



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

Psh. No.0591/25

The Review Panel, appointed by the Acting President of the PRB, pursuant to Article 105, 106, and 117 of the Law on Public Procurement of the Republic of Kosova (LPP) composed of Isa Hasani-individual panelist, deciding upon the complaint of the Economic Operator (EO) “Elen Energy” L.L.C., against the Decision to contract award or a design competition related to the procurement activity “Supply of generators for Kosova Customs terminals” with procurement number 201 13300-25-2938-1-1-1, initiated by the contracting authority (CA) - Kosova Customs”, on the 22/08/2025, has issued this:

DECISION

1. Refused, as ungrounded the complaint of the EO “Elen Energy” L.L.C., with no. 2025/0591, dated 03/07/2025, regarding the procurement activity “Supply of generators for Kosova Customs terminals” with procurement number 201 13300-25-2938-1-1-1, initiated by the contracting authority (CA) - Kosova Customs”.
2. Remains in force, B58 Notice on the Decision of the Contracting Authority -dt.16.06.2025 Kosovo Customs for the procurement activity "Supply with generator for Kosovo Customs terminals", with procurement number; 201 13300-25-2938-1-1-1.
3. Within 10 days, the CA must inform the PRB of all actions taken in relation to this procurement activity, otherwise, for non-compliance with the decision, the PRB may take measures against the CA as provided for in the provisions of Article 131 of the Law on Public Procurement of Kosova.
4. In accordance with Article 31, point 5, of the Rules of Procedure of the PRB, the complaining economic operator EO “Elen Energy” L.L.C., shall be confiscated the complaint insurance fee in the amount deposited upon filing the complaint, while the funds shall be transferred to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 10.04.2025, “Kosova Customs” in the capacity of the Contracting Authority has published the Notice for Contract B05 regarding the procurement activity entitled: “Supply with generator for Kosovo Customs terminals” with procurement number 201 13300-25-2938-1-1-1, while on 16.06.2025. Notice on the decision of the Contracting Authority B58. EO “ROA Consolting Sh.p.k”

The contracting authority has implemented an open procedure, type of contract supply, estimated value of the contract: 130,000.00 €.

On the 19.06.2025, EO “Elen Energy” L.L.C., has submitted a request for review against the abovementioned decision of the CA. On 26.06.2025, the Contracting Authority has rejected as unfounded the request for review.

On the 03/07/2025, the PRB has received the complaint from “Elen Energy” L.L.C., with no. 2025/0591 regarding the activity “Supply with generator for Kosovo Customs terminals” with procurement number 20113300-25-2938-1-1-1.

-On the preliminary review phase -

The Procurement Review Body has found that the complaint contains all the elements specified in Article 111 of the LPP and as such has been submitted within the legal deadline in accordance with Article 109 paragraph 1 of the LPP after the preliminary procedure for dispute resolution in the sense of Article 108/A of the LPP, by the economic operator that is an interested party according to Article 4 paragraph 1 sub-paragraph 26 of the LPP. In this way, the Procurement Review Body has found that it is competent to review this complaint according to Article 105 of the LPP and there is no procedural obstacle to continue with the review of the complaint on its merits.

CA's response to the request for review: The Contracting Authority, in reviewing these claims of the two tenderers, Group of Economic Operators Elen Energy L.L.C.; N.T.SH. Elen, and Eor Group SH.P.K.; CONTANTI GENERATORS SH.P.K., finds that the evaluation of all offers in this evaluation procedure was carried out in accordance with the rules of the Public Procurement Law, secondary legislation and the conditions of the tender dossier. Therefore, the claims submitted in the two requests for reconsideration are unfounded according to the following arguments:

1. In the tender dossier: “Supply of generators for Kosovo Customs terminals”, with Procurement No. 201 13300-25-2938-1-1-1 and Internal No. 201.133.25.014.111, Annex 1 Mandatory technical specifications are requested, among other things, as follows:

Additional note:

Within the scope of the supply of generators, the EO in the price must include:

- Assembly, testing and commissioning of the generator/hours;
- Within the scope of the warranty and the price, the EO must maintain it with regular and periodic services for 36 months; and 24 hours / 7 days a week.

