



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

Psh. No.976/24,974/24, 980/24, 995/24

The Review Panel, appointed by the Acting President of the PRB, pursuant to Articles 105, 106, and 117 of the Law on Public Procurement of the Republic of Kosova (LPP) composed of XX deciding upon the complaint of (EO) “Geo & Land” SH.P.K., complaint of EO “Arianit R. Bytyqi”, complaint of EO "Cactus" Sh.A., as well as complaint of EO "DataProgNet" SH.P.K., against the Decision to contract award or a design competition, the Emergency Management Agency in the capacity of the Contracting Authority (CA) regarding the procurement activity “Creation of a system for managing the activities of the AME and the NJPZSH Unit” with procurement number 21432700-23-14367-2-1-1, on the 11/03/2025, has issued this:

DECISION

1. Approved, as partly grounded the complaint of “DataProgNet” SH.P.K with no. 2024/0974, dated 11.10.2024, complaint of EO "Geo & Land" SH.P.K, with no. 2024/0976, dated 11.10.2024, complaint of EO "Cactus" Sh.a. with no. 2024/0980, dated 14.10.2024 and complaint of EO "Arianit R. Bytyqi" with no. 2024/0995, dated 16.10.2024, regarding the procurement activity Creation of a system for managing the activities of AME and NJPSH unit” with procurement number 21432700-23-14367-2-1-1, initiated by the CA Emergency Management Agency.
2. Cancelled, Notification of the decision of the CA, regarding the procurement activity Creation of a system for managing the activities of the AME and the Emergency Management Unit with procurement number 21432700-23-14367-2-1-1, initiated by the CA Emergency Management Agency, while the procurement activity is returned for re-evaluation.
3. The return of funds deposited upon filing the complaint is allowed, in which case the Complainant must submit a request for the return of the funds within sixty (60) days from the date of receipt of this decision, otherwise the funds will be confiscated and transferred to the Budget of the Republic of Kosova, in accordance with Article 31, point 6 of the Rules of Procedure of the PRB.

REASONING

-Procedural facts and circumstances –

The Emergency Management Agency in the capacity of the Contracting Authority on 17.04.2024 has published the Contract Notice B05 regarding the procurement activity entitled "Establishment of a system for managing the activities of the AME and the NJPZSH Unit" with procurement number 21432700-23-14367-2-1-1.

On the 26.09.2024, the notice for the award of the contract “Alba Soft” SHPK & “Solvit” SHPK was published.

On the 01.10.2024, (EO) “Geo & Land” SH.P.K., EO “Arianit R. Bytyqi”, EO "Cactus" Sh.a, EO "DataProgNet" SH.P.K have submitted a request for review to the CA against the decision to award the contract. On 02.10.2024 the CA has rejected the requests for review of the above-mentioned EOs.

Against the decision cited above on 11.10.2024 the economic operator "DataProgNet" SH.P.K has filed with the PRB complaint no. 2024/0974 (Protocol No.).

Against the decision cited above on 11.10.2024 the economic operator “Geo & Land” SH.P.K has filed with the PRB complaint no. 2024/0976 (Protocol No.).

Against the decision cited above on 14.10.2024 the economic operator “Cactus” Sh.a. has filed with the PRB complaint no. 2024/0980 (Protocol No.).

Against the decision cited above on 16.10.2024 the economic operator “Arianit R. Bytyqi” has filed with the PRB complaint no. 2024/0995 (Protocol No.).

-On the preliminary review phase-

The PRB has found that the complaint in the present case was filed in accordance with Article 109.1 of the LPP, according to which, against any decision taken by the CA, any interested party may file a complaint after the implementation of the preliminary procedure for the resolution of disputes, as provided for in Article 108/A of this Law. Since the complainant has the status of an interested party as defined in Article 105, paragraph 1, in conjunction with Article 4, paragraph 1.26 of the LPP, and the complaint contains the essential elements provided for in Article 111 of the cited Law, which means that the same meets the conditions in terms of the cited provisions and falls under the competences of this body in terms of Article 105, of the LPP, in conjunction with Article 9, of the Regulation on the Work of the PRB. The PRB analyzed all the documents of this case, including all the acts and/or actions of the parties, as described above (facts and procedural circumstances), there are no elements for preventing conflict of interest, as required in the sense of Article 11 of the PRB Rules of Procedure, in connection with paragraph 1.75, Article 4 of the LPP and at the same time analyzed all the documents of this case, including all the acts and actions of the parties and considered that there is no need to convene a hearing with the parties as provided for in paragraph 1, Article 24 of the PRB Rules of Procedure.

Referring to the complaints as above, their content and purpose, it is concluded in advance that in relation to the issue in the concrete case, Article 16 (Unified Cases) of the cited Regulation applies, according to which the President of the PRB has the right to merge Cases/complaints which in terms of the complaint claims are related to the same case or tender, may be included in the initial review report by the same expert and has the right to decide the same Review Panel.

Regarding the complaint of “Geo & Land” SHPK, and the complaint of EO “Arianit R. Bytyqi”, the review expert has submitted evaluation reports with recommendations which are described as follows: the complaint of the complaining EO is to be approved as partially grounded, while the procurement activity is to be returned for re-evaluation.

Regarding the complaint of EO "Cactus" Sh.a., and the complaint of EO "DataProgNet" Sh.P.K., the review expert has submitted evaluation reports with recommendations which are described as follows: the complaint of the complaining EO is rejected as unfounded and the decision of the CA remains in force.

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 in the four reports of the review expert for the four complaints of the different complaining EOs, there are shortcomings in professionalism, responses to the complaints and the recommendations are contradictory, for the same procurement activity in two reports it recommends that the decision of the CA for contract award remain in force, while in two other reports of the expertise this decision be annulled. Regarding the review of these complaints against the expertise reports, the Review Panel considered that in order to clarify and reflect the real and factual situation regarding the claims raised, it is inevitable to convene a hearing with the parties. Therefore, the PRB initially summons the parties to the hearing to appear on 09.12.2024, from 10:00, but the Responsible Procurement Official (RPO) requests that the hearing be postponed to another date. The Review Panel accepts the reasoning of the Public Procurement Office and postpones the session to another date, specifically 11.12.2024. The review expert does not attend this session with a justification sent via email that for objective reasons he cannot be present and finds it impossible to participate. However, the PSH considers that this session can be held even without the presence of the review expert, in which case the session will start on time on 11.12.2024 at 10:00, in which all the complaining parties were present but the RPO is still missing, who a few minutes before the session had sent an email stating that he could not come to the session and that the CA had evaluated the offers in accordance with the legal provisions, however, he requests that the procurement activity be canceled in its entirety, quote: Finally, considering that the procurement activity began on 17.04.2024 with a budget of 719,151.00 for 3 years, we inform you that considering that the same has been extended as a result of complaints before and after the opening for the same procurement activity, according to the Law on Budget Allocations, there is an enormous budget cut and the same activity cannot be carried out regardless of the final decision of the RP. PRB as a result of the lack of budgetary funds and their reduction for the following years and the CA requests that the same be cancelled in its entirety.

The Review Panel during the session found that it was impossible to continue the session when the CA representative was also absent. Then, it interrupted the session and informed the parties that any action or any other information would be notified in a timely manner.

