



Republika e Kosovës
Republika Kosova – Republic of Kosovo
ORGANI SHQYRTUES I PROKURIMIT
TELO ZA RAZMATRANJE NABAVKE
PROCUREMENT REVIEW BODY

Psh. No.1055/23

The Review Panel, appointed by the President of PRB, based on Article 105, 106, and 117 of the Law on Public Procurement of the Republic of Kosova (Law no. 04/L-042, supplemented and amended by Law 04/L-237, Law 05/L-068, supplemented and Law 05/L-092) in the composition of Vedat Poterqoi - President, deciding according to the complaint of (EO) “KROSA traffic signs” SH.P.K., against the Decision on contract related to the procurement activity “Supply and placement of horizontal and vertical traffic signs-Re-tender” with procurement number 657-23-3118-1-2-1, initiated by the contracting authority (CA) – Municipality of Viti, on the 13/03/2024 has issued this:

DECISION

1. **Refused**, as ungrounded the complaint of the EO “KROSA traffic signs” SH.P.K, with no.1055/2023 of the 26/12/2023, related to the procurement activity “Supply and placement of horizontal and vertical traffic signs-Re-tender” with procurement number 657-23-3118-1-2-1, initiated by the contracting authority (CA) – Municipality of Viti.
2. Confirmed the Notice on the Decision of the Contracting Authority - Municipality of Viti related to the procurement activity with the data as in point I of the provision.
3. Ordered the confiscation of the complaint’s fee in the amount deposited by the complaining economic operator based on article 31 par. 5 of the Rules of Procedure of the PRB, while the funds go to the budget of the Republic of Kosova.

REASONING

- Procedural facts and circumstances –

On the 03.04.2023, the Municipality of Viti in the capacity of the Contracting Authority has published the Notice for Contract B05 related to the procurement activity entitled “Supply and

installation of horizontal and vertical traffic signs - Re-tender" with procurement number 657-23-3118 -1- 2-1. While on the 08.12.2023 CA published B58 Notice on the decision of the Contracting Authority where it awarded the contract "Limit L & B SH.P.K"

This procurement activity was carried out through an open procedure with the type of supply contract and with an estimated contract value of 10,000.00 €.

On the 12.12.2023, EO "KROSA traffic signs" SH.P.K submitted a request for reconsideration against the aforementioned decision of CA. On the 20.12.2023, the Contracting Authority rejected the request for reconsideration as unfounded.

On the 26.12.2023, PRB received the complaint from EO "KROSA traffic signs" SH.P.K, with no. 1055/23 related to the activity "Supply and placement of horizontal and vertical traffic signs- Re-tender" with procurement number 657-23-3118-1-2-1.

-On the stage of preliminary review-

The Review Panel has concluded that the complaint contains all the elements defined through Article 111 of the LPP and as such was submitted within the legal term in accordance with Article 109 paragraph 1 of the LPP after the preliminary procedure for resolving disputes in the sense of Article 108/A of the LPP, from the economic operator who is an interested party according to article 4 paragraph 1 sub-paragraph 26 of the LPP. In this way, the Review Panel has concluded that it is competent to review this complaint according to Article 105 of the LPP and there is no procedural obstacle to proceed with reviewing the complaint in a meritorious manner.

The claims of the complaining economic operator "KROSA traffic signs" SH.P.K are presented as follows:

CA- MUNICIPALITY OF VITI, in the procurement activity entitled: Supply and installation of horizontal and vertical traffic signs, with no. procurement 657-23-3118-1-2-1. The CA did not evaluate the offers in accordance with the criteria of the contract notice and the tender file, since the same CA recommended the EO "LIMIT L&B" for the contract, which EO is irresponsible, according to the criteria of the file and that the same was intended to be canceled and not recommended for contract. CA in the criteria of the file has requested criteria of the nature of the project that the EO has not met and that it wanted to be eliminated from this activity. The required dossier criteria of the Technical and Professional Capacity are: Technical and professional capacity 1. EO or Group of EO, to bring Project Contracts for similar supplies, at least as much as the value of the Unification of the project. 2. a.) Available work tools, vehicles and means of transport for carrying out work b.) Work equipment for exercising the supply activity for vertical and horizontal marking 3. EO to have an ISO standard 9001 2015 certificate 4. List of staff min 10. to contain the names and surnames and occupation of the workers to be submitted (and stamped by EO, attaching contracts or pre-contracts; A master traffic engineer, at least 2 two (2) workers certified for health protection (and safety at work and at least two (2) workers trained for fire protection. Regarding the above criteria (required as in DT), we as EO during the access we had to the tender dossier of the recommended EO came to conclusion, that