And the specifications request, where the 36-month warranty was requested, was not mentioned by the CA that it should be the warranty provided by the manufacturer. The EO declared the winner of this tender has offered a statement on the technical specifications for the goods offered which comply with those mentioned in Annex 1 of the tender dossier, which also includes the 36-month warranty.

According to Article 56.3 of the Law on Public Procurement, it is clearly stated that: “The tenderer, during open procedures, or the candidate, during restricted procedures and competitive procedures with negotiations, shall not be disqualified or excluded from such procedures on the basis of any requirement or criterion that is not specified in the contract notice and the tender dossier.

2. In the tender dossier, the requirements on technical and/or professional capabilities were requested:

And this request with concrete evidence as per Article 9.2 of the FTD has been fulfilled by the EO. Also, the winning EO, together with the business certificate, has also provided information on the business. This can be argued through direct access to the e-procurement platform. However, the procurement sector of the CA, during the preparation of the copy of the EO to be sent via email, has missed this detail, wanting to remove the last part of the business information, where the personal numbers of the owners and authorized persons are. To avoid these errors, the CA has also offered access to the direct platform (Tv Monitor) of the offers downloaded from the e-procurement in the procurement office, but the insistence of the EO Elen Energy L.L.C. has been that it does not want to consult the access to the documentation in the procurement office but either receive a copy via email or physically.

Evidence: Email response to the Request for access to tender documents with procurement number 201 13300-25-2938-1-1-1 dated 17.06.2025

Also, the same findings of the Contracting Authority as above apply to the two claims of the complaining EO Elen Energy L.L.C that the Group of economic operators “Contanti Generators sh.p.k.” & “Eor Group sh.p.k.” have chosen as leader Eor Group sh.p.k, which: • Has not submitted the VAT certificate, with which it does not meet the professional suitability requirement and that they have not met the condition of the 3-year warranty from the manufacturer.

Evidence: The offer of the Group of Economic Operators Eor Group SH.P.K.; CONTANTI GENERATORS SH.P.K.,

So, the group of EO Eor Group SH.P.K.; CONTANTI GENERATORS SH.P.K., with the offer has submitted both VAT certificates.

The same findings apply to the claims that the group of EO LTECK SH.P.K.; Delta Engineering, therefore this group of EO has fulfilled the conditions of the tender dossier both in the submission of VAT certificates as well as the statement of technical specifications with the title of the document:

Warranty/Maintenance Statement.

Evidence: The offer of the Group of Economic Operators LTECK SH.P.K.; Delta Engineering

Furthermore, the Contracting Authority evaluates and finds that the claims of the group of EO EOR. GROUP SH.P.K & CONTANTIGENERATORS SHPK are unfounded as to the fact that during the evaluation of this tender the rules for Abnormally Low Tenders were violated on the grounds that the EO declared the winner should have been eliminated as an abnormally low tender. The Contracting Authority during the evaluation of this tender, the bid of the EO declared the winner ROA Consulting SH.P.K., with the total price of 68,767.40 EUR, has considered as an abnormally low tender.

In accordance with the conditions set out in the Public Procurement Regulation, Article 41.3. has requested from the responsible EO ROA Consulting SH.P.K., a written clarification through the standard form approved by the PPRC "Standard letter for abnormally low tenders".

And EO ROA Consulting SH.P.K., within the time given in the request for clarification, has provided a written statement, which includes a detailed breakdown of the relevant parts of the tender and which includes an explanation for the low price it has offered.

Evidence: Response to the request of the CA dated 10.06.2025 by ROA CONSULTING LLC 16.06.2025

After the Contracting Authority has received the written explanation from the Economic Operator, it has assessed that the clarifications are sufficient and has treated the tender the same as other tenders.

The claims of the complaining economic operator “Elen Energy” L.L.C., are presented as follows:

Kosova Customs in the capacity of the Contracting Authority (hereinafter referred to as the “Contracting Authority”), on date 10.04.2025 has published the Contract Notice with Procurement No.: 201 13300-25-2938-1-1-1 for the Public Contract entitled: 'Supply with generator for Kosovo Customs terminals' ELEN ENERGY" & "ELEN N.T.SH." (hereinafter referred to as the “Economic Operator”), within the stipulated deadline has offered by submitting all documentation to the Contracting Authority, in full compliance with the required requirements and criteria.