According to the email of the Public Procurement Office of the Emergency Management Agency, dated 11.12.2024, it was announced that: “Finally, considering that the procurement activity started on 17.04.2024 with a budget of 719,151.00 for 3 years, we inform you that considering that the same has been extended as a result of complaints before and after the opening for the same procurement activity, according to the Law on Budget Allocations, there is an enormous budget cut and the same activity cannot be carried out regardless of the final decision of the RP. PRB as a result of the lack of budgetary funds and their reduction for the following years and the CA requests that the same be cancelled in its entirety. For your information, all complaining economic operators have been eliminated for not fulfilling the technical specifications of annex no. 1 of the FDT since they have not provided the Manufacturers' Guarantees as well as the technical specifications (see clarifications in the standard letters).

Now the budget after the approval of the law on budget allocations for this activity is 519,151.00 euros, which is 200,000 euros, smaller than the planning initiated this year and 165,008 euros.

Attached please find:

1. The approved budget table according to the Law on Budget Appropriations, which proves that there are budget cuts for this activity and does not allow for the signing of the contract.
2. Standard letters of elimination of the complaining economic operators.”

Regarding this request of the CA for the cancellation of this procurement activity, the PRB, in order to accurately verify the real situation, on 13.12.2024, addresses the procurement office with this email "We are reviewing complaints with protocol no. 2024/0974, 0976, 0980, 0995, regarding the procurement activity entitled: "Creation of a system for managing the activities of the AME and the NJPZSH" and no. 21432700-23-14367-2-1-1 developed by the Emergency Management Agency, in which case we have scheduled two hearings with the parties but both were not held due to your inability to attend these two sessions. In the last session you did not attend, justifying your absence via email, where in addition you stated that: “Finally, considering that the procurement activity started on 17.04.2024 with a budget of 719,151.00 for 3 years, We inform you that considering that the same has been extended as a result of pre-opening and post-opening complaints for the same procurement activity, according to the Law on Budget Allocations, there is an enormous budget cut and the same activity cannot be carried out regardless of the final decision of the PSH. The PRB as a result of the lack of budgetary funds and their reduction for the following years and the CA requests that the same be cancelled in its entirety. You have also explained that: Now the budget after the approval of the law on budget allocations for this activity is 519,151.00 euros, which is 200,000 euros, smaller than the planning initiated this year and 165,008 euros.”, in which case you have also attached the

approved budget table as evidence. Therefore, the Review Panel elaborates this letter from your CA and considers that in this regard, it is necessary to confirm also from the Chief Financial Officer that the CA does not have sufficient financial resources for this procurement activity, to continue with the signing of the contract."

The Procurement Officer at the CA AME returns an email dated 13.12.2024, with this response: "As you know, according to the LPP, after the completion of the procurement activity, confirmation of funds according to the initiation and DNPDF must be made, and the same have not been confirmed and cannot be confirmed as such according to the initiation, taking into account the law on budget allocations for this category, as I have sent you the budget tables according to the law on the 2025 budget, it is very clearly observed and seen that this budget category has a budget cut of 200,000 euros from what was initiated."

PRB, again repeats the email dated 17.12.2024, addressed to the CA EMA with a more specific request, quote: "Therefore, the Review Panel according to Article 105 par. 2.3 and 2.4 of the LPP, based on your letter from the CA - EMA, elaborates and considers that in this regard, there is a need to confirm also from the Executive Director of the CA - EMA and from the Chief Financial Officer of the CA - EMA, that there are not sufficient financial means for this procurement activity, to proceed further with the signing of the contract".

The Procurement Office at the Emergency Management Agency, returns the email dated 17.12.2024, which follows the email of the Head of the Budget and Finance Division of this Institution, and the same states that "Dear, The following projects are budgeted for the year 2025-2026 and you can place them in the procurement plan with these amounts. Please find attached: Capital projects budgeted for the year 2025-2026". Where in this email are attached the Approved Budget for the year 2025 for the EMA, as well as the Law on Budgetary Allocations for the year 2025.

Since the Review Panel did not receive a clear and concrete response from the Finance Office that there are no funds for this project, while the PRB did not receive any response from the Executive Director. Based on this fact and considering that the four complaints made by the complainants do not relate to the cancellation of this procurement procedure but to the contract award notice which the CA recommended as the winning EO, therefore, based on Article 105 of the LPP, the PRB reviewed the complaining claims, then Article 111 of the LPP, quote: "The PRB shall form a review panel to review the claims made in the complaint", the PRB considered that it should proceed further and review only the complaining claims made in the complaint.

The Review Panel, faced with a situation where the complaining claims had not been reviewed in detail and the lack of arguments in the expert's findings because there were also complaint claims related to technical specifications and this review expert should have also requested the engagement of a technical expert but did not do so, therefore, the SP decided to request a super-expertise and for this purpose to appoint two experts, one a professional review expert and the other a technical expert in the relevant field. This action was considered vital to analyze in detail all the arguments from both sides, to guarantee a fair and complete assessment of the case, ensuring that the final decision will be based on a broad basis of analysis and justice. The review

experts are assigned to the task of conducting the super expertise with the authorization dated 27.12.2024, and who, only on 18.02.2025, manage to complete and submit their report to the PRB. In which case the PRB sends this super expertise report to the parties.

Based on the assessment of the review experts, their recommendation for the complaints of EO “Geo & Land” SH.P.K., EO “Arianit R. Bytyqi”, EO "Cactus" Sh.a., and the complaint of EO "DataProgNet" SH.P.K. are approved as partially grounded, while the procurement activity is returned for re-evaluation.

The claims of the complaining economic operator “DataProgNet” SH.P.K. in complaint No. 2024/0974 are presented as follows:

We declare that in this tender procedure, based on the minutes of the opening of the financial bids, we have been notified by the CA through the e-procurement system that our bid is the cheapest among the eight (8) bidders. Based on the technical proposal, the dynamic plan and the staff dedicated to this project that we have planned to develop, implement and maintain the project, where the dedicated budget for this project has also been presented, with staff engagement during the development and maintenance phase as direct costs and indirect costs, based on the detailed plan of the financial bid in the application phase, we have presented the value of the financial bid with and without VAT, where we have taken as a basis the direct and indirect costs that the company has planned for this project and the approximate planned profit, a modest and reasonable profit based on the labor market in Kosova. Finally, we inform you that DataProgNet SH.P.K. pledges to successfully implement the project in accordance with the dynamic plan provided, the technical proposal, and the provision of maintenance within the legal deadlines according to the financial offer provided for this tender. We remain hopeful that the clarifications provided in the responses requested in this Standard Letter of Request for Reconsideration will be taken into account.

Although we have mentioned all these detailed explanations in the facts, we inform you that even in this point the CA did not take the request for reconsideration into account, which obliged us to file a complaint with the PRB due to this lack of transparency by the CA, within the legal deadlines, and we have full confidence that the PRB will handle our complaint meticulously.