the recommended EO is irresponsible for the fact that: In the criterion of point 2.a) bring evidence that at least one (1) nation, EO recommended in this criterion has not offered the nation, but has offered a pickup truck (Renault Kango), which does not meet the criteria of the tender file (proof according to the quantity number and google research). ROVE: 002 EVIDENCE - EQUIPMENT, AUTHORIZATIONS.pdf. On the criterion required for the traffic safety device: Trailer with signaling lights for Traffic Safety, on this criterion the recommended EO has not provided the evidence — the trailer's registration book even though this is required according to the law in force, which is in force and that it is proven that the vehicles that move in the case of the trailer must have this registration (traffic license). The recommended EO has an agreement with "FAMIS CO", but it is not registered. So, the recommended EO does not have a registered trailer as required in the Republic of Kosova and does not have a traffic book as mentioned above, but it has a Customs DUD, according to the cooperation agreement with "FAMIS CO". Therefore, the recommended EO does not meet the criteria required by TD and CN (and should be eliminated and not recommended by CA for this activity. In the criterion "a. Machine for bending metal profiles (cooperation agreement NPTSH LIMIT L & B and Gynar Hacı B.I). So based on this agreement, it is proven that the recommended EO does not have this equipment since it did not offer it according to the criteria of the DT "a. Machine for bending metal profiles", but in the DUD attached to the file it says (quotation): Cutting machine used for working sheet metal and metal profiles, for the production of doors and windows, while in the TD- it is decidedly requested for SIGNALING VERTICAL - a. Machine for bending metal profiles. So, the recommended EO does not meet the criteria required by TD and CN (and should be eliminated and not recommended by CA for this activity. Also in the other criteria of the File: b) The machine for circular cutting of metals (aluminum), even in this criterion as requested in TD and CN, it is proved that the recommended EO does not meet the required criterion for the reason that the criterion of TD is "Machine for circular cutting of metals (aluminum)," while the recommended EO has provided the DUD with the description: Veala-Machine for processing any material through the displacement of the material, through laser beam or photon beam or other light beam processes, through the processes with ultrasound. Therefore, from the description presented in the DUD, it is automatically proven that the machine is not offered as requested in the criteria: Machine for circular cutting of metals (aluminum), but another device is offered that is not related to the nature of the work requested and this it is proved that the EO does not meet even this criterion of the TD and failure to meet the criteria makes the offer irresponsible according to article 59.4 of the LPP, which says (quote): The Contracting Authority must recommend for the contract an Economic Operator who meets the required criteria of the contract notice and the tender dossier. Therefore, based on the article (59.4 of the LPP) mentioned above, the CA must eliminate the recommended EO since it is irresponsible. Therefore, the recommended EO does not meet the criteria required by TD and CN and should be eliminated and not to be recommended by CA for this activity.

To criterion I of TD: c. Machine (scissors) for metal cutting, as well as for this criterion, the recommended EO did not prove in its tender file that it has the machine for cutting metal (according to the technical specification min. 2 mm), while the recommended EO offered hand scissors which cannot be used for anything more than textiles, because the value of the scissors

offered to EO "LIMIT L& B" is €13.50 (according to the invoice attached with no. 213254 of 23.02 .2023) from EO "LIMIT L&B" itself. It is also worth noting that the agreement - the lease contract dated 27.07.2015 signed between the Lessor Muharem Hacı, a natural person, and the Lessee NPSH NUR & CELIK, where in this agreement APKAN40 T and Scissors for cutting sheet metal are mentioned in 4 mm, but according to the agreement in question, nowhere is it mentioned that the tenant is the recommended EO "LIMIT L&B". So, the tenant and the landlord are other persons who have nothing to do with this contract, you can prove the document attached to file. So, this proves that the EO has tried to deceive the CA with the names of the devices which it has not presented the evidence (agreement, DUD and invoice) that connected with the recommended EO "LIMIT L&B".