The Contracting Authority, through the letter entitled “Notification of the Contracting Authority’s Decision” and “Standard Letter to the Unsuccessful Tenderer” dated 16.06.2025, has notified the bidders that it has decided that the procurement activity, namely ‘Supply with generator for Kosovo Customs terminals’ with Procurement No.: 201 13300-25- 2938-1-1-1, to propose for contract award the economic operator ROA CONSULTING SH.P.K. with the

justification of the responsive bid with the lowest price, while further notifying that the other Economic Operators have been declared unsuccessful for the reason that they are not the tender with the lowest price among other tenders.

We, the group of economic operators “Elen Energy L.L.C” and “Elen NTSH”, after receiving the decision of the Contracting Authority dated 18.06.2025, in accordance with the provisions of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, as amended and supplemented by subsequent laws, on 16.06.2025, have submitted an official request for access to the tender documents.

On 17.06.2025, we received official confirmation from the Contracting Authority for allowing access to the tender documents:

Also on 18.06.2025, the Contracting Authority forwarded the tender documents to us via official e-mail, thus enabling the completion of the necessary documentation for our informed review of the case:

On 19.06.2025, the group of economic operators “Elen Energy L.L.C” and “Elen NTSH”, in accordance with the legal deadlines and based on the Law on Public Procurement, we submitted a Request for Review to the Contracting Authority, presenting in detail all the facts and legal and technical arguments, through which we have established that the economic operator proposed for the contract, “ROA Consulting sh.p.k.”, does not meet the criteria set out in the tender dossier issued by the CA.

On 26.06.2025, we have received the decision of the Contracting Authority regarding the Request for Reconsideration, through which our request, as well as that of the other economic group participating in the tender, have been rejected as unfounded. For these reasons, we, the group of economic operators “Elen Energy L.L.C” and “Elen NTSH”, in the capacity of the interested party, submit this Complaint to the Procurement Review Body (PRB), requesting the review of the legality of the decision of the Contracting Authority based on the facts and arguments presented below: Claim 1. 1. In Annex 1, Mandatory technical specifications, the CA has specified that the warranty for the offered Diesel Generators is 36 months. See photo:

The EO selected for signing the contract “ROA Consulting sh.p.k.”, has not submitted any specific document from the manufacturer with whom it has bid, in which the 3-year warranty requested by the CA is mentioned.

Instead, ROA Consulting sh.p.k. has submitted only a self-compiled declaration, signed and stamped by the operator itself, in which it claims that the offered products possess a 3-year warranty. This declaration does not constitute a legally valid or reliable document, in the absence of confirmation from the authorized manufacturer of the equipment.

The EO proposed for the contract, in this self-compiled declaration, declares that the products with which they have bid have a 3-year warranty.

See the statement below:

According to the official data published on the official website of the manufacturer TMG Power, with whose products the economic operator “ROA Consulting sh.p.k.” has bid, it results that the warranty offered for the

Diesel generators is only 2 (two) years, and not 3 (three) years as requested by the Contracting Authority in Annex

1 - Mandatory Technical Specifications.

This fact clearly shows that the self-compiled declaration of ROA Consulting sh.p.k. is contrary to the manufacturer's real specifications and, as a result, the operator has not provided equipment that meets the minimum requirements set by the CA. See below the evidence, photo taken from their website

CA's response to claim 1

According to Article 56.3 of the Law on Public Procurement it is clearly stated that: "The tenderer, during open procedures, or the candidate, during restricted procedures and competitive procedures with negotiations, shall not be disqualified or excluded from such procedures on the basis of any requirement or criterion not specified in the contract notice and in the tender dossier.'

Contrary to the position of the Contracting Authority in its response, the requirement for a minimum guarantee of 36 months is clearly and irrefutably stated in the tender dossier, specifically on page 20 of Annex 1 - Mandatory Technical Specifications.

See below the photo taken from the tender dossier, page 20, annex 1 - Mandatory technical specifications.