We conclude that our offer at this point (point II. 2.) is responsive. Taking into account these facts, we request the PRB to review our complaint and after verifying the evidence and arguments that we have submitted in this complaint, to take the following steps: annulment of the decision of 26.09.2024 taken by the Contracting Authority, since this decision has violated the legal procurement procedures. Return of this case for re-evaluation and awarding with a contract award notice to the EO in DataProgNet SH.P.K., since our offer is responsive and meets all the requirements of the tender dossier. Also, we have offered the lowest and real price at the market price, since for over 20 years DataProgNet SH.P.K. has developed and implemented projects of this nature by calculating costs and profits with the same formulas based on software engineering and market price.

The CA, by awarding the contract to the group of EOs “ALBASOFT SH.P.K. and SolvIT SH.P.K.”, has attempted to damage the budget of the Republic of Kosovo in this tender

procedure in the amount of 297,476.00€, where after the official access to the bid documentation of the group of EOs “ALBASOFT” SH.P.K. and SolvIT SH.P.K.”, we noticed that the hardware and MAF equipment are from the same manufacturer as we have offered DataProgNet SH.P.K., where an inflated price of over 70% in hydraulic equipment is observed, compared to market prices and also the group of EOs “ALBASOFT SH.P.K. and SolvIT SH.P.K.” has given a very high financial offer compared to the market price, having none of the staff (manager, software architect, administrator, tester and software developer) with a regular contract in their companies, which they have proven with pre-contracts. While DataProgNet SH.P.K. has offered equipment offers in line with market prices and has all the staff required for software development regularly in the company, which you can also verify at the Kosovo Tax Administration.

Reassessment of the responsibility of the group of economic operators proposed as the winner of the 16th tender, namely the group of EOs “ALBASOFT SH.P.K. and SolvIT SH.P.K.”, which do not meet the requirements of the tender dossier, since: Database Administrator N. I. and Software Developer DL. from the group of EOs “ALBASOFT” SH.P.K. and SolvIT SH.P.K.” have not submitted their diplomas for studies completed abroad in the uncertified offer to MASHI, for this reason they do not meet the criteria, since in the Republic of Kosovo they have not made the equivalence of their diplomas for studies completed abroad and as a result of this, the offer of the group of EOs “ALBASOFT SH.P.K. and SolvIT SH.P.K.” is irresponsible. Based on the above-mentioned facts and arguments, we request the Procurement Review Body (PRB) to take into account the complaint of EO DataProgNet SH.P.K. to annul the decision dated 26.09.2024 and return this case for re-evaluation.

The claims of the complaining economic operator “Geo & Land” SH.P.K in complaint No. 2024/0976 are presented as follows:

Complaining claim 1: In the notification of the CA's decision dated 26.09.2024, it announces our tender as eliminated, assessing that we are irresponsible because we have not submitted sufficient evidence in accordance with Articles 68 and 69 of the LPP, we quote: Article 68 of the LPP specifies the requirements regarding the economic and financial situation of the EO. Article 69 specifies the requirements regarding the technical or professional capacity of the EO. There is no finding of the CA that our tender does not meet any of the requirements related to the economic and financial situation, or related to technical or professional capabilities. These two articles of the LPP have nothing to do with the requirements or characteristics of the products/services that are required through a procurement activity. So, it is clearly seen that the CA has eliminated our tender in violation of the above-mentioned articles of the LPP. Therefore, the CA's justification for eliminating our tender, that we allegedly do not meet the requirements based on articles 68 and 69 of the LPP, is precisely a violation of the LPP of these two articles, as well as article 59. 1.2) The CA provides the justification that our tender did not meet some of the requirements in the technical specification of Annex 1 of the tender dossier, that we did not offer a 2 or 3 year guarantee for some of the equipment required in the technical specification, which according to them is in violation of the LPP. We would like to clarify that the

requirements of Annex 1 of the tender dossier present the technical specifications, which specify the requirements for the products required, including the system, as well as other equipment. The requirements of Annex 1 of the tender dossier are directly related to Article 28 of the LPP - Technical Specifications. Annex 1 of the tender dossier has nothing to do with Articles 68 and 69 of the LPP. Consequently, the “finding” of the CA is not based at all on the LPP; moreover, in our tender we have submitted signed documentation that our products fully meet the technical specifications of the tender dossier, including the request for a 2 or 3 year warranty on the relevant products.

The document with the file name 7_2_Technical_Supply Specification fully meets the requirement for a product warranty, where in this document the columns in the table are clearly named, one the required technical specifications, while the other on the right the technical specifications offered. See the following figure for illustration of this document, where the characteristics for the PC as requested are presented, as well as those that we have offered, including the warranty. In the same form, the warranty is offered for other devices such as Printer, Laptop, Monitor, part of the document 7_2_Technical_Supply Specification submitted with other tender documents. Document 7_2_Technical_Supply Specification is signed, is a legal obligation to the CA and fully meets the technical specifications for the requested products, including the warranty. We have provided the technical specification in full accordance with the specification required in the tender dossier, declaring a 3 (three) year warranty period from the manufacturer, in accordance with the requirements of the Contracting Authority (CA). We have also submitted the manufacturer's authorization, including the project data confirmed by the manufacturer, who is aware of the project and has authorized us as an Economic Operator (EO) to sell and provide services for HP brand equipment. This authorization for the sale and service of products means that, at the time of its receipt, we have offered a guarantee directly supported by the manufacturer, who bears responsibility for the quality and maintenance of the equipment provided. Therefore, the CA has violated the LPP, Article 59, because it has not evaluated and compared our tender in accordance with the submitted requirements, which refer to Articles 68 and 69, as well as Article 28.

Complaining Claim 2: The CA's reasoning that our tender does not meet requirement no. 7 for technical proposal and methodology regarding the implementation of the project is completely incorrect, and discriminatory in comparison to the evaluation of the winning EO and other EOs. We have provided our proposal and methodology for the implementation of the project in the document with the file name 5_1_Technical_Proposal. This sealed and signed document, and as such represents a legal obligation towards the CA, where we have explained in detail how the system development will be done and how the mobile version of the application will be implemented, which apparently has not been read by the Commission. FOR MORE, on page 7 we have stated the following: So, with this paragraph in a signed document we have declared that all requirements according to the terms of reference will be implemented. This paragraph does not exclude any request, any module presented in the technical specifications, but on the contrary includes all of them. Even in this case, the CA has violated the LPP, Article 59, because

it did not evaluate and compare our tender in accordance with the presented requirements, which refer to Articles 68 and 69, as well as Article 28. Our methodology foresees that the application should be available not only for desktop devices, but also for mobile devices. For this reason, we have requested to be informed of the content of the evaluation committee to see if the qualification of the evaluation committee is sufficient to evaluate the methodology and the technical offer. We have researched and observed that firefighters without any qualifications or knowledge regarding software systems that also use satellite data such as NASA MODIS and VIIRS satellites, and the same were used in the evaluation committee to evaluate a very sophisticated system that contains GIS components and satellite early warning systems. Therefore, the formation of an unqualified committee is in violation of the LPP. The comparison between the Methodology offered by us and that of the GOE declared the winner is obvious, where the GOE declared the winner did not offer a methodology at all but only took expression from the technical specifications. Also, for this procurement activity, the CA has decided that the criterion for awarding the contract is the lowest price, and not the most economically advantageous tender. Therefore, with this criterion, an assessment of the technical proposal offered cannot be made, as to which EO has the best or the weakest methodology. In this case, the CA has violated the LPP Article 59 and Article 60.