So, the recommended EO does not meet the criteria required by TD and CN and should be eliminated and not recommended by CA for this activity. PROOF: EVIDENCE FOR THE EQUIPMENT ATTACHED TO THIS COMPLAINT.

To criterion d. A machine for printing traffic signs, also in this file criterion, the recommended EO "LIMIT L&B" has not proven that it meets the file and NJK criterion, but has offered a machine which is not of the nature that is requested, which we are clarifying through the DUD attached to the file, where the description of the machine says: Printer connected to a computer or to the network, MIMAKI printing machine, CJV300-160 with no. serial AV16B162.

Regarding this DUD of the above-mentioned device, during the approach you took in the CA, you proved that the same DUD does not have the descriptions of a complete DUD according to the current legislation, where it is obvious that this DUD lacks a lot data that make it suspicious, and find the DUD attached as Evidence, where you can compare it with other DUDs and you will immediately prove that the EO has presented a suspicious DUD and that the same must be verified with the authorities competent, since nowhere is it stated that it is owned by EO "LIMIT I-J&B", also there is no description of the price, description of the quantity, the name of the forwarder is not found, the expedition stamp is not found, nor is the expedition number found and the name of the owner is not found either

PROOF: The DUD which we suspect has been interfered with and the same must be verified by the competent bodies. So, the recommended EO does not meet the criteria required by TD and CN and should be eliminated and not recommended by CA for this activity. So, the recommended EO does not meet the criteria required by TD and CN and should be eliminated and not recommended by CA for this activity.

To the criteria p. Original authorization (or notarized copy) from the manufacturer or distributor for vertical markings reflective verb DG.

The recommended EO does not meet the required criteria of the file because, according to the agreement it has provided in the file, the recommended EO has presented an agreement with an EO in the Republic of Serbia D.o.o BOJA — Sombor, which EO is not a producer of reflective foil DG , but it is not a distributor for reflective foil, even though the distributor must be in the Republic of Kosova and not a distributor or representative in Serbia who is not a manufacturer of this foil and this proves that the recommended EO does not meet TD criterion: Original

authorization (or notarized copy) from the manufacturer or distributor for vertical markings reflective verb DG.

Clarification: If the same Operator D.o.o BOJA Sombor-Serbia is researched on www.google.com, it is proven that it is not a manufacturer of reflective tape, but deals with signaling. Therefore, based on the evidence and testimonies mentioned above, the recommended EO "LIMIT L&B" does not meet the criteria required by TD and CN and should be eliminated and not recommended by CA for this activity. Criteria for Horizontal Signaling: I. At least two machines for horizontal signaling with simple color, one component according to this criterion the EO is required to present (attach the evidence) in its file at least 2 machines for horizontal signaling, but the recommended EO "LIMIT L&B" has offered a machine which has the customs DUD and is in accordance with the criteria, but for the second car he offered an agreement with a company in Serbia D.o.o BOJA - Sombor, where according to this agreement it is proven that there is no consortium but also as is known from experience that no equipment can be brought through the customs in Kosovo, for performed rental services in the Republic of Kosovo as in the case in question, but due to the obstacles they have in use, no car from Serbia has operated in such cases so far. So, this proves that the agreement is also suspicious, and we can freely say that the recommended EO offered only for the cover that meets the Dossier's criteria, deceiving the CA, only to be rewarded with a contract for the tender in question. Even in this criterion, the file criterion is not met and we think that this EO has led the CA astray. Also for this criterion, the recommended EO does not meet the criterion of TD and CN and should be eliminated and not recommended by the CA for this activity. Also related to the criterion of TD: Criterion 3 1 of the file is requested: EO to have an ISO standard 9001 2015 certificate. therefore, based on the documents presented in the file, it is proven that the EO recommended for the ISO Certificate that it has presented is seen as a suspicious certificate. So, why we say it is doubtful is that we tried to verify it through the link: <https://eqsc-cert.org>, but we could not verify it, and we are presenting below the evidence that nothing can be verified through the link that is written on the ISO Certificate. DESHMINGA INTERNET: that the ISO Certificate cannot be verified Likewise, the CA in the decision of the request for reconsideration writes that from the request for clarification that the Contracting Authority received from the company recommended for the LIMIT L&B Contract, it was not possible to verify the ISO 9001 2015 document, according to the link: <https://eqscert.org/certified-client>

So, even from the link sent by EO LIMIT, it does not prove that the ISO 9001:2015 CERTIFICATE IS VALID, but it can be seen that it is doubtful since the CA gave the same answer in the REJECTION DECISION. What is seen in the Decision proves a that the Certificate is not in order and the CA itself has accepted it in this Decision of Rejection. Also, it is worth mentioning that the ISO Certificate, which is seen as suspicious since the name of the Operator placed in the Certificate, in addition to the name is also attached the LOGO (LIMIT L & B), of the recommended EO and this is suspicious because so far no company has been able to enter the company's LOGO in the ISO 9001 2015 quality certificate. With this ISO certificate, which is suspected to be incorrect, the Offer of EO "LIMIT L&B" is irresponsible, therefore CA wanted to eliminate this EO, not to recommend it for a contract. As Article 59.4 of the LPP makes it very clear, it is also the responsibility of the PPO (Procurement Office) to verify or

investigate in suspicious cases through the e-mails included in the Certificate. Also, our other claim related to the recommended EO, we found that in his file he attached an AUTHORIZATION from EVELUX TECH, System Reflective Product, which authorization is dated 01.12.2014 with a validity of 1 year, which is proven that this authorization was valid until 12.01.2015. Where after this date the authorization attached to the file is invalid or expired.. So we think that with these actions the recommended EO has inserted expired documents trying to deceive the CA just to be recommended for a contract for this activity. So, it is clearly seen the attempt made by EO "LIMIT L&B" for this tender with the sole purpose of benefiting from the illegal tender. This also proves that it does not meet the criteria of DT EO recommended "LIMIT L&B", and that this EO should be eliminated from the CA recommended by CA for this activity. Also, the recommended EO (LIMIT L&B) has offered at low prices, where at these prices the manufacturer of the equipment to complete this project is not able to offer at these absurd prices as EO "LIMIT L&B" has offered. ".", therefore with these actions the recommended EO (LIMIT L&B) has violated Article 61 of the LPP, by manipulating prices in advance as in positions: 16,17,18, 19,20, has set prices not normally low, and with these prices it is not possible to complete a panel like in the photo, where it is known that the price of the panel in question is a minimum of 3500 Q, and not at a price of €45.00 as the recommended EO has set or deceived with these prices "LIMIT L&B", Attached you will find the receipt that proves the prices at which it has offered. Therefore, with these prices, the CA wanted to act according to paragraph 2, 3 and 4 of article 61 of the LPP, which says: 2. When determining whether a tender is or appears to be abnormally low, the contracting authority will take into account the explanations submitted by the tenderer regarding: 2.1. the economy of the production process, of the services provided and/or of the construction methods; 2.2. any technical solutions that have been offered or chosen 2.3 any particularly favorable conditions that are available to the tenderer for the supply of products, the provision of services, the execution of works projects and/or the exercise of construction activities that are being procured; and/or 2.4 the originality of the supplies, services, work or proposed works.

