



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

Psh. No.1010/23

Based on Article 105 points 1 and 2 of the Law on Public Procurement of Kosova no. 04/L-042, supplemented and amended by Law 04/L-237, supplemented and amended by Law 05/L-068, supplemented and amended by Law 05/L-092, after considering the complaint of Economic Operator “SELMANS NETWORK” SH.P.K, related to the procurement activity with title: “Cleaning of the internal spaces of the Hospital” with procurement number 70020-23-11204-2-1-1, initiated by the contracting authority (CA) - GENERAL HOSPITAL - GJAKOVA, the President of the Procurement Review Body Vjosa Gradinaj Mexhuani, on the 26/12/2023 has issued this:

DECISION

Dismissed as not allowed, the complaint of EO “SELMANS NETWORK” SH.P.K, with protocol no.1010/2023, of the 13/12/2023, complaint filed for the procurement activity: “Cleaning of the internal spaces of the Hospital” with procurement number 70020-23-11204-2-1-1, initiated by the contracting authority (CA) - GENERAL HOSPITAL - GJAKOVA.

It is allowed the contracting authority - GENERAL HOSPITAL - GJAKOVA to continue with the procurement activity: “Cleaning of the internal spaces of the Hospital” with procurement number 70020-23-11204-2-1-1, regarding this complaint, if there is no other complaint about this procurement activity.

REASONING

-Procedural facts and circumstances-

The Procurement Review Body in the electronic system dated 13.12.2023 has received the complaint no. 1010/23 from EO “SELMANS NETWORK” SH.P.K, regarding the procurement activity: “Cleaning of the internal spaces of the Hospital” with procurement number 70020-23-11204-2-1-1, initiated by the contracting authority (CA) - GENERAL HOSPITAL - GJAKOVA.

On the 18.10.2023 “GENERAL HOSPITAL – GJAKOVA” published B58 Notice on the CA's decision.

- Administration and evaluation of evidence -

From the evidence presented, it is proven that for the procurement activity "Cleaning the internal spaces of the Hospital" with procurement number 70020-23-11204-2-1-1, initiated by the contracting authority (CA) – “GENERAL HOSPITAL – GJAKOVA” while dated 18.10.2023 published B05 Notice on the CA's decision. The complaining EO "SELMANS NETWORK" SH.P.K has not submitted a request for reconsideration to the CA, in the e-procurement system.

PRB clarifies that the Complaining EO was obliged, in accordance with Article 108/A of the LPP, after accepting the decision by the Contracting Authority, within the legal deadlines to submit a request for reconsideration to the CA and only after conducting the preliminary procedures in the CA , the economic operator in accordance with article 109 of the LPP will be able to file a complaint with the PRB. Article 108/A paragraph 1 of the LPP determines that: *“Any interested party who believes that his/her rights, as provided by this law, have been violated by the decision of a contracting authority during the performance of a procurement activity and who has been harmed or is at risk of being harmed by a violation of claimed, may submit a request for reconsideration to that contracting authority. Requests for reconsideration may be related to contract notices, tender documents, or other notices and decisions as defined in this law, during the performance of the relevant procurement activity. ”While Article 109 of the LPP determines that: "Against any decision taken by the contracting authority in accordance with the circumstances of Article 108/A, any interested party may submit a complaint to the PRB. The complaint must be submitted only after conducting a preliminary procedure for resolving the dispute in accordance with Article 108/A of this law in relation to Article 59 of Regulation 001/2022 on Public Procurement, therefore as such it is dismissed as not allowed because the same has not been submitted according to Article 108/A in relation to Article 109 of the LPP.*

GENERAL HOSPITAL - GJAKOVA, can continue with the procurement activity in the re-evaluation phase for the activity “Cleaning the internal spaces of the Hospital” with procurement number 70020-23-11204-2-1-1, however PRB puts aware that in every activity CA must act in accordance with the provisions and legal authorizations as defined by article 1, 6, 7, 24.2, 27, 28, 59, 60 and 65 of the LPP.

The Office for Receiving Complaints has also established that the Complainant EO has not made the payment as provided for in paragraph 2 of Article 69 of Public Procurement Regulation 001/2022, On 13.12.2023, PRB has requested via email from the complainant that the same I send proof of the bank payment slip paid and confirmed by the bank, but the complainant has not returned the answer. Based on Article 69.2 and in accordance with Article 118 of the LPP, all complainants must pay a complaint’s fee to the PRB.

The President of PRB, based on what was said above, decided as in the provision of this decision.

President of the PRB

Mrs.Vjosa Gradinaj

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 – **GENERAL HOSPITAL - GJAKOVA;**
1x1 EO – **SELMANS NETWORK SH.P.K.;**
1x1 Archive of the PRB;
1x1 For publication on the website of the PRB.