The CA has violated Article 69 and Article 56.3 of the LPP since during the evaluation, clarification and comparison of the tenders, it has not respected its own requirements from the tender dossier as previously determined.

During the evaluation of the EO that proposed for signing the contract, it has overlooked the same requirements and has not fully applied them.

As a result, the economic operator proposed for the contract should be considered irresponsible and unsuitable for the award of the contract, while the Contracting Authority has acted in violation of the principles of legality and transparency, directly violating Article 69 and Article 56.3 of the Law on Public Procurement. Claim 2. In the tender dossier, in the section “Requirements on technical and/or professional capabilities”, the Contracting Authority has requested the submission of a catalogue with instructions and photographs of the generators offered. This request constitutes an essential part of the tender dossier, being used as a basis for the technical evaluation of the submitted tenders and to ensure that the products comply with the required specifications.

The EO selected for the contract, "ROA CONSULTING SH.P.K.", has submitted only the generator catalog, in which only the technical specifications and photographs are described, but:

- There are no instructions, as required in the tender dossier.

This absence constitutes a clear disregard for the requirements of the tender dossier and consequently a violation of

Article 69 of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo.

The CA's response to claim 2

In the response given to our claim regarding the lack of technical instructions in the documentation of the proposed economic operator, the Contracting Authority has provided an explanation that is not based on the provisions of the tender dossier and the legal requirements for the public procurement procedure.

This explanation constitutes an unreasonable argument, which does not address fairly and fully the lack of instructions clearly required in the dossier of the tender.

It does not justify why the completion of this deficiency, which is an essential part of the technical evaluation, was not requested, it overturns the principles of equality and transparency in the evaluation of offers.

For this reason, the response of the CA is inappropriate and cannot be used as a legal justification for maintaining the contested decision in force.

So we emphasize once again that the CA does not prove in any way that the EO proposed for the contract "ROA Consulting" sh.p.k, has submitted this mandatory document for the fulfillment of the requirements on technical and/or professional capabilities.

This can be seen in the bid submitted by the EO. In this case, the CA has violated Article 69 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo.

Claim 3.

The EO selected for the contract "ROA CONSULTING SH.P.K." has not submitted the Business Information, a document that must meet the requirements of professional suitability.

CA's response to claim 3:

With this response, the CA, in addition to Article 66 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, once again violates Article 10, by not providing all the required documents, but justifying itself with the claim that "the CA has missed this detail when sending the documents by email, wanting to remove the personal number of the owners".

This contradicts the CA's action, since the same CA has sent us, together with the file, the identity cards of the other EO, "Contanti Generators sh.p.k."

Claim 1 for the other bidder, the facts and arguments on the criteria that the EO Group "Contanti Generators sh.p.k." & "Eor Group sh.p.k." does not meet

In this case, the CA has violated Article 66 of the LPP since it has not respected its requirements set out in the FDT in accordance with paragraphs 1 and 2 of this article. The proposed EO does not meet the conditions required in the tender dossier, therefore the failure to declare it as an irresponsible EO by the CA is considered a violation of this article. Claim 2 for the other bidder, facts and arguments on the criteria that the Group of EOs "Contanti Generators sh.p.k." & "Eor Group sh.p.k." does not meet. In Annex 1, Mandatory technical specifications, the CA has specified that the warranty for the offered Diesel Generators is 36 months.

The group of economic operators "Contanti Generators sh.p.k." & "Eor Group sh.p.k." has not submitted any specific document from the manufacturer with which it has bid, in which the 3-year warranty requested by the CA is mentioned.

They have declared this warranty only with a declaration compiled by themselves, signed and stamped by them. Therefore, in their file, the warranty given by the manufacturer is missing.

CA's response to claim 2: In this case, the CA does not provide any evidence that the group of EOs "Contanti sh.p.k." and "Eor Group sh.p.k." has submitted the warranty given by the manufacturer.

In this case, the CA has violated Article 69 of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo. The group of economic operators "LTECK sh.p.k." & "Delta Engineering O.P" has not submitted this declaration during the submission of their bid dossier in this tender.

In this case, the CA has violated Article 69 of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, by not declaring the group of EO "LTECK sh.p.k" & 3. The CA's request in the tender dossier was that the time limits for the start and/or completion of the contract be 12 months.