After taking into account the information and explanations that have been submitted by the tenderer according to paragraph 1. of this article, if the contracting authority finds that the tenderer has submitted in sufficient detail the bases of his tender, the contracting authority must treat such tender in the manner of the same as it treats other tenders. 4. After considering the information and explanations submitted by the tenderer according to paragraph 1. of this article, if the contracting authority decides that the tender is abnormally low, the contracting authority will reject the tender. EVIDENCE: Evidence that EO has offered at abnormally low prices, for products that are very expensive Photo evidence for the lighting panel with digital Led lights, which proves that this LIGHTING PANEL cannot be made at a price of €45.00, you can also research it the market for this product.. 450CM SO, AK- THE ASSEMBLY OF VITI MUNICIPALITY, has not respected article 108/A of the LPP by not respecting paragraph 10.2 of article 108/A of the LPP, which says: O. The contracting authority can, by means of a decision: 10.2. approve a request for review as well-founded and partially or completely cancel the approved decision; So, non-compliance with this article 108A of the LPP, proves to us that the CA has discriminated where he committed a violation of Article 7 of the LPP, and by not

evaluating the offers according to Article 59 of the LPP, which automatically by not meeting the criteria of TD (equipment), Article 69 of the LPP was violated. Also, the abnormally low prices prove that EO has offered prices that the raw material cannot even be supplied in China without assembly, let alone the assembly of a device (to which the metal constructions must also be attached, etc. which have a very high cost), which will cost at least 3500 Euros, and will never be assembled for 45.00 Euros as offered by the recommended EO. Based on the above claims, we ask you as PRB to consider our complaint as based on facts and evidence.

Referring to the claims as above, the complaining economic operator considers that the Contracting Authority acted in violation of Article 1, 6, 7, 59, 60, 61, 69, 72, 108 of the LPP, as well as 28, 42, 39 of the public procurement regulation. By proposing to approve the complaint of EO "KROSA Traffic Signs" SH.P.K, and cancel the decision of the CA, which decision is not based on the criteria of the TD, and through this complaint we request that the matter be returned for evaluation, and during the re-evaluation to be recommended for contracts since we as EO are responsible, where we meet all the required criteria of the Tender dossier and Contract Notice.

The response of the CA to the request for reconsideration: "The procurement official, based on article 108/A, point 10.2 of the LPP, the CA takes this decision since the company "KROSA traffic signs" LLC does not provide any evidence with which to justify the complaint claims. Based on Article 108/A paragraph 6, the deadline for making the decision has been postponed.

Regarding your claims, we directed you to the recommended EO, who explained the issues raised, for which the EO provided evidence, even though this authorization has a deadline until April 22, 2023 and has not been extended.

I give the explanation about the cutting scissors only with one explanation, which is not supported, apart from the reasoning that the owner has changed from Muharrem Haci to Gyner Haci.

For the claim related to the profile cutting machine, it turns out that it is also a cutting machine for cutting aluminum and metal profiles for doors and windows.

The claim related to the pickup, that the EO provides a proof of its ownership.

Regarding the verification of ISO Standard 9001:2015, EO has sent us a link: <https://eqs-cert.org/klient-te-certifika/> which is not accessible.

For the other claims, you did not provide sufficient evidence, while regarding the abnormally low price, offered by EO "LIMIT LB", you have a Decision from the PRB."

Relying on article 111 paragraph 5 related to articles 113 and 114 of the LPP, the Review Panel dated 01/03/2024 has authorized the review expert to conduct the initial review of the file and claims according to complaint no. 1055/23, while on 15/01/2024 the review expert's report with no. 2023/1055 with the following recommendations: Based on the above-mentioned clarifications, the review expert proposes to the review panel that the complaint of the complaining EO be rejected as unfounded and that the decision of the CA remain in force.

The expertise report has been duly accepted by all procedural parties. The CA has not given an answer regarding the recommendations of the review expert's report, while the EO disagrees about the review expert's report.

The review panel has assessed that the conditions have been met to decide on this case without a hearing in the sense of Article 24 paragraph 1 of the Rules of Procedure of the PRB, taking into account that the claims of the parties and their submissions, the evidence as well as the expert's report reviewers provide sufficient data to decide on the merits of the case.

-Administration and evaluation of evidence -

In order to fully verify the factual situation, the review panel administered as evidence the expert's report, the opinions of the parties regarding the expert's report, the complainant's submissions and documents, the contracts and documents of the contracting authority, the relevant documents related to the procurement activity as and all the evidence that has been proposed by the procedural parties.

Regarding the claims of EO "KROSA traffic signs" LLC, the review expert through report no. 2023/1055 assessed as follows:

- The finding of the review expert regarding the claims of the complaining EO: "The reviewing expert gives his opinion regarding the complaining claim 1, after having administered and carefully reviewed the documents related to the facts and arguments in the electronic platform e-procurement, flow and analysis of the procedure for this mentioned high procurement activity, for the complaining claim of the complaining EO.

Limit & B Sh.P.K according to the request in the DT was asked to quote: Requests on technical and/or professional opportunities: 2. a.) Available work tools, cars and means of transport for carrying out work b.) Work equipment for the exercise of the supply activity for vertical and horizontal marking, Documentary evidence required: Bring evidence that At least one (1) Nation, based on the EO offer recommended for the contract, has delivered a Renault Kango type car/vehicle of year 2004, since the CA has not correctly specified the capacity, weight (tonnage), and seeing that the evaluation of the offers is the responsibility of the CA, according to the expert's opinion, this appeal claim is partially sustainable.

The review expert gives his opinion regarding the appeal claim 2: After the administration and review of the case documents against the appeal claim, the review expert finds that according to the request of the CA in the DT in the section Requests on technical and/or professional opportunities, the Evidence of required documents: A trailer with traffic safety warning lights (Registration books, or customs dummies) for all to be valid or the rental contract. After examining this complaint claim on the electronic platform, EO has offered a cooperation agreement for the use of this equipment, the cooperation agreement is concluded between Limit L&B SHPK and FAMIS HC, the agreement in question contains the main elements such as the name of the project, the procurement number for the project in words, he has also provided the customs DUD for the device in question. Therefore, in the opinion of the reviewing expert, this

claim is unsustainable. I also inform you that this claim has been clarified in the complaint with PRB: 2023/0295.

Complaining claim 3 is also related to the part: Requirements on technical and/or professional opportunities, a. Machine for bending metal profiles, even in this request/evidence, it is not specified, but it is left as an open request, and in the opinion of the reviewing expert, this claim is unstable because the EO recommended for the contract has offered a cutting machine aluminum.

Complaining claim 4 is also related to the part: Requirements on technical and/or professional opportunities a. Machine for bending metal profiles, the EO recommended for contract in the electronic system in its offer has offered a cooperation agreement between Limit L7B and Gyner Haci B.I and a customs DUD which has the following description: Cutting machine used for sheet metal work and metal profiles in the production of doors and windows with conductive parts RT1530 PLASMA CUTTING MACHINE 1/S. this claim, in the opinion of the examining expert, is unsustainable.

Complaining claim 5 is also related to the part: Requirements on technical and/or professional possibilities regarding the request/evidence in DT 9.1 & 9.2 c. The machine (scissors) for cutting metals, the recommended EO has provided the braids, but since the CA has not requested the type and detailed specifications of the scissors, this claim is unsustainable in the opinion of the examining expert.

Complaining claim 6 from the complaining EO is all about the requests on technical and/or professional possibilities regarding the request/evidence in DT 9.1 & 9.2 d. Machine for printing traffic signs, while the EO recommended for the contract in its offer has provided a customs DUD for the printing machine of the type: "MIMAKI" Printing machine / Printer cutter CJV300-160 Serial No.: AV16B162 1 cp and for the opinion of the expert this complaining claim is unsustainable.

As for the part of the complaining claim that the DUD is different or there is interference in the DUD, I cannot give an explanation or opinion because it is not in the domain of the reviewing expert, but for any doubts you can turn to the responsible and professional bodies in this laugh at this claim.

Complaining claim 7 from the complaining EO is all about the requests on the technical and/or professional possibilities regarding the request/evidence in DT 9.1 & 9.2 d. Original authorization (or notarized copy) from the manufacturer or distributor for vertical signs reflective verb DG, the Contracting Authority with the date: 14.12.2023 through the standard letter for clarifications of the tender has requested additional clarifications from the EO and with the date: 18.12.2023 the recommended EO for the contract has responded to the opinion of the expert, this complaining claim is unsustainable.

The examining expert clarifies the complaining claim 3: according to the request of the contracting authority in DT, it was requested to the Requirements on technical and/or professional opportunities Technical and professional capacity Work equipment for exercising the supply activity for vertical and horizontal marking (For horizontal signaling 1. That at least

two machines for horizontal signaling with simple color, one component, and looking at the complaint claim after analyzing and verifying the offer in question, we find that EO has offered the device of the type: Machine for road traffic signs, Brand GRACO Type Line Lasser III/ 5900 according to DUDI customs, this car is owned by the complaining EO, and has offered a cooperation agreement with EO Boja, therefore this complaint claim is grounded. I also inform that this claim has been clarified in the complaint with PRB: 2023/0295 .

Complaint claim 6 from the complaining EO is all about the requirements on the technical and/or professional possibilities regarding the request/evidence in DT 9.1 & 9.2 EO to have an ISO standard 9001 2015 certificate, the EO recommended for the contract has offered an ISO Certificate 9001:2015 issued by European Quality and Safety Control (EQSC) which is motorized with number: LRP no. 3368/2023, but also the CA in the decision dated: 19.12.2023 mentions that it has verified it in the link which is found in the certificate but it is not open, there is no access and seeing that the CA has verified but it is not opened but the EO recommended for the contract has provided a motorized certificate, the CA - the evaluation commission has evaluated, examined and compared the EO participating in this procurement activity, the CA had to ask for additional clarifications, if there were, it would act further according to article 59.2 and 72 of LPP. Therefore, in the opinion of the reviewing expert, the complaining claim is partially sustainable.

The review expert clarifies the complaining claim 10: After the administration and review of the case documents against the appeal claim, in accordance with article 61 of the LPP related to Abnormally Low Tenders. So the price offered by the EO recommended for the contract, CA is considered low in 5 positions (position: 16,17,18,19,20), referring to article 61 of the LPP - this remains the full responsibility of the Contracting Authority and is the responsibility and discretion of the Contracting Authority, respectively the evaluation commission and the responsible procurement officer - PPO. Based on the appeal claim and the facts in question, in the opinion of the review expert, this complaining claim is partially grounded.

According to the above, the review expert handled the claims of the complaining economic operator "KROSA traffic signs" SH.P.K in a professional and objective manner, the argumentation in the report of the review expert is quite detailed, understandable and fully based on the relevant documents that refer to the procurement activity. The findings in the review expert's report can be confirmed through the tender dossier as well as the documents with which the tenderers have offered. Consequently, the Review Panel regarding the claims of the complaining economic operator has forgiven the trust in the review expert's report. In this case, the Review Panel has also taken into consideration the answer given by the complaining EO. In this way, it was found that the complaint of the complaining economic operator "KROSA traffic signs" SH.P.K is unfounded.

-Findings of the Review Panel -

The Review Panel considered that regarding the issue in this particular case, there is no need to convene a hearing with the parties, in accordance with Article 24 paragraph 1 of the Rules of Procedure of the PRB, as long as the claims of the parties, the evidence, their submissions and

the expertise of the review expert, provide sufficient data to decide on the merits. In this case, the Review Panel based its findings mainly on the relevant provisions of the LPP, which foresee and regulate such situations, which may arise during a procurement activity, such as the Complaints in this case.

The Review Panel, analyzing the documents of this case and the actions taken by the parties, their statements and the evidence administered during the course of this procurement activity, considers that the findings of the review expert and her opinion are acceptable and that the Panel is right considered his Report on the occasion of the decision without the need for the same to be repeated again. It is worth noting that this case is repeated for the third time in PRB, PRB decision 2023/0295, PRB decision no. 2023/0637 and this activity in terms of Article 1 and Article 6 of the LPP does not need to be extended further.

