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TRADE COMMISSIONER SERVICE

Public procurement
in Ukraine using the
ProZorro system

A guide for
Canadian bidders



This Guide was commissioned by the Embassy of Canada to Ukraine with assistance of Deloitte.

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ABOUT UKRAINE AND PROZORRO

Canada and Ukraine are parties to the Agreement on Government Procurement (within the framework of the World Trade Organization). The agreement provides suppliers of the parties a guarantee of non-discrimination regarding procurement.

KEY SECTORS of Ukrainian economy



Agriculture



Energy



IT



Manufacturing



Transportation and infrastructure



Please see [Annex 1](#) for more detailed information about business in Ukraine.



Can\$15 billion

Average annual budget for public procurement



1.4 million

Ukrainian diaspora in Canada



#1

Largest country located entirely within Europe



44 million

Population



1:20

Rounded average rate of Canadian dollar to Ukrainian hryvnia (UAH) in 2018



90 days

Visa-free stay for Canadian citizens during a 180-day period



CANADA-UKRAINE

Free Trade Agreement



The Canada-Ukraine Free Trade Agreement (CUFTA) simplifies the access of Canadian companies to the Ukrainian market and expands trade opportunities.

CUFTA entered into force on August 1, 2017.

Please see [Annex 1](#) for:

- » other topics covered by CUFTA
- » links to the full text of CUFTA in English and French
- » links to a brief CUFTA guide in English and French



CUFTA highlights

- » Pursuant to the agreement, Ukraine eliminated custom duties for approximately 86% of Canadian goods. Check [tariffs for your goods](#).
- » CUFTA eliminated custom duties only for goods originating in Ukraine or Canada.
- » Rules of origin do not apply to public procurements. For example, a Canadian company may offer goods that have not been fully produced in Canada.
- » Procurements must be conducted in a transparent and impartial manner. Conflicts of interest should be avoided and corrupt practices should be prevented.
- » All tenders must be treated on a fair, non-discriminatory and confidential basis.

ABOUT PROZORRO

What is ProZorro?

ProZorro is a centralized, electronic open-source database enabling public procurement in Ukraine.

At the [ProZorro website](#), you can find:

- » information on all tenders held after July 31, 2016 (status, results, winners)
- » news and public events

The website does not give you access to participate in tenders posted. To participate, you should register at a private platform.

Think of ProZorro and private platforms as you would of the Web and browsers through which access is provided. Just like the Web, ProZorro holds data.

To access ProZorro, you can choose from a variety of platforms, each having specific features. Regardless of the platform you use, the accessed data will be the same (even though visual representation may vary).



History

ProZorro was developed as a joint effort of the Transparency International organization, the Ministry of Economic Development and Trade of Ukraine, volunteers, NGOs and other participants.

The ProZorro platform is owned and operated by the state enterprise ProZorro.

The following Ukrainian institutions are obliged to carry out procurements through ProZorro:

- » central executive state authorities (such as ministries)
- » monopolies (such as Ukrainian Railways)
- » local authorities (such as municipal administrations)
- » communal enterprises (companies owned by local communities)

Other institutions and private legal entities may also use ProZorro for their procurements.





Volume of procurements through ProZorro in 2018*

Number of tenders: ----- **1,252,000**

Bidders: ----- **148,100**

Purchasers: ----- **28,340**

Estimated savings for the state budget of Ukraine: equivalent to Can\$1.6 billion

ADVANTAGES

Transparency

- » The name ProZorro comes from the Ukrainian word for “transparent” (“прозоро”).
- » The philosophy and objective of the system is to ensure the transparency of public procurements.

Simplicity

- » Easy and fast online access to public procurement information.
- » Reduced paperwork.
- » Possibility of remote participation.

Data security

- » The IT infrastructure is located in a cloud.
- » The State Service of Special Communication and Information Protection of Ukraine confirmed compliance of the integrated information security system with the law.
- » Ukraine is working to implement the EU General Data Protection Regulation. This will further enhance data protection for all individuals.

RECOGNITION

- » Showcase status as an exceptional example of digitalization of public e-procurement **awarded by the European Bank for Reconstruction and Development and the Open Contracting Partnership**, 2015.
- » **Winner of a World Procurement Award**, 2016.
- » **Winner of the Technology of the Future prize** from Communication on Top—Davos, 2016.
- » In 2017, the **World Bank** announced that it would use the ProZorro platform for the procurement of goods and services in Ukraine. The first auction was held in 2018.

PARTICIPATION OF FOREIGN BIDDERS IN 2018**

Agreements with foreign bidders: **850** (0.1% of the total number of agreements) for a total of **Can\$3 billion** (9% of the total cost of executed agreements)

* Source: ProZorro public analytics module.

** Source: The [latest official report](#) by the Ministry of Economic Development and Trade of Ukraine for 2018.

THE PROZORRO FAMILY

The ProZorro family comprises systems with auxiliary or advanced functions compared to ProZorro.

BI.ProZorro

BI.ProZorro visualizes data from the ProZorro system to make it useable and understandable.

Information is presented in graphs, charts, tables, etc. Users can apply various filters.

Use BI.ProZorro to find out about published tenders relating to goods or services you plan to sell, price offers, tender winners, etc.



NOTE: Interface is only partially translated into English. The full user experience is available in **Ukrainian only**.

ProZorro.Sale

ProZorro.Sale is a platform for selling state and local community property.

Use ProZorro.Sale to check:

- » small-scale privatization
- » the purchase of special permits for the use of state subsoil
- » the purchase of rights to claim and property of bankrupt banks
- » the purchase of rights to lease land plots, and property owned by state and municipal enterprises
- » the purchase of rights to lease freight wagons



NOTE: English interface is available. Tenders are posted **mostly in Ukrainian**.

DoZorro

DoZorro is a tool for public monitoring of procurement.

Use DoZorro to:

- » provide feedback to a contracting authority
- » discuss or better understand procurement terms and conditions
- » analyze procurements of a certain contracting authority
- » prepare and submit official applications to the controlling authorities



NOTE: DoZorro is available in **Ukrainian only**.



OPPORTUNITIES FOR CANADIAN EXPORTERS



Top 10 goods and services
purchased through ProZorro
in 2018-2019 by cost*

- 1 Services related to finished and unfinished construction
- 2 Petroleum products, fuel, electricity and other energy sources
- 3 Services for finishing construction works
- 4 Construction and installation works
- 5 Other goods (largest subcategories: mining equipment, furniture, mining products and metals, agricultural products, clothes and fabrics)
- 6 Construction structures and materials, auxiliary construction products (except for electric equipment)
- 7 Medical equipment, pharmaceutical products and personal hygiene products
- 8 Food, beverages, tobacco and related products
- 9 Ancillary transport services, tourist agency services
- 10 Repair and technical maintenance services

*Source: [ProZorro public analytics module](#).



PLANNED DEVELOPMENTS IN PROZORRO

ProZorro continues to undergo enhancement and development to enforce anticipated regulatory changes.



Ability to reject offers with an abnormally low price

This will help counteract predatory pricing. An abnormally low price is a winning price that is more than 40% lower than competitor prices at the initial stage and more than 30% lower at later stages.



Life cycle cost estimates

Procurement price is no longer the only criterion for winning a tender. The life cycle cost concept takes into account other buyer expenses during the course of using a procurement item.



Electronic catalogue

This is a database of up-to-date offers—a tool for purchasing small lots of typical products, similar to an online store.



Appeal procedure

If the Antimonopoly Committee of Ukraine rules in favour of an appeal, the money paid to submit the appeal must be reimbursed to the applicant. Recall of a submitted appeal will not be possible.



Business associations

Business associations, such as consortia, will be able to bid.

1

PLAYERS AND STAKES

Who are the players?

Buyers

1. Public companies:

- » state/municipal authorities and social security authorities
- » non-commercial legal entities owned by state/municipal bodies

2. Specialized companies:

- » mostly state/municipal business entities operating in designated areas of the economy (oil and gas, heating, electricity, water, railway infrastructure, postal services, etc.)

3. Private companies are not required to conduct procurements through ProZorro; however, they may use ProZorro at their own discretion.

Bidders

Ukrainian or foreign:

- » legal entities
- » individuals

The vast majority of goods, services and **works*** at stake may be purchased through ProZorro, **with the following exceptions:**

- » goods and services related to the design/production of banknotes, coins and state awards of Ukraine, information constituting state secrets, the acquisition/lease of land, buildings
- » for specialized companies, goods/services/works for supporting activities in designated areas of the economy

* The term "works" mostly refers to construction and associated works, as defined in Clause 22 of Article 1 of Ukraine's Law on Public Procurement

See the
full list of
platforms.

2

HOW TO JOIN

Choice of platform

To participate in procurements, bidders must use **authorized electronic trading platforms**. Regardless of the platform used, the tender data will be identical (even though the visual representation may vary).

Platforms with English interface

- | | |
|---|-------------------------------|
| » Tendermaster | » E-tender |
| » Zakupki.prom.ua | » Izi.Trade |
| » SmartTender.biz | » Zakupivli24 |
| » Opentenders.
Online | |

Platforms with no or limited English interface

- | | |
|---------------------------------|----------------------------------|
| » Accept online | » Tenders Allbiz |
| » Newtend | » Public Bid |
| » Uub | » Upetem |
| » Ubiz | » Zakupki.com.ua |
| » All Tenders | » Tender Online |
| » Gov.Auction | » Open Tender |
| » 25h8.Auction | |

Registration

After selecting a platform, the bidder must complete the registration and authorization process. Please note that in case of a **negotiation procedure** (explained further in [section 4, Scenarios](#)), registration is not required.



Registration and authorization take time, so make sure you register in advance.

Bidder can choose any platform

All platforms are connected to ProZorro and display the same information on procurements.

The following information is usually required:

- » company name
- » email
- » telephone
- » codes of goods/services/works according to the Unified Procurement Dictionary*
- » country of the bidder's registration
- » company ID

Authorization

Authorization procedures for foreign bidders vary on different platforms. Foreign companies may choose from the following procedures available on [Zakupki.prom.ua](#), [SmartTender.biz](#) and [Opentenders.Online](#).

1. Signing a contract between the bidder and the platform

Contracts are usually bilingual. Generally, a scanned copy of the signed and sealed contract is enough for the authorization.

2. Bank payment of the invoice

The payment can only be made from the bidder's current account. After the authorization, funds will either be returned to the bidder or added to the bidder's account balance on the platform.

3. Electronic digital signature according to Ukrainian legislation

Note: An electronic digital signature issued by an authorized provider from a foreign country in Ukraine may not be used. Only a digital signature issued by a Ukrainian authorized provider may be used for the purposes of authorization.

4. Bank ID

Note: This option is available only for companies with an account at a Ukrainian bank.

5. Mobile operator ID

Note: This option is available only for phone numbers from Ukrainian mobile operators.

* Available in [Ukrainian](#). The dictionary corresponds to the [Common Procurement Vocabulary](#).

Eligibility criteria

Be conscious that buyers may set the following eligibility criteria.

Bidders—criteria may relate to:

- » the availability of equipment and material/technical base
- » the availability of qualified and experienced employees
- » documented experience of similar contracts in the past

Items to be procured—criteria may relate to:

- » certain technical specifications

Private companies may set additional qualification criteria for bidders.

Reasons for rejection of a bidder's participation

Buyers have the right to reject a bidder's participation in a procurement for the following reasons:

- » The bidder gave a bribe.
- » The bidder or its officials committed a crime involving corruption.
- » The bidder and the buyer are affiliated or related companies.
- » The bidder is bankrupt.
- » The bidder has not implemented the anticorruption program* (only if the procurement value exceeds UAH 20 million [approximately Can\$1 million]).

* The anticorruption program is a set of rules, standards and procedures aimed at combatting and preventing the use of corrupt practices by legal entities.

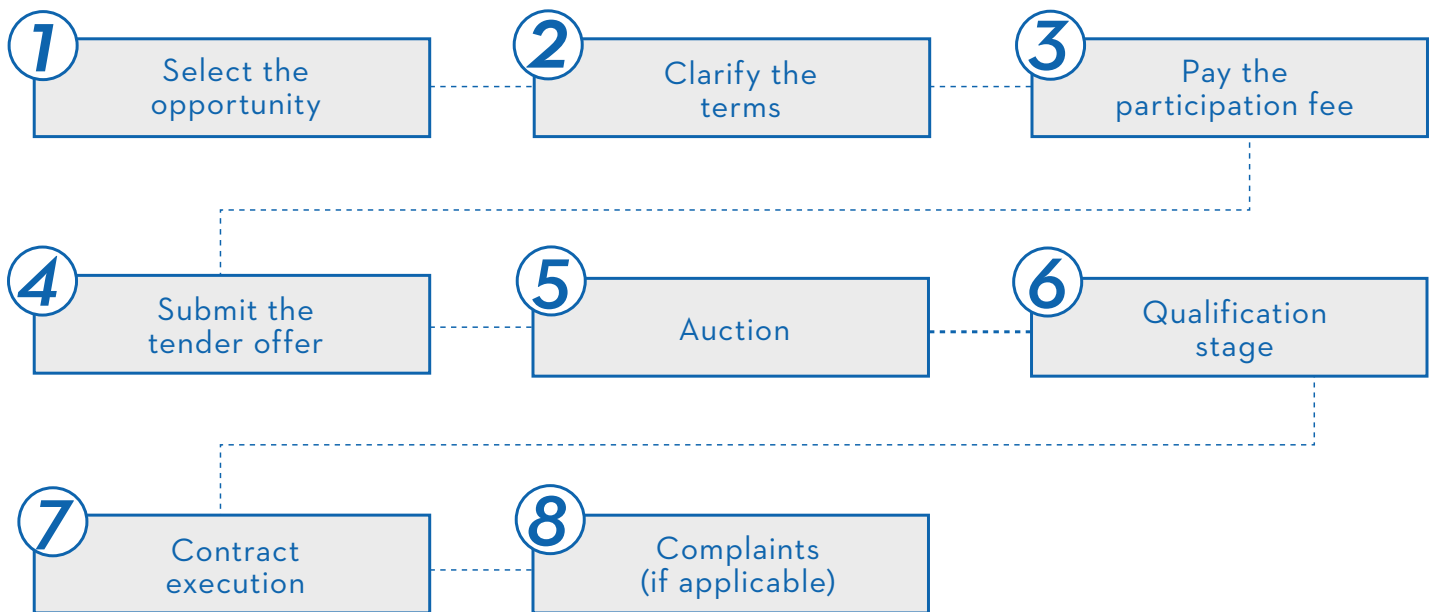




3

STEP-BY-STEP GUIDE

Bidding process at a glance



1. Select the opportunity

- » Go to the platform where you have previously registered.
- » Choose a procurement from the list of available tenders or use the search bar.

Each platform has similar search tools. The ProZorro search tool has the following filters:

+ Keyword + Value + CPV + SCGS-code + Procurement No. + Date + Procurer + Region + Status + Procedure type

CPV = Common Procurement Vocabulary; SCGS = State Classifier of Goods and Services.

Each procurement page contains details and tender documents published by the buyer. These usually include the following:

- » all requirements for bidders
- » a list of required documents
- » technical specifications of items being procured
- » draft contract to be executed with the tender winner
- » terms of delivery
- » language requirements, etc.

2. Clarify the terms

- » Bidders may contact buyers **anonymously** through the platform for clarification of tender documents after their publication.
- » The period for clarification of above-threshold procurements ends no later than 10 days before the bid deadline.
- » As for below-threshold procurements,* the period for clarification that covers both asking questions and providing answers is:
 - » at least one business day, if the procurement value is **UAH 3,000 to UAH 50,000** (approximately Can\$150 to Can\$2,500)
 - » at least three business days, if the procurement value exceeds **UAH 50,000** (approximately Can\$2,500)

The buyer must provide clarifications to tender documents within three days of the question being published.

3. Pay the participation fee

- » The participation fee depends on the procurement value; it ranges from Can\$1 to Can\$85.
- » Platforms usually issue an invoice to be paid by the bidder.

Note: Payment has to be made from the bidder's current account.



* For more details on thresholds, please refer to [Annex 3](#).

4. Submit the tender offer

Tender documents may require bidders to provide a **tender guarantee**—a bank guarantee that is returned to the bidder later (except in certain cases).

A bank guarantee may be issued by your bank in the name of a Ukrainian bank that will re-issue its own guarantee to the buyer.

Follow these steps to submit the tender offer:

- » Enter the price offer in the respective field of the platform.
- » Upload the documents comprising your tender offer.
- » Confirm compliance with all tender document requirements by clicking the respective confirmation button.
- » Obtain information from the platform on the date and time of the auction; this is sent to an internal mailbox on the platform or to your personal email.

Bidders will be able to see each other's tender offers from the earliest stage of the procurement.

In the case of **below-threshold procurements**, the period for tender offer submission is:

- » at least one business day if the procurement value is **UAH 3,000 to UAH 50,000** (approximately Can\$150 to Can\$2,500)
- » at least two business days if the procurement value exceeds **UAH 50,000** (approximately Can\$2,500)

If a tender offer does not meet the tender document requirements, or if a bidder does not comply with the qualification criteria or does not provide a tender (bank) guarantee, the bidder's tender offer will be rejected.

Practical insights

- » Name all the documents you upload exactly as they are named in the tender documents to avoid misunderstandings with the buyer.
- » It is better to upload the set of documents in advance. As all platforms are interconnected and the information is uploaded to the central database on ProZorro, uploading may take some time.
- » Mind the time difference between Ukraine and Canada to make sure you don't miss the bid deadline.

The screenshot displays the ProZorro tender platform interface. The top section shows 'Round 2' results with three bidders: Bidder #3 (180 267 981,30 UAH), Bidder #2 (182 088 870,00 UAH), and Bidder #1 (180 171 831,30 UAH). Below this, 'Round 3' results are shown with Bidder #2 (179 500 000,00 UAH), Bidder #3 (178 447 092,60 UAH), and Bidder #1 (180 171 831,30 UAH). The bottom section shows a list of procurement lots with details such as lot number, description, and status. The interface is in Ukrainian, with a language selector at the bottom.

5. Auction

The auction takes place online on the automatically created **auction page**. It contains information about the tender and the field for making bids.

The auction platform main page contains the list of all current and anticipated auctions and their status **in real time**.

Information about the bidders' tender offers is available to everyone via ProZorro, but the **bidders' prices will be hidden** until the start of the auction.

» The auction platform operates in Kyiv time.

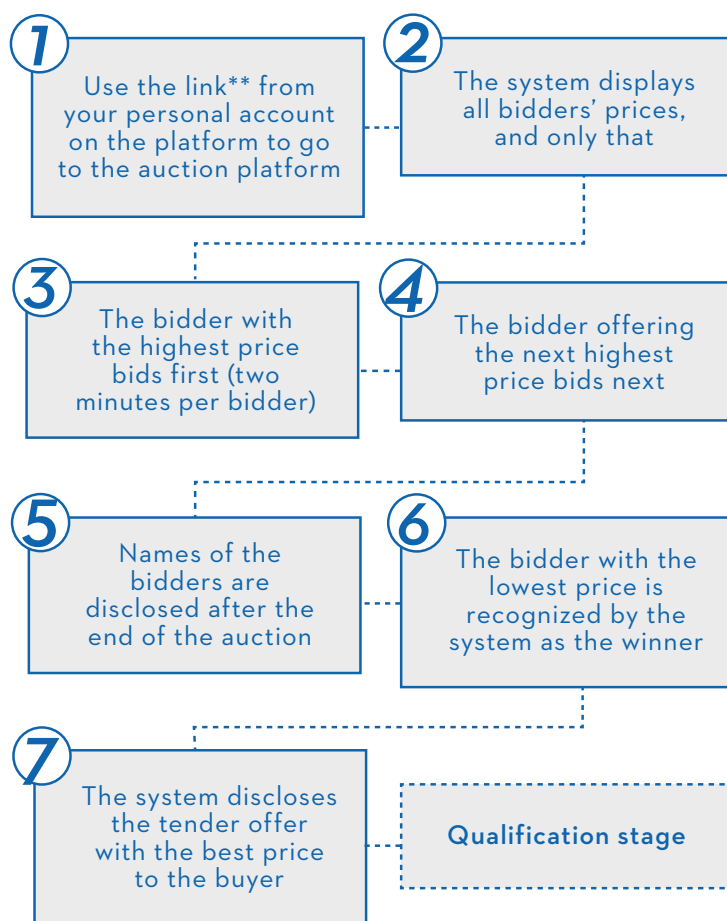
» The auction is held in three rounds.

» During each round, a bidder can reduce the price specified in tender documents by at least one step.* Alternately, the bidder can stay with its original price offer.

In addition to the price criterion used for the assessment of tender offers, the buyer may set other **non-monetary qualitative criteria** such as terms of payment, execution deadline and guarantee services.

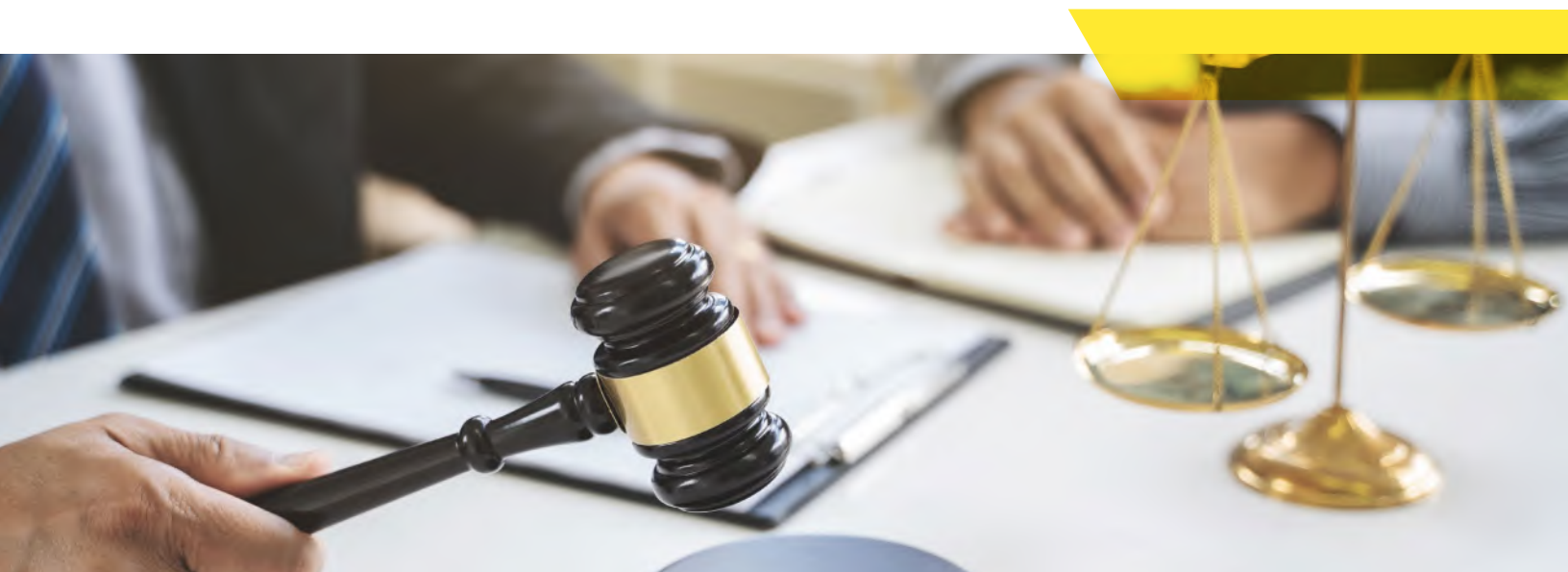
If setting non-monetary criteria, the buyer must establish a formula for calculating the bidders' compliance with these criteria. Based on the formula, ProZorro automatically recalculates the bidders' price offers and establishes the **"corrected price."**

In such a case, the bidders start bidding from the corrected price.



* The step is defined by the buyer upon publishing the tender and can be set as an amount or percentage, or be based on a formula. The recommended step range is a minimum of 0.5% and a maximum of 3% of the planned public procurement budget.

** You are required to follow the link from your personal account as it serves as a confirmation of your right to participate in the auction.



6. Qualification stage

The qualification stage may be held after or prior to the auction, depending on the type of procurement.

These steps take place during the qualification stage:

- » The buyer reviews the tender offer with the best price, making sure that the bidder's offer complies with the qualification requirements established in tender documents.
- » If the tender offer with the best price complies with the tender document requirements, the buyer chooses that bidder as the winner.
- » The buyer sends a tender offer acceptance letter to the winner via the platform.

7. Contract execution

The contract is executed between the tender winner and the buyer according to Ukrainian legislation.

The contract is executed only after the end of the **term for appeal**, which, depending on the procurement scenario, is **10 days** after:

- » the qualification stage in an open tender
- » the auction in an open tender published in English
- » the auction in a procurement process known as “competitive dialogue”

8. Complaints

If you suspect that violations took place during your procurement, you can file a complaint to a number of authorities. [Templates for the most common types of complaints](#) can be found at the DoZorro website.

Note:

- » If a situation is not typical, a legal advisor specializing in local procurement can help to prepare a customized complaint.
- » All communication with local authorities is held in Ukrainian.

Please refer to [Annex 2](#) for typical violations, respective authorities you can report to and possible complaint results.





4

SCENARIOS

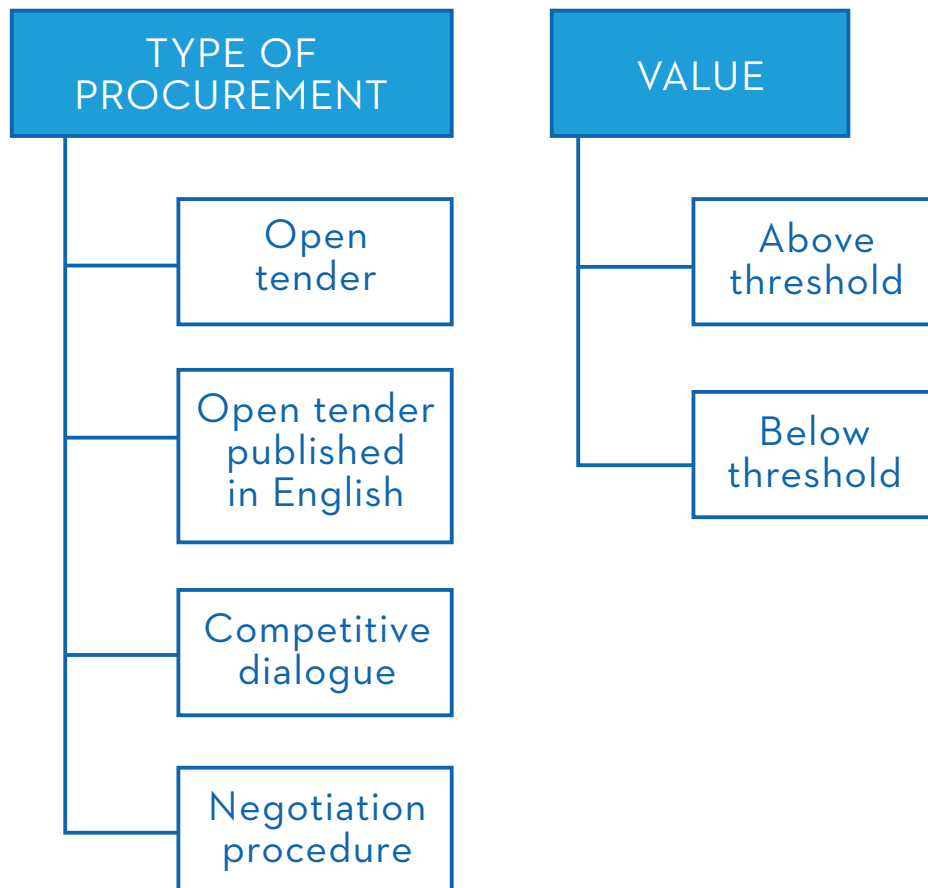
Types and thresholds

There are certain modifications to the standard process depending on the **type of procurement** and the value in relation to **the threshold**.*

Click on each **type of procurement** to learn more about it.

An important factor to know about **thresholds** is that above-threshold procurements must be published on the ProZorro website. Most worthwhile public opportunities are above threshold.

* For more details on thresholds, please refer to [Annex 3](#).



OPEN TENDER

What?

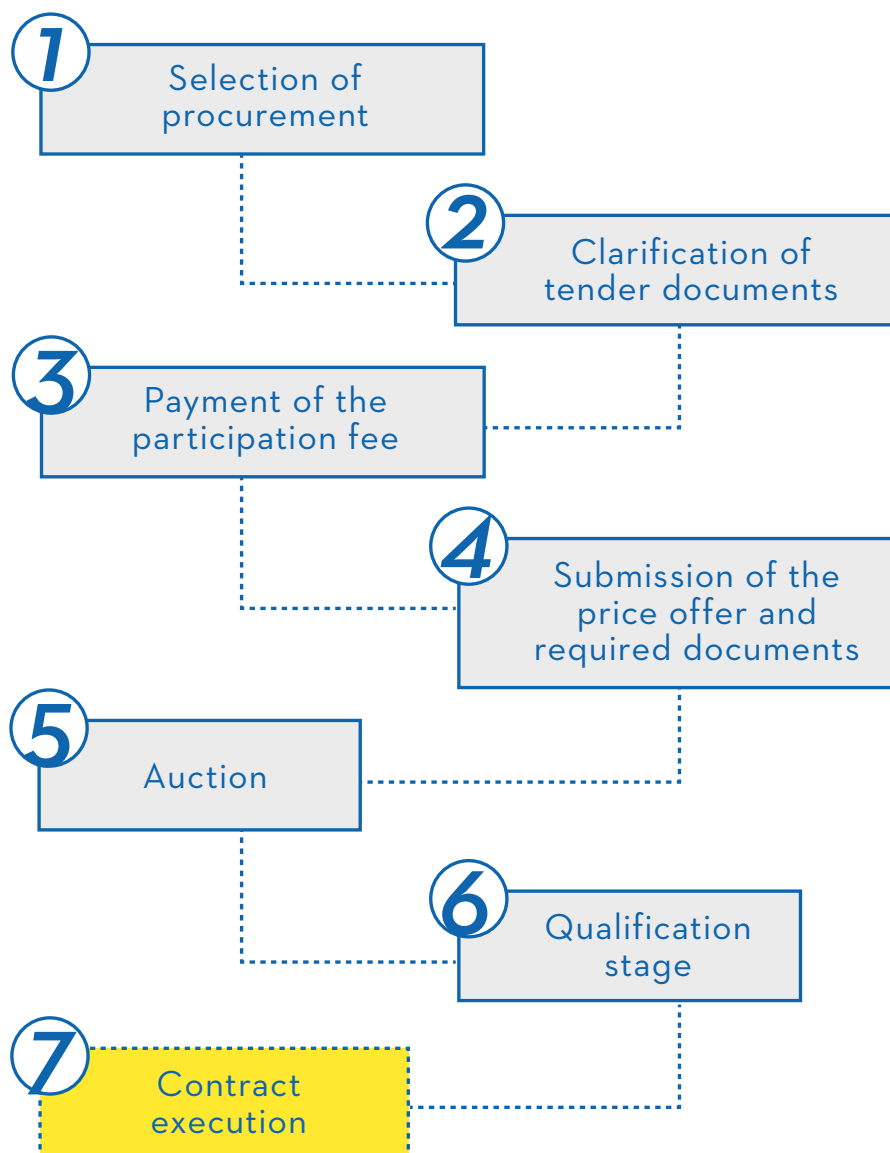
The most commonly used procurement procedure

When?

- » Buyer is certain about what items it wants to purchase
- » There are several companies in the market that might offer the best proposals

Why?

To choose the most appropriate offer in terms of price and compliance with the eligibility criteria



OPEN TENDER PUBLISHED IN ENGLISH

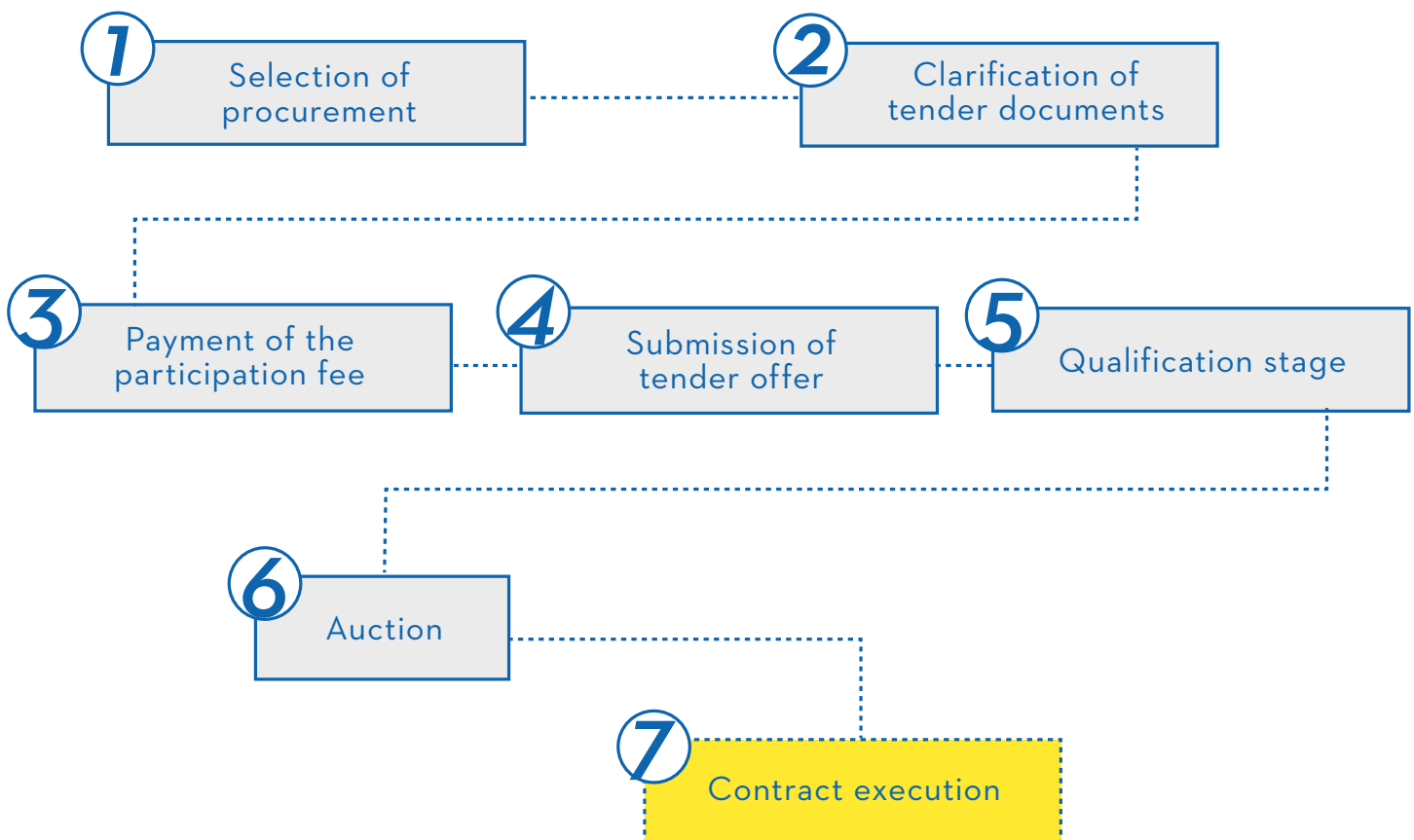
What?

The procedure of open tender published in English is the same as the open tender procedure, except for steps 5 and 6

When?

If the expected value of procurement exceeds:

- » €133,000 (Can\$200,000) for goods and services
- » €5.15 million (Can\$7.7 million) for works



COMPETITIVE DIALOGUE

What?

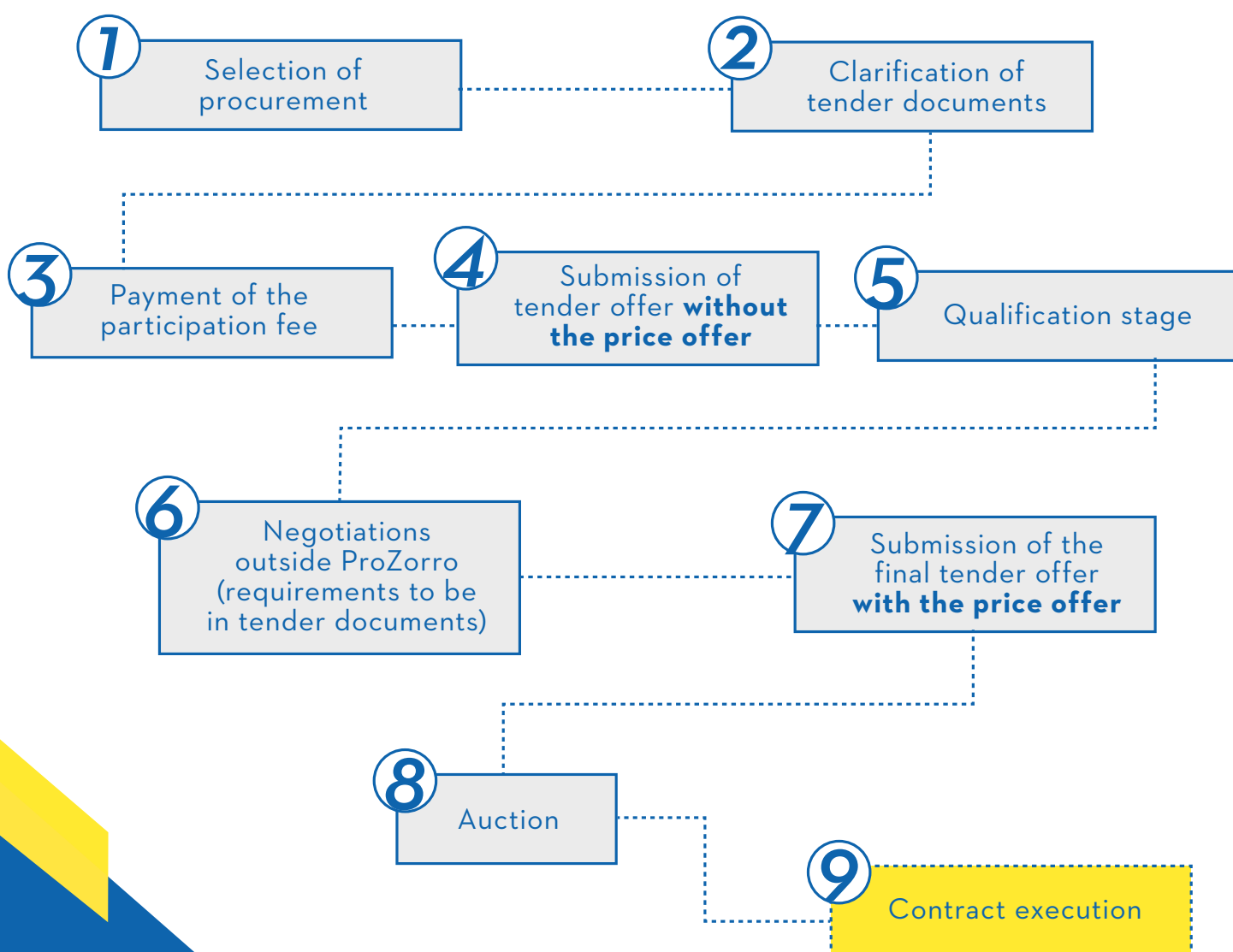
A less commonly used procurement procedure

When?

- » Buyer is uncertain about what items it wants to purchase or what technical specifications should be in place
- » The procurement aims to buy software, scientific research, information systems development, the construction of buildings

Why?

To optimize the procurement's goals through a dialogue with bidders



NEGOTIATION PROCEDURE

What?

The only procedure held offline (not via platforms)

When?

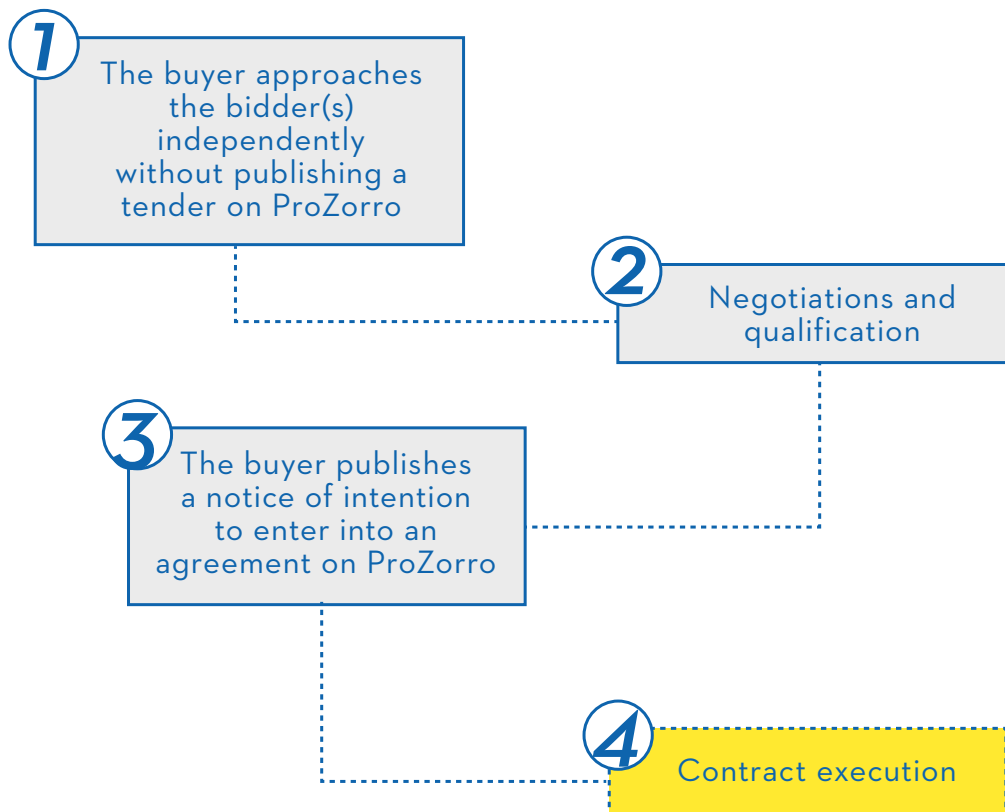
Most commonly used when:

- » works of art or items involving the protection of intellectual property rights are being purchased
- » there is an absence of competition in the market
- » a tender has already been cancelled twice due to an insufficient number of bidders

Why?

To optimize the procurement's goals through negotiations, in order to find eligible bidders

Note: The buyer will require the bidder(s) to submit compliance-related documents during negotiations.



CHALLENGES AND TIPS

Foreign bidders may face specific issues. Below are the most common ones and how to deal with them.

1. Language

Most of the information is in Ukrainian. Different platforms with English interfaces may have different translations of the same term or definition. For example:

- » the buyer—customer, procurer, etc.
- » the bidder—supplier, participant, etc.

Usually, tender documents are published in Ukrainian. The buyer may publish tender documents prepared in English at its own discretion.

A foreign bidder may consider engaging a translator.

2. Registration on platforms

Not all platforms allow registration and authorization of foreign companies. A number of platforms that do are mentioned on page 14.

3. Authorization on platforms

Authorization on platforms might take longer due to the execution of service contracts with the platform. Some authorization options (foreign digital electronic signature, mobile ID, foreign bank ID) may not be available for foreign companies.

Please make sure that the authorization is completed in advance of bidding on a tender.

4. Participation of foreign companies

Tender documents might lack information on foreign companies' participation in procurement. In such cases, you may ask the buyer for clarification of tender document requirements if needed.

A common issue is when tender documents require bidders to submit documents that only Ukrainian bidders can have (such as confirmation of registration in the Ukrainian Register of Companies). In such a case, foreign bidders should query the buyer. Usually, foreign bidders submit equivalent documents issued in their country of registration.

5. Currency conversion

The currency for procurements is UAH. The system has no automated currency conversion option. Therefore, bidders will need to make currency conversions themselves.

The National Bank of Ukraine provides the [official exchange rate of UAH to foreign currencies](#). You may also choose from a number of online currency converters.

ANNEX 1 – Opportunities for Canada in Ukraine

1. More about Ukraine for investors

- » [Business report on Ukraine prepared by Die Welt](#)

Information resources regarding investment in Ukraine:

- » [UkraineInvest](#)
- » [Ukraine: Your investment destination](#)

2. Ukraine's Law on Public Procurement, unofficial translation into English

3. Links to CUFTA full text and brief guide

- » [Full text of CUFTA \(English\)](#)
- » [CUFTA overview \(English\)](#)
- » [Full text of CUFTA \(French\)](#)
- » [CUFTA overview \(French\)](#)
- » [CUFTA in 10 minutes \(English\)](#)

ANNEX 2 – Complaints

Alleged violation	Authority	Result of a complaint
Any act or omission by the contracting authority violating public procurement laws and resulting in the infringement of a right or legitimate interest of the participants	Antimonopoly Committee of Ukraine* *Committee is the main compliance review body as regards public procurements The state duty for the submission of a complaint to the committee: » UAH 5,000 (Can\$250)– related to the procurement of services and goods » UAH 15,000 (Can\$750)–related to the procurement of works	The committee may obligate the contracting authority to: » amend tender documentation » cancel procurements » cancel a decision on the rejection of participants » cancel a decision on the determination of a winner » cancel a decision on the admission of participants
Unjustified admission of participants to the auction	Accounting Chamber of Ukraine (only with regard to procurements paid for from the state budget) The State Audit Service of Ukraine	A fine of UAH 11,900 (Can\$600) to UAH 17,000 (Can\$850) is levied on each member of the tender committee and on the contracting authority
Unjustified determination of the winner	Accounting Chamber of Ukraine The State Audit Service of Ukraine	
Executed procurement contract does not comply with the auction results	Accounting Chamber of Ukraine The State Audit Service of Ukraine	A fine of UAH 11,900 (Can\$600) to UAH 17,000 (Can\$850) is levied on each member of the tender committee and on the contracting authority
	The State Treasury Service of Ukraine	Payments from the contracting authority account are prohibited

Alleged violation

Authority

Result of a complaint

Violation of disclosure terms/
failure to disclose annual
procurement plan and its
annexes, procurement
contract and its amendments,
tender documents, contract
execution and performance
report, tender offer-related
documentation and information

Accounting Chamber of Ukraine
The State Audit Service of Ukraine

A fine of UAH 11,900 (Can\$600)
to UAH 17,000 (Can\$850) is
levied on each member of
the tender committee and on
the contracting authority

Unavailability of the annual
procurement plan/amendments
to the plan before making
payments under the contract

Inconsistency of the annual
procurement plan with
legislative requirements

Absence of the
procurement contract

Procurement results deemed
invalid by court decision

Absence or inconsistency
of required documents per
legislative requirements

The State Treasury
Service of Ukraine

Payments from the contracting
authority account are prohibited

ANNEX 3 – Threshold

Ukraine's Law on Public
Procurement establishes
certain procurement thresholds
where the use of the ProZorro
system becomes mandatory
(otherwise, it is optional).

