organizations, banks, and other entities other than the bidder) submitted by the bidder to certify the conformity with the above requirements must be signed by the authorized officer of the bidder.

* Bidders listed in the List of Entities Selected by the Household Deposit Guarantee Fund in the stream ‘Legal Councilors (including Working with Assets)’ in the field ‘representation of insolvent banks and banks in liquidation, and protection of their rights before courts of foreign jurisdictions and international arbitration tribunals’ shall not be required to submit documents to certify their conformity with other requirements.

** The winner of the Contest submits documents - apostilled (legalized) and with a notarized translation into Ukrainian (only for the winner-non-resident) within ten days from the moment of receiving the notification about the tender results. The Ukrainian text shall prevail in the case of differences between texts in English and Ukrainian.

5. Leave all other provisions of the Tender documents unchanged.

Chair of Tender Committee

S. V. Rekrut