Complaining claim 3. CA in the notification of the decision dated 26.09.2024 has announced as successful tender GOE Albasoft sh.p. k and SolvIT sh.p.k. even though the same is not responsible and is a party without interest in the procedure. In this case CA has violated LPP Article 7 because it has openly favored this GOE, given that their tender has fundamental deficiencies that do not meet the requirements in accordance with LPP Article 69. The following are some facts of non-fulfillment of the tender requirements: 1) The leader of GOE Albasoft sh.p. k does not possess an ISO certificate, as requested in the TDS in request no. 9. Therefore, this GOE is not responsible because this conflicts with Article 70 of the LPP as well as with the Public Procurement Regulation no. 01/2022 Article 26.6, we quote: 26.6 Quality assurance certificates are referred to in Article 70 of the LPP and are intended to certify the compliance of the economic operator with a certain number of quality assurance standards. If the Contracting Authority requires certificates drawn up by independent bodies carrying out certification activities to certify that the economic operator meets certain quality assurance standards based on Kosova, European or international standards, each member of the group shall attest that it meets the relevant standards. Also, in this regard, there are already decisions of the PRB that confirm the same, such as decision no. PRB: 2023/0554, which states, we quote: The review panel in an independent and objective manner, with professional conscience and care has evaluated all the evidence of the case. The argumentation in the expert report is quite detailed, understandable and based entirely on the relevant documents that refer to the procurement activity. The findings in the expert report can be confirmed through the tender dossier as well as the documents with which the tenderers have bid. Consequently, the Review Panel regarding the claims of the complaining economic operator has granted credence to the findings of the expert report. In this way, it was found that the claims of the complaining economic operator “Ejona” Sh.P.K. are well-founded. If the contracting authority requires the submission of certificates drawn up by independent bodies with which the compliance of the economic operator with a certain number of quality assurance standards is verified. The Review Panel regarding the complaining assertion

for the lack of ISO Certificates from the recommended EO, notes that Article 26.6 of the Public Procurement Regulation no. 01/2022, defines “Quality assurance certificates”, mentioned in Article 70 of the LPP and are intended to verify the compliance of the economic operator with a certain number of quality assurance standards. If the Contracting Authority requires certificates drawn up by independent bodies carrying out certification activities to certify that the economic operator complies with certain quality assurance standards based on Kosovo, European or international standards, each member of the group shall prove that it complies with the relevant standards.” The panel also notes that Article 70 of the Public Procurement Law stipulates that “If the contracting authority requires the submission of certificates drawn up by independent bodies attesting to the compliance of the economic operator with a certain number of quality assurance standards, the contracting authority shall refer to quality assurance systems that: (i) are based on the relevant Kosovo, European or international standards and (ii) are certified by bodies carrying out their activities in accordance with those standards for the exercise of their certification activities in relation to the certification activities”

The review panel finds that the recommended EO has not met the requirements of point 3, Technical and professional requirements and capabilities of the DT, since the recommended EO has not submitted the ISO Standards Certificates of the Group Leader, these certificates which do not correspond to the requirements of the DT for elevator maintenance, which is a requirement of the cited regulation, it is also foreseen that each member of the group must prove the relevant standards, this requirement which is related to Article 70 of the LPP and the qualities that the EO must possess, therefore, in accordance with Article 26.6 of the RRPP, the EO recommended for the contract has not met the requirement specified in the Tender Dossier. This issue is also clarified in the interpretation issued by the PPRC on 22.06.2023, listed with serial no. 29, and which is published on the procurement website: end of quote. 2) GOE Albasoft and SolvIT lack the qualification document according to the FDT that was compiled in the request 7.1 and 7.2: Engineering and technical consulting activities (7112), request for professional suitability; 3) GOE Albasoft and SolvIT lack the declaration according to request no. 6 - EO must provide an original declaration in which it guarantees that the system in question will not be dependent on commercial licenses and that after delivery it will be fully owned by the contracting authority;

4) GOE Albasoft and SolvIT has provided a CV for the Project Manager, which clearly proves that the person presented in this CV does not have experience in accordance with requirement no. 1 of the TDS.

5) For some of the other staff, GOE has provided documents, which are in violation of article 13 of the LPP because it has provided diplomas in Italian, such as:

- Database Administrator - Diploma in Italian;
- Software Developer 2 - Diploma in Italian.

6) That the CA violates the LPP, Article 7, is clearly shown in the tender evaluation against the GOE declared the winner, who have no reference to similar work carried out. This GOE has no similar contract carried out for Kosovo institutions. The contracts presented have nothing to do with the size and similarity of the project in question. They have presented several contracts that

have to do with language applications, not at all similar in nature to this contract. Furthermore, these contracts were executed for the company Albatag sh.p. k with an address in Tirana, Albania, where the director of the company issuing these references is the same director as the company Albasoft sh.p.k. The CA was obliged to present in the evaluation report which references meet the required conditions and what their total amount is, which it did not do.

Whereas, in our tender we have proven that we have implemented 15 similar contracts for Kosovo institutions. Whereas, we currently have under contract two systems that are intended to be incorporated with the system that is the object of this contract. We are currently maintaining the national disaster system NFFIS and the GIS portal at AME and these two systems will be connected parts of the SMAE system which is the object of this tender. This discrimination by presenting us with methodological errors on the one hand, and by fully evaluating an EO which in terms of references and technology has no experience, shows the tendency of the evaluation, consequently discrimination against our tender, violating the LPP, article 7. Not excluding the other fact that the EO does not even meet the criteria of the qualification documentation, it is clear that the CA has completely departed from the legal framework of the LPP and is acting with illegal subjectivism. Taking into account the above facts and the price offered, GOE Albasoft&SolvIT are EOs with no interest in the procedure. By declaring a GOE with irresponsible tenders Albasoft and SolvIT as successful, the CA has furthermore awarded the contract to a tender that has a price of about 100 thousand Euros higher than the price we have offered. In this case, the CA also violated the LPP, Article 6.1.

Complaining claim 4: 5.1) CA, in violation of Article 59 of the LPP, does not properly evaluate and compare tenders, i.e. does not establish the factual situation with respect to several other tenders, such as the case with EO Sourcepole AG as part of the group of economic operators with PBC sh.p.k., which lacks two qualifying documents according to the requirements of the TDS: 1. EO Sourcepole AG lacks the business certificate, in accordance with Article 13 of the LPP, i.e. the requirement for the tender dossier to be in one of the 3 languages Albanian, Serbian or English; 2. EO Sourcepole AG lacks the Document according to the requirement 7.1&7.2 of the TDS, i.e. it lacks the business activity as required: Registration as an economic operator in the professional, commercial and/or corporate register in your country of establishment. For an Economic Operator not resident in Kosovo, if awarded a contract, prior to signing the contract, it is obliged to register the business representation in the Republic of Kosovo. The EO must be registered to provide services related to engineering and technical consultancy activities as well as software publishing;

In this case, EO Sorcepole AG lacks the document proving the registration of activities as requested, we quote: "The EO must be registered to provide services related to engineering and technical consulting activities as well as software publishing". Taking into account the above facts and the price offered, GOE PBC Shpk and Sorcepole AG Shpk are EOs without interest in the procedure as they have a price about 113 thousand Euros higher than our offer.

5.2) The same applies to the other economic EO BNT Electronics as part of the consortium with Cactuss sh.a., which lacks the document according to requirement 7.1&7.2 of the FDT, i.e. lacks the business activity as required: we quote: "The EO must be registered to provide services

related to engineering and technical consulting activities as well as software publishing". The requirements for professional suitability stated according to requirements 7.1&7.2 of the TDS, i.e. article 13 of the LPP must be met by each member of the EO group.

5.3) The tender of GOE Cactuss sh.a. and BNT Electronics does not meet Requirement No. 9 - The EO must be certified with ISO 9001 2015 standards for software development, where the two members of the group in accordance with Article 70 of the LPP and RRUOPP Article 26.6 do not meet the said requirement.

5.4) The tender of GOE Cactuss sh.a. and BNT Electronics does not meet Requirement No. 2 for staff - Software Architect, where the proposed person does not have 5 years of work experience after graduating with a Master of Science in Engineering Informatics.

5.5) During the evaluation of EO NTSH UNISOFT, the CA, in addition to the evaluation it made for other points, did not take into account the facts that this EO is not responsible for the points:
5.5.1. EO NTSH UNISOFT does not have any similar reference related to one of the fields that are the subject of this tender, whether in terms of technology or in terms of the field related to the disaster management process. EO NTSH UNISOFT has provided only one reference that can be considered similar, but this is in contradiction with LPP 69.2.1 Facts: The reference issued by NT Security LLC issued on 08.08.2024 a few days before the closure of the procedure, according to our assessment is unreliable and is not substantiated according to LPP because it contains material that does not prove that the same occurred. The reference refers to Invoice no. 22-SHV04-001-122 while EO UNISOFT has submitted an invoice with a different number, namely no. 22-SHV04-001-121.

5.6) 2 CA has violated the LPP Article 59 by not assessing which projects of this EO are similar and how the value of 750,000 euros was reached as requested in the TDS.

5.7) 3 EO NTSH UNISOFT in the reference issued for the Project Manager Fisnik Meha, has presented the same reference above in violation of the LPP and the same has no experience in similar projects. The CA by declaring the tenders successful as above has violated the LPP, Article 59, because it has not evaluated and compared these tenders in accordance with the submitted requirements, which refer to Article 68 and 69 of the LPP. Important information for the review panel and irreparable damages: Considering that the purpose of this procurement activity is the development of the system for managing the activities of the AME, which requires the connection with the two current systems within the AME, such as the national disaster system NFFIS and the GIS portal, we inform you that these two systems are still under development and maintenance by our company under contracts that expire for the NFFIS on 28.06.2025 and are in the process of being extended for the following years and for the GIS portal on 13.05.2025. These facts are important to guarantee the implementation of this project and no economic operator has explained how the interaction with these two systems will be developed.

Also, the CA has not provided proper information on copyright. Due to these deficiencies in information, there is a possibility of causing irreparable damage in the implementation of this contract, which have not been taken into account by other EOs and the CA. Considering that the

NFFIS disaster system warns of risks through NASA satellites such as MODIS and VIIRS, it is clear that the selection of an EO that is not related to this field is a great risk not only for the CA but also for civil emergencies that directly affect the citizens of Kosova.

The claims of the complaining economic operator “Cactus” JSC in complaint No. 2024/0980 are presented as follows:

The Emergency Management Agency (Contracting Authority) on 14.04.2024 published the contract notice for this procurement activity on the electronic platform, through an open procedure. According to the provisions of the Law on Public Procurement of the Republic of Kosovo, each procurement procedure is obliged to respect the principles of free competition, equality and transparency. Based on these principles and in accordance with Article 28 of this law, we have submitted complete and accurate documentation, which meets all technical and administrative requirements specified in the Tender Dossier. The notification dated 26.09.2024 for our elimination, due to the lack of prior guarantees for the requested products, is in contradiction with Article 72 of the Law on Public Procurement, which requires fair treatment for all economic operators. The guarantee for products is required to be provided at the stage when the order is placed, after the contract has been secured and not before. At this stage of the process, the request for prior guarantees is unjustified and places economic operators in an unfair position.

In accordance with the technical specifications in the Tender Dossier, we have provided sufficient evidence of our capacity to supply the requested products. Asking for a guarantee for products that have not yet been ordered is illogical. In this spirit, in accordance with Article 28, we have fulfilled all the technical and administrative requirements set out in the Tender Dossier and have submitted complete and accurate documentation, including the MAF Document, confirming our partnership with HP Europe B.V. This document certifies the fulfilment of the criteria for the products requested by the tender, including PC, Printer MFP, Laptop and Monitor.

The MAF document, issued on 21.08.2024 by HP Europe B.V, confirms that [CACTTUS

SH.A.] is an authorized partner for the supply of the requested products. This document constitutes sufficient evidence of our ability to supply and fulfill the requirements for the products in accordance with the technical specifications. In addition, the MAF contains assurance for the availability of these products, in accordance with the standards and deadlines set.

The Manufacturers Authorization Form (MAF) document constitutes a key evidence in the procurement procedures, which confirms that an economic operator has an authorized partnership and the support of the manufacturer to supply certain products. The MAF ensures that the provider has the technical and logistical capacity to meet the tender requirements, including the guarantee of the authenticity and compliance of the products with the technical specifications set out in the tender. In this case, the MAF Document submitted by HP Europe B.V., in addition to guaranteeing our status as an authorized partner, also ensures that the required products, namely PC, Printer MFP, Laptop and Monitor, are available and will comply

with the tender specifications at the time of supply. In this way, the MAF fulfills its main function of supporting the economic operator's guarantee in the procurement process.

In line with international practices, the MAF not only certifies that the economic operator is authorised by the manufacturer, but also serves as a guarantee of the quality of the products and their compliance with the technical specifications required in the tender. This constitutes an important element to be considered in the evaluation process by the Commission, as the MAF is a standardised document used worldwide to prove the authenticity and reliability of suppliers.

The claims of the complaining economic operator Arianit R. Bytyqi (N.T.SH. Unisoft) in complaint No. 2024/0995 are presented as follows:

We claim that this provision of the LPP has been violated because the CA - EMA has not treated in principle the RROUP and the LPP including Article 1. We as the EO have applied for the project in question and are responsible, the CA has committed a violation by not fulfilling and respecting the obligations as a contracting authority according to Article 1 of the LPP. The CA - EMA and the Evaluation Commission have announced an EO that is irresponsible and with the highest price. The responsible offer with the lowest price according to the Tender Dossier, Contract Notice: (Arianit R. Bytyqi B.I.) Price 495,725.00 Euro The offer declared the winner by the CA - EMA with the decision dated 26.09.2024 in contradiction with the tender dossier, contract notice: GOE Albasoft & SolvIT. 684,159.00 Euro. The CA - EMA and the evaluation committee have decided that the funds will not be used efficiently but that an irresponsible GOE will be declared the winner and with a price much higher than our bid, which is responsible. CA - EMA and the evaluation commission have damaged the EMA and RKS Budget in the amount of 188,434.00 Euro. See attached documentation and additional evidence Material evidence: Minutes of the opening of Tenders Article 6 paragraph 1,2 - Law No. 04/L-042 amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092 Article 6 - Economy and Efficiency 1. All contracting authorities are obliged to ensure that public funds and public resources are used in the most economical way, taking into account the purpose and subject matter of the procurement. 2. Public funds and public resources that are offered or made available under a public contract may be used only by such contract and only for the purposes of the same. Statement, Facts and Arguments We claim that this provision of the LPP has been violated because the CA - EMA has not treated the RROUP and LPP in principle by including the article 6. We as EO have applied for the project in question and are responsible, the CA has committed a violation

by not fulfilling and respecting the obligations as a contracting authority according to Article 6 of the LPP. CA - EMA and the Evaluation Commission have announced an EO that is irresponsible and with the highest price. Responsible offer with the lowest price according to the Tender Dossier, Contract Notice: NTSH UNISOFT (Arianit R. Bytyqi B.I.) Price 495,725.00 Euro Offer declared the winner by CA - EMA with the decision dated 26.09.2024 in contradiction with the tender dossier, contract notice. GOE Albasoft & SolvIT. 684,159.00 Euro. CA - EMA and the evaluation commission have decided that the funds should not be used efficiently but that an irresponsible GOE should be declared the winner and with a price much higher than our offer which is responsible. CA - EMA and the evaluation commission have

damaged the Budget of EMA and RKS in the amount of 188,434.00 Euro. Article 59 - paragraph 1,4 - Law No. 04/L-042 amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092 Article 59 - Examination, Evaluation and Comparison of Tenders 1. The contracting authority shall establish an Evaluation Commission for the examination, evaluation and comparison of offers. All members of the Evaluation Committee shall take full individual responsibility for the evaluation of the tender. Upon the commencement of the implementation of electronic procurement, the PPRC shall issue secondary legislation on this matter. 2. The contracting authority may in writing request a tenderer to provide a written clarification on any aspect of its tender, in order to enable the examination, evaluation or comparison of tenders to be carried out. No material changes to any aspect of the tender shall be requested or accepted by the contracting authority or offered by a tenderer. 3. The contracting authority shall consider a tender as responsive only if the tender in question complies with all the requirements set out in the contract notice and the tender dossier. Notwithstanding the foregoing, the contracting authority may consider a tender to be responsive if: (i) it contains only errors or inaccuracies which can be corrected without changing the material condition or aspect of the tender in question, or (ii) it contains only minor deviations which cannot cause material changes or deviations from the characteristics, conditions, and other requirements set out in the contract notice and in the tender dossier; provided that any such deviation is quantified, as far as possible, and is taken into account in the evaluation and comparison of tenders. Statement, Facts and

Arguments: We claim that this provision of the LPP has been violated because the CA - EMA and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli did not treat in principle the RROUP and the LPP including articles 1, 6, 7, 13, 59, 60, 72. And that we as an EO are a responsible bid and meet all the requirements in the tender dossier and contract notice.

Therefore, we as an EO claim that the CA - EMA did not conduct the examination, evaluation and comparison of the tenders according to the requirements in the tender dossier and contract notice. The CA - EMA and the evaluation commission are individually responsible for the treatment of our bid not in accordance with these provisions.

(Arianit R. Bytyqi B.I.) Article 7 - Law No. 04/L-042 amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092 Article 7 - Equality of Treatment/ Non-Discrimination

1. The contracting authority shall treat economic operators equally and non-discriminatory and shall act in a transparent manner.
2. The contracting authority shall not execute any aspect of the procurement activity in a manner that reduces or eliminates competition between economic operators or that discriminates to the detriment or advantage of one or more economic operators.
3. Without prejudice to the preceding paragraph, the contracting authority is specifically prohibited from determining its own needs to be met, specifying the subject matter to be procured, dividing or grouping the quantities or other items to be procured, by choosing a

procurement procedure, or by setting a requirement or selection criterion or technical specification which in any way is intended to favour or discriminate against one or more economic operators.

4. The contracting authority shall not create or impose and shall take all necessary measures to prevent the creation or imposition of circumstances or conditions resulting in territorial, physical, material, personal or organizational discrimination between economic operators.

5. The contracting authority shall not require the economic operator to (i) employ or use, or not employ or use, any particular person or undertaking for the execution of any aspect of a public contract, or (ii) to supply or procure, or not to supply or procure, products or services originating from a particular person, undertaking or geographical area. Where such a requirement is specifically authorised by this Law, any other law or international agreement, the precise parameters of such a requirement shall be specified in the contract or in the design contest notice, the invitation to participate or tender, and in the tender dossier.

6. In conducting procurement activities, all contracting authorities shall ensure: (i) the widest possible participation of interested economic operators regarding the price and subject matter of the procurement; (ii) the regular publication, dispatch and/or availability of all notices, invitations, information and documents relating to the procurement activity in accordance with this Law; (iii) the elimination of practices, criteria, requirements and technical specifications that discriminate in favour of or against one or more economic operators; (iv) that all technical specifications and all selection and award requirements, including the relative importance of each such requirement and criterion, as well as the selection and award methods, are specified in the contract notice or the relevant design contest, in the invitation to tender or to participate and/or in the tender dossier; (v) that no requirement, criterion or specification that is not so specified is used in the selection or award process, and (vi) that the tender selected complies with all substantive aspects of the relevant conditions, criteria and specifications.

We conclude that this provision of the LPP has been violated because the CA- EMA has not treated in principle the RROUP and LLP according to Article 7. We as EOs with the decision of the CA dated 26.09.2024 to declare an irresponsible GOE (Albasoft & SolvIT) the winner and by eliminating us as EOs (Arianit R. Bytyqi B.I.) we are discriminated against, since we are the EO that is responsible with the lowest price and meets all the requirements that are in the tender dossier and contract notice. The CA - EMA Evaluation Committee has not properly evaluated the offers in accordance with the LPP and RROUP. Material evidence: See the attached documentation and additional evidence Article 13 - paragraph 4 - Law No. 04/L-042 amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092 Article 13 - Use of languages in public procurement documents 4. An economic operator may submit a tender, a request to participate or any other document required or permitted to be completed during the procurement activity, in Albanian, Serbian or English.

We claim that this provision of the LPP has been violated since the CA - AME has not treated in principle the RROUP and the LPP including Article 13. The offer of GOE Albasoft & SolvIT is an irresponsible offer since they have submitted documentation in violation of Article 13.4

regarding the submission of documentation in languages that are accepted according to the LPP and the RROUP. GOE Albasoft & SolvIT for Mr. Ndririm Idrizi has submitted a Diploma in languages that are not allowed according to the LPP and the RROUP. It has submitted a diploma in the Italian language. GOE Albasoft & SolvIT for Ms. Diana Llugaxhija has submitted a Diploma in languages that are not allowed according to the LPP and the RROUP. It has submitted a diploma in the Italian language.

Statement, Facts and Arguments: for Brand Name PC We claim that this provision of the LPP has been violated since the CA - EMA and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli did not treat in principle the RROUP and the LPP including Articles 1, 6, 7, 13, 59, 60, 72. We as the EO (Arianit R. Bytyqi B.I.) have submitted all the guarantees for Brand Name PC according to the requirements in the FDT and the Contract Notice. If the CA - EMA and the evaluation commission did not have complete information, it could have requested clarifications according to Article 72 and Article 59.3. Therefore, we as the EO (Arianit R. Bytyqi B.I.) meet this criterion. Material evidence: See the attached documentation and additional evidence

Statement, Facts and Arguments: for Printer MFP We claim that this provision of the LPP has been violated since the CA - AME and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli did not treat in principle the RROUP and the LPP including Article 1, 6, 7, 13, 59, 60, 72. We as EO NTSH UNISOFT (Arianit R. Bytyqi B.I.) have submitted all the guarantees for the Printer MFP according to the requirements in the FDT and the Contract Notice. If the CA AME and the evaluation commission did not have complete information, it could have requested clarifications according to Article 72 and Article 59.3. Therefore, we as EO NTSH UNISOFT (Arianit R. Bytyqi B.I.) meet this criterion. Material evidence: See the attached documentation and additional evidence

Statement, Facts and Arguments: for Brand Name Laptop We claim that this provision of the LPP has been violated since the CA - EMA and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli did not treat in principle the RROUP and the LPP including Articles 1, 6, 7, 13, 59, 60, 72. We as the EO (Arianit R. Bytyqi B.I.) have submitted all the guarantees for the Brand Name Laptop according to the requirements in the FDT and the Contract Notice. If the CA EMA and the evaluation commission did not have complete information, it could have requested clarifications according to Article 72 and Article 59.3. Therefore, we as the EO NTSH UNISOFT (Arianit R. Bytyqi B.I.) meet this criterion. Material evidence: See the attached documentation and additional evidence

Statement, Facts and Arguments: for Brand Name Monitor We claim that this provision of the LPP has been violated since the CA - EMA and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli did not treat in principle the RROUP and the LPP including Articles 1, 6, 7, 13, 59, 60, 72. We as the EO (Arianit R. Bytyqi B.I.) have submitted all the guarantees for Brand Name Monitor according to the requirements in the FDT and the Contract Notice. If the CA EMA and the evaluation commission did not have complete information, it could have requested clarifications according to Article 72 and Article 59.3. Therefore, we as the EO (Arianit R. Bytyqi B.I.) meet this criterion. Material evidence: See the

attached documentation and additional evidence Statement, Facts and Arguments: We claim that this provision of the LPP has been violated because the CA - EMA and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli have not treated in principle the RROUP and the LPP including Article 1, 6, 7, 13, 59, 60, 72. We as the EO NTSH UNISOFT (Arianit R. Bytyqi B.I.) have submitted all guarantees for the Brand Name PC which meets all the requirements regarding Annex 1 of the technical specification for the product in question. If the CA - EMA and the evaluation commission did not have complete information, it was able to request clarifications according to Article 72 and Article 59.3. The product offered by us meets all the requirements in Annex 1 of the technical specification. Therefore, we as EO NTSH UNISOFT (Arianit R. Bytyqi B.I.) meet this criterion. Material evidence: See the attached documentation and additional evidence. Statement, Facts and arguments: We claim that this provision of the LPP has been violated because the CA - EMA and the Evaluation Commission composed of Mr. Zimri Krasniqi, Mr. Bekim Sadiku and Mr. Sadri Shamolli did not treat in principle the RROUP and the LPP, including Article 1, 6, 7, 13, 59, 60, 72. We as EO NTSH UNISOFT (Arianit R. Bytyqi B.I.) have submitted all guarantees for the Brand Name Monitor which meets all the requirements related to Annex 1 of the technical specification for the product in question. If the CA - EMA and the evaluation committee did not have complete information, they could request clarifications according to Article 72 and Article 59.3. The product offered by us meets all the requirements in Annex 1 of the technical specification. Therefore, we as the EO (Arianit R. Bytyqi B.I.) meet this criterion. Material evidence: See the attached documentation and additional evidence GOE Albasoft & SolvIT does not meet the following points: GOE Albasoft & SolvIT for Mr. Ndricim Idrizi has submitted a Diploma in languages that are not allowed according to the LPP and RROUP. Has submitted diplomas in Italian. Mr. Ndricim Idrizi does not meet the criteria according to the LPP and the RROUP. Material evidence:

See the additional documentation and evidence attached GOE Albasoft & SolvIT for Ms. Diana Llugaxhija has submitted Diplomas in languages that are not allowed according to the LPP and RROUP. Has submitted diplomas in Italian. Mr. Diana Llugaxhija does not meet the criteria according to the LPP and the RROUP. Material evidence: See additional documentation and evidence attached GOE Albasoft & SolvIT for Mr. Ndricim Idrizi has submitted a Diploma in languages that are not allowed according to the LPP and RROUP. Has submitted a diploma in Italian. EO Albasoft has not submitted an ISO 9001 2015 Certificate according to the requirements in the tender dossier and the contract notice, and that with the latest clarification in the PPRC each of the group members must meet the requirements regarding ISO Certificates. GOE does not meet the eligibility criteria related to ISO 9001 2015 according to the tender dossier and the contract notice as well as the LPP and RROUP. GOE does not meet the criteria according to the LPP and RROUP, DT, NJK regarding the fulfillment of the requirement for an ISO 9001: 2015 Certificate, according to the interpretation by the PPRC in the case of consortia. Material evidence: See attached documentation and additional evidence Article

60 - paragraph 1,2 - of Law No. 04/L-042 as amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092 Article 60 - Contract Award Criteria 1. The contracting authority shall award the public contract to the economic operator that has submitted

either: 1.1 the responsive tender with the lowest price; 1.2 the most economically advantageous tender on the basis of the criteria and weighting specified in the tender dossier pursuant to Article paragraph 3. of Article 52 of this Law.

Statement, Facts and Arguments: We claim that this provision of the LPP has been violated because the CA - AME has not treated in principle the RROUP and the LPP including Article 60. The CA - AME and the Evaluation Commission with the decision dated 26.09.2024 have announced a GOE which is irresponsible and with the highest price. The responsible offer with the lowest price according to the Tender Dossier, Contract Notice: NTSH UNISOFT (Arianit R. Bytyqi B.I.) Price 495,725.00 Euro The offer declared the winner by the CA AME with the decision dated 26.09.2024 in contradiction with the tender dossier, contract notice.: GOE Albasoft & SolvIT. 684,159.00 Euro. CA - EMA and the evaluation commission have damaged the EMA and RKS Budget in the amount of 188,434.00 Euro. Material evidence: See attached documentation and additional evidence Article 72 - paragraph 1,2,3 - Law No. 04/L-042 amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092 1. Where the information or documentation to be submitted by economic operators is or appears to be incomplete or incorrect, or where specific documents are missing, contracting authorities may require economic operators to submit, supplement, clarify or complete the necessary information or documentation within a specified time limit, provided that such requests are made in full compliance with the principles of equal treatment and transparency. 2. The contracting authority may invite economic operators to supplement or clarify the certificates and documents submitted in accordance with Articles 65-71 of this Law. 3. The provision of missing information or the provision of information shall apply only to documents whose existence is established, before the expiry of the deadline for the submission of tenders, and can be objectively verified. Statement, Facts and Arguments: We claim that this provision of the LPP has been violated because the CA-EMA has not treated the RROUP and LPP in principle by including Article 72. The CA EMA and the Evaluation Commission were able to use Article 72, and 59.2 of the CA - EMA and the Evaluation Commission to request clarifications regarding the parts of the tender submitted by the EO. The decision of 26.09.2024 is in contradiction with the legal provision of Article 72, and 59.2 of the LPP and RROUP.

- Administration and evaluation of evidence –

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

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, at the request of the Review Panel, the PRB on 27/12/2024 authorized the two review experts to conduct a super expertise for the review of the claims under complaints no. 2024/0974, 2024/0976, 2024/0980 and 2024/0995, which bears the submission date 18/02/2025, but which was actually submitted to the PRB on 21.02.2025. These super expertises have all been forwarded to all parties in the procedure and are also uploaded on the PRB website, and the PRB

does not consider it necessary to include them in this decision due to their large volume, as they are also considered part of this decision.

- Findings of the Review Panel –

The Review Panel, after reviewing and analyzing all documentation on the e-procurement platform, complaint claims, and responses provided by the case review experts engaged by the PRB, considers that the super expertise reports contain a priori the essential elements of such a document as provided for in the provision of Article 113 in conjunction with Article 114 of the LPP, according to which the provision requires the expert to review all procurement documentation, including all complaining claims, and to provide the panel and all parties with an independent and professional assessment of the procurement activity and the validity of the complaining claims.

However, it should be noted that the expert report is not binding on the Review Panel and that any such report is assessed and/or analyzed in the overall context of the case files, the alleged facts and any other evidence, taking into account the nature of the possible violations, the course, nature and purpose of the procurement activity. Therefore, the fact that in which cases and for what, the Panel relies or not, on any report and/or any of the recommendations, is a matter of his/her independent and professional judgment, as these responsibilities are addressed in terms of Article 98, 99 in conjunction with Article 105 of the LPP.

The Review Panel, based on Article 105 of the LPP that the PRB shall review the complaint claims, then Article 111 of the LPP, quote: "The PRB shall form a review panel to review the claims made in the complaint", the PRB considered that it should proceed further and review only the complaining claims made in the complaint.

Regarding the claims of the complaining economic operator "DataProgNet" SH.P.K in complaint No. 2024/0974

The Review Panel has granted credence to the findings and recommendations in the super expertise report. The Review Panel has decided based on these findings of the experts where they have found that two complaints are unfounded and one complaint decision is based but insufficient to affect the change in the final result, therefore the complaint is partially founded. Therefore, the Review Panel after the administration and evaluation of the evidence, the full ascertainment of the factual situation, relying on the LPP as the applicable substantive law After reviewing the complaint claims, taking into account all the case files and the recommendations of the review experts, it has found that the complaint of the Economic Operator "Dataprojekt SHPK" is partially founded, but the complainant has not been able to prove that he has offered in accordance with the requirements of the DT, without the need for the same to be repeated again.

Regarding the claims of the complaining economic operator "Geo & Land" SH.P.K in complaint No. 2024/0976

The Review Panel, based on the findings and recommendations in the super-expertise report, has found that the complaint is being approved as partially grounded, in accordance with the recommendations of the technical and professional review experts. Regarding the product

warranty, the PSH, in accordance with Article 56.3 of the LPP, supports the professional expert who stated that the Contracting Authority in the qualifying requirements in the tender dossier and in the contract notice did not define the warranty as a qualifying criterion. The warranty is only mentioned in the technical specifications, which means that it should be provided upon delivery of the product, not at the bid stage.

Regarding the claims of the complaining economic operator “Cactus” SH.A in complaint No. 2024/0976

The Review Panel, based on the findings and recommendations in the super-expertise report, has found that the complaint is being approved as partially grounded, in accordance with the recommendations of the technical and professional review experts. Regarding the product guarantee, the PSH, in accordance with Article 56.3 of the LPP, supports the professional expert who stated that the Contracting Authority in the qualifying requirements in the tender dossier and in the contract notice did not define the guarantee as a qualifying criterion. The guarantee is mentioned only in the technical specifications, which means that it must be provided upon delivery of the product, not at the bid stage.

Regarding the claims of the complaining economic operator Arianit R. Bytyqi (N.T.SH. Unisoft) in complaint No. 2024/0995

The Review Panel, based on the findings and recommendations in the super-expertise report, has found that the complaint is approved as partially grounded, in accordance with the recommendations of the technical and professional review experts. Regarding the product guarantee, the Public Procurement Agency, in accordance with Article 56.3 of the LPP, supports the professional expert who stated that the Contracting Authority did not define the guarantee as a qualifying criterion in the qualification requirements in the tender dossier and in the contract notice. The guarantee is mentioned only in the technical specifications, which means that it must be provided upon delivery of the product, not at the bid stage.

Therefore, the Review Panel has independently and objectively, with due diligence and professional care evaluated all the evidence of the case and there is no need for the same to be repeated again. In this way, it has been found that the Contracting Authority has not acted in accordance with the legal provisions on public procurement. Consequently, the notice of award of the CA regarding the procurement activity: “Creation of a system for managing the activities of the AME and the NPU” with procurement no.: "21432700-23-14367-2-1-1", initiated by the Contracting Authority (CA) - Emergency Management Agency, is cancelled, and the case is returned for re-evaluation.

- Conclusion –

Based on the above, the Review Panel considers that the CA has acted in violation of the provisions of Articles 1, 6, 7, 59 and 60 of the LPP, cited in the Complaint. The Review Panel considers that the actions and acts of the CA, and the assessments of the review expert regarding the fulfillment or not of the conditions described above and the complaining allegations in this case constitute sufficient grounds for the procurement activity to be returned for re-evaluation

because otherwise it would conflict with the scope of the LPP and the argumentative basis of the complaining claims, which the Panel assesses according to its independent assessment in the sense of Article 104 in conjunction with Article 105 of the LPP.

The return of a procurement activity with a contested legal basis for re-evaluation is in accordance with Article 1 of the LPP, according to which the purpose of this Law is, among others, quoted: "...to ensure the integrity and accountability of public officials, civil servants and other persons who carry out or are involved in a procurement activity by requiring that the decisions of such individuals and the legal and factual basis for such decisions are not influenced by personal interests, are characterized by non-discrimination and a high degree of transparency, and are in accordance with the procedural and substantive requirements of this Law".

Regarding Article 105, taking into account the requirement of Article 104, paragraph 1, of the cited Law according to which, quoted: "The procurement review procedure shall be implemented and carried out in a prompt, fair and non-discriminatory manner, aiming at the fair, lawful and effective resolution of the case..." Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations that may arise during a procurement activity.

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, to the Department for Administrative Affairs for annulment of the decision within 30 days from the date of acceptance of the decision.

Decision to be submitted to:

1x1 CA – **EMERGENCY MANAGEMENT AGENCY;**

1x1EO–“ **GEO & LAND SH.P.K., Arianit R. Bytyqi, " Cactus " Sh.a., "DataProgNet" SH.P.K.**”;

1x1 Archive of the PRB;