In this particular case, from the review expert's report, the evidence presented by the complaining economic operator, the documents of the tender dossier, as well as from other circumstantial evidence, it was found that the complaint is unfounded. Based on the factual situation established as above, the Review Panel has given full confidence to the findings and recommendations in the review expert's report. Consequently, the Review Panel has decided to validate the Notice on the Decision of the Contracting Authority - Municipality of Viti dated 08.12.2023 regarding the procurement activity entitled "Supply and installation of horizontal and vertical traffic signs-Re-tender" with no. of procurement: 657-23-3118-1-2-1.

The Review Panel has assessed that the Contracting Authority has acted in accordance with the recommendations of the PRB's preliminary decisions by requesting additional clarifications, and based on articles 59, 60 and 61 of the LPP has recommended the EO with the cheapest responsible offer. The Review Panel evaluates this activity, which has been followed up several times with complaints and has been re-evaluated twice. Therefore, the review panel decides to give the right to the CA and to leave in force the decision of the CA, this decision which was issued by an evaluation commission which is supposed to be professional in accordance with article 59 par. 1 of the LPP, where it says: "All members of the Evaluation Committee take full individual responsibility for the performed evaluation of the offer", then in violation of Article 1 of the LPP and in order not to prolong this procurement activity even further (infinitely) and bearing in mind that the CA in their opinion in relation to the expertise report has stated that it is at the discretion of the CA to implement Article 59.4 as far as minor deviations are concerned, and in the absence of any convincing argument that the recommended EO can be irresponsible, then the panel assesses that the selection of the EO recommended for the contract is also the responsibility of the CA. The Review Panel emphasizes that each contracting authority (at the central and local level) enjoys autonomy in procurement planning (Article 8) and in determining the needs that must be met (Article 9), of course in accordance with the budget capacity and that the CA in the specific case has have the right to also decide on the EO recommended for the award of the contract based on article 24 paragraph 2 of the LPP cited "The contracting authority is responsible for ensuring that all procurement activities of such contracting authority are executed in compliance with complete with this law".

The return of a procurement activity without a contested legal basis in the re-evaluation is not in harmony with Article 1 of the LPP, according to which, the purpose of this Law is, among others, cited: "...to ensure the integrity and responsibility of public officials, civil servants and other persons who perform or are involved in a procurement activity, requesting that the decisions of such individuals and the legal and factual basis for such decisions are not influenced by personal interests, characterized by no -discrimination and with a high degree of transparency and to be in accordance with the procedural and essential requirements of this law".

The panel evaluates them according to its independent assessment in the sense of Article 105, bearing in mind the requirement of Article 104, paragraph 1, of the cited Law according to which, quoted: "The procurement review procedure will be implemented and carried out in a fast, fair and without discrimination, which aims at the fair, legal and effective resolution of the case..." as well as in harmony with Article 1 of the LPP, according to which the purpose of this Law is, among others, cited: "...to ensure the integrity and responsibility of public officials, civil servants and other persons who perform or are involved in a procurement activity by requiring that the decisions of such individuals and the legal and factual basis for such decisions , not to be influenced by personal interests, to be characterized by non-discrimination and a high degree of transparency, and to be in accordance with the procedural and essential requirements of this law". Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations, which may appear during a procurement activity.

At the same time, the review panel implemented articles 1 and 6 of the principle of economy, as one of the main principles of article 104 of the Law on Public Procurement of the Republic of Kosova, in which case it is established in a non-controversial way that the offer of the EO recommended for contracts consists at a markedly cheaper price compared to the complainant's offer.

Therefore, acting in accordance with the powers cited above and Article 104 paragraph 4 in relation to paragraph 1, according to which the procurement review procedure will be implemented and carried out in a fast, fair and non-discriminatory manner, which has aimed at the legal and effective resolution of the case, as well as referring to article 117 of the LPP, and in the evidence presented above, the Review Panel decided as in the provision of this decision.

President of the Review Panel

Mr.Vedat Poterqoi

Legal advice:

An appeal is not allowed against this decision,
but the dissatisfied party can appeal to the Commercial Court,
within 30 days from the date of acceptance of this decision.

Decision to be submitted to:

1x1 CA – **MUNICIPAL ASSEMBLY OF VITI;**

1x1 EO – **KROSA traffic signs " SH.P.K.;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.