The group of economic operators "LTECK sh.p.k" & "Delta Engineering O.P" has not submitted any declaration or confirmation regarding the time limits.

In this case, the CA has violated Article 69 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, by not declaring the group of EO "LTECK sh.p.k" & "Delta Engineering O.P" irresponsible. For all these claims, the CA summarizes its responses in one sentence, by not providing sufficient evidence or facts about our claim, but directly declaring it unfounded.

See below their response to our three claims:

Referring to the claims as above, the complaining economic operator considers that the Contracting Authority has acted in violation of Article 1 of the LPP - Purpose, Article 7 of the LPP - Equality of Treatment/Non-Discrimination, Article 10 of the LPP, Article 28 of the LPP, Article 59 Examination, Evaluation and Comparison of Tenders, Article 64 - Eligibility Requirements/Evidence of Requirements, Article 66 - Professional Eligibility, Article 69- Technical/Professional Ability. Therefore, based on all that was said above and taking into

account the legal provisions cited in this Request, we request from the PRB that in full compliance with Article 109 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092, to review this COMPLAINT and within the legal deadline to issue the following: DECISION APPROVED as grounded the request of the Group of EO “ELEN ENERGY” “N.T.SH. ELEN” regarding the tender “Supply with generator for Kosovo Customs terminals” initiated by Kosovo Customs, and CANCELLED the Notice on the decision dated 16.06.2025 for the procurement activity number 201 13300-25-2938-1-1-1. The RE-EVALUATION should be done completely based on the requirements of the tender dossier, and that the WINNER should then be declared the Group of EO “ELEN ENERGY” & “N.T.SH. ELEN”

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Review Body on 04.07.2025 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 0591/25, while on 17.07.2025 the review expert's report with no. 2025/0591 was submitted 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 is rejected as unfounded and that the decision of the CA remains in force. The expertise report has been duly accepted by all procedural parties. The CA agrees with the expertise report, while the EO disagrees with the expert's report. The review panel has assessed that the conditions have been met to decide on this case without a hearing session within the meaning 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 and the report of the review expert provide sufficient data to decide on the merits of the case.

- Administration and evaluation of evidence -

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

Regarding the claims of EO “Elen Energy” L.L.C., the review expert through report no. 2025/0591 has assessed as follows:

The complaining Economic Operator, within the legal deadline, has exercised its right to request access to the documents of the bid recommended for the contract — a request that has been accepted by the Contracting Authority. Acting in accordance with the primary and secondary legal provisions of the Law on Public Procurement (LPP), the complaining operator has filed a complaint in which two offers of economic operators have been attacked. The review expert, after careful evaluation of all documents of the case — including the tender dossier criteria, clarifications, the bid opening process, the evaluation report, the decision of the Contracting Authority, the offers of other participating operators, as well as the requests for re-examination and the complaint claims — provides detailed responses to each point raised in the complaint.

Response to claim number 1 The complaining economic operator claims that the offer

recommended for the contract did not meet the requirement regarding the guarantee required in Annex 1 of the mandatory technical specification, the economic operator recommended for the contract has submitted only a declaration compiled and signed by the EO itself, where the existence of a three-year guarantee was claimed.

In the tender dossier and more precisely in annex 1 the mandatory technical specification is requested:

Complaining claim

The review expert, after a full evaluation of the documents of the complaint procedure — including the requirements of the tender dossier, the mandatory technical specification, and the documentation submitted by the recommended economic operator (declaration compiled and signed by him). The contracting authority in the TDS as well as the mandatory technical specification requested a guarantee for 36 months, but it was not requested that the guarantee be from the manufacturer. The review expert has found that the complaint claim of the appealing economic operator is unfounded.

Response to claim number 2

The review expert, by comparing the requirements of the tender dossier as well as the complaint claims regarding the catalog submitted by the economic operator recommended for the contract, that it lacks the instruction as requested in the tender dossier. In my opinion, the catalog copied below states:

“Some standard equipments that TMG POWER provides with generator sets”, in its translation it states:

That an operation and maintenance manual is included as a standard part that comes with the generator:

Yes, this catalog includes a complete technical description of the generator, including specifications such as: Main Technical Characteristics, Engine Properties, Alternator Specifications, Standard and Optional Equipment. Therefore, the complaint claim is unfounded.

Response to claim number 3 The review expert, during the examination and comparison of the documents as well as the complaint claims regarding the professional suitability requirements (business certificate, information, the contracting authority has provided access to the complaining economic operator after the request for access to official documents. The review expert has fully analyzed all communications between the parties. The Contracting Authority, referring to compliance with the Law on Personal Data Protection No. 06/L-082, while preserving personal data: such as contact numbers or other personal data, has not presented the documents in full.

CLARIFICATION Confidentiality or classification of documents in principle does not exclude documents such as business certificates and information since they are accessible or public in the Business Registration Agencies. The review expert finds that the complaining economic operator has submitted the documents mentioned in the complaint claim together with the case and in my

opinion this claim is considered partially grounded. Complaint against the economic operators Contanti Generators Sh.p.k and EorGroup Sh.p.k The review expert, after administering the evidence, finds that both economic operators have submitted business and VAT certificates, therefore based on the findings of the review expert, the claim of the complaining economic operator is unfounded. For more information, see the certificates cited in this claim which are part of the offers in this procedure.

- Findings of the Review Panel –

The Rules of Procedure of the Public Review Body, which is published on the PRB website, in Article 20, paragraph 2 of the Rules, stipulates the requirements for the Contracting Authority and the Economic Operator that all information and notices must be submitted and communicated through the public communication platform, if possible.

Based on the documents in this case, the Panel considers that regarding the issue in the concrete case, there is no need to convene a hearing with the parties, within the meaning of Article 24, paragraph 1 of the PRB Rules of Procedure, taking into account the fact that the claims of the parties and their submissions, the evidence and the report of the review expert provide sufficient data to decide on the merits.

The Review Panel assesses that the Review Expert Report, drafted at the request of the Panel regarding the dispute in this case of public procurement activity, contains the essential elements of such a document as foreseen by the provision of Article 113 in conjunction with Article 114 of the LPP, according to which the expert is required to review all procurement documentation, including all complaint claims and to provide the Panel and all parties to the dispute with an independent and professional assessment of the procurement activity and the validity of the complaining claims.

However, it should be noted that the legal fact that the expert report is not binding on the Review Panel and that each such report is assessed and/or analyzed in the general context of the case files, the alleged facts and other possible 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 the expert report and/or any of the recommendations, is a matter of his/her independent and professional judgment, as these responsibilities are addressed in the sense of Article 98, 99 in connection with Article 105 of the Public Procurement Law.

According to the above, the review expert has addressed and the claims of the complaining economic operator EO “Elen Energy” L.L.C. The argumentation in the review expert's report is quite detailed, understandable and fully based on the relevant documents referring 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 bid. The review expert's report assessed that the claims of the complaining economic operator EO “Elen Energy” L.L.C. are unfounded.

In the specific case, from the report of the review expert, the evidence presented by the complaining economic operator, the documents of the tender dossier and other evidence of the case, it has been found that the complaining claims are unfounded, presented against the decision of the contracting authority for the procurement activity. Based on the factual situation established above, the Review Panel has given full confidence to the findings and recommendations in the report of the review expert. Consequently, the Review Panel has found that the claims of the complaining economic operator are unfounded. Therefore, the Review Panel, after administering and evaluating the evidence, fully establishing 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 expert, has found that the complaint of the Economic Operator EO "Elen Energy" L.L.C. should be rejected as unfounded and the Decision of the contracting authority, dated 16.06.2025, for awarding the contract to the Economic Operator EO'ROA Consulting "SH.P.K. for the procurement activity remains in force.

Consequently, the Review Panel has decided to confirm the Notice of Decision of the Contracting Authority, regarding the procurement activity "Supply with generator for Kosovo Customs terminals", with procurement number; 201 13300-25-2938-1-1-1, initiated by the contracting authority - Kosova Customs.

Therefore, referring to Article 104.1 of the LPP, according to which it is required that the review procedure be implemented in a prompt, lawful and effective manner and by also analyzing in its entirety the documents of this case in the context of this procurement process, