



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

Psh. No.07/24

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 “NTERNACIONAL GROUP BASE” 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 11/01/2024 has issued this:

DECISION

Dismissed as not allowed, the complaint of EO “NTERNACIONAL GROUP BASE” SH.P.K, with protocol no.07/2024, of the 04/01/2024, 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 04.01.2024 has received the complaint no. 07/24 from EO “NTERNACIONAL GROUP BASE” 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 in the capacity of the contracting authority.

GENERAL HOSPITAL – GJAKOVA in the capacity of the contracting authority, has published B05 - Contract Notice, where according to this announcement, the deadline for the submission of offers was: 28.11.2024.

On the 28.12.2023, CA published B54 Standard form for correcting errors in published notices, where according to this notice, the deadline for submission of offers was: 04.01.2024

EO “NTERNACIONAL GROUP BASE” SH.P.K. on the 31.12.2023 EO had submitted a request for reconsideration to the CA. Whereas on the 03.01.2024 the CA rejected the request for reconsideration of the economic operator as ineligible.

- *Administration and evaluation of evidence* - The evidence presented proves that for the procurement activity "Cleaning the internal spaces of the Hospital" with procurement number 70020-23-11204-2-1-1, initiated by the "GENERAL HOSPITAL - GJAKOVA", the contract notice has been published in the e-procurement system dated 18.10.2023, the deadline for accepting tenders was 04.01.2024. While on the 31.12.2023 EO "NTERNACIONAL GROUP BASE" SH.P.K. had made a request for reconsideration at the CA. On 03.01.2024, the Contracting Authority rejected the request for reconsideration of the economic operator as ineligible.

The complainant was obliged, in accordance with paragraph 3.1 of Article 108/A of the LPP, within the legal deadlines to submit a request for reconsideration to the CA and only after leading 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 3.1 of the LPP stipulates that the complaining economic operator must submit the request for review to the relevant contracting authority: if the alleged violation is related to the contract notification or the tender documents within five (5) days before the deadline for submission of offers. Likewise, Article 60.1 point a) in Regulation 001/2022 on Public Procurement determines that Whenever the request for reconsideration is related to the contract notice or the tender documents at least five (5) days before the deadline for submission of offers. In calculating the time limits, the day of submission of offers is day (0). Therefore, from the evidence presented and the course of this procurement activity, it is established that the complaint submitted to the Procurement Review Body on 04.01.2024 by EO "INTERNACIONAL GROUP BASE" SH.P.K. for the procurement activity entitled: "Cleaning of the internal spaces of the Hospital" with procurement number 70020-23-11204-2-1-1, initiated by the "GENERAL HOSPITAL - GJAKOVA", also referring to the interpretation of the KRPP dated 07.11.2023 -630/2023, which interpretation clarifies the legal deadlines for appeal. The legal office finds that this appeal is dismissed as not allowed because the appellant did not submit the request for reconsideration within the legal deadlines against the notification of the Contracting Authority.

Therefore, the Procurement Review Body clarifies that only after leading a regular preliminary procedure and within the legal deadlines at the CA, the complainant can file a complaint with the PRB. In conclusion, this complaint is in violation of Article 108/A, 109 and of the Law on Public

Procurement, and Article 60 of Regulation 001/2022 on Public Procurement, and as such is dismissed as not allowed and was not reviewed by the PRB. However, the PRB always starts from the rules, solutions and principles of the LPP according to which each CA exercises his/her independence in the sense of article 8 and 9 regarding procurement planning and forecasting needs, but the aforementioned criteria must always guarantee equality of EO which are provided as such also with TD which in terms of Article 27, in connection with Article 28, constitutes the key public procurement document.

Therefore, in the sense of Article Article 51 (Notification of Selection Criteria) of the LPP, according to which all selection criteria must be limited only to the criteria necessary to ensure that only economic operators who possess the necessary professional, financial and technical skills to fulfill the terms of the relevant contract will be considered qualified to receive such a contract or to receive an invitation to tender. And that, in no case, the contracting authority should not include, specify or use selection criteria that are based on considerations other than those allowed by the provisions of articles 65-70 of this law. Therefore, the Review Panel informs the CA that in every activity must act according to the legal provisions and authorizations as provided by articles 1, 6, 7, 27, 28, 51, 59, 60, 69 of the LPP.

The contracting authority - "GENERAL HOSPITAL - GJAKOVA" can continue with the procurement activity "Cleaning the internal spaces of the Hospital" with procurement number 70020-23-11204-2-1-1, in relation to this complaint, if there are no other complaints about this procurement activity. The Procurement Review Body informs that in every CA activity I must act in accordance with the provisions and legal authorizations as defined by article 1, 6, 7, 27, 28, 59, 60 and 65 of the LPP.

Also, the office for accepting complaints has determined that the complainant did not present proof of payment of the fee when submitting the complaint to the PRB in accordance with Article 111 of the LPP.

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 – **INTERNACIONAL GROUP BASE SH.P.K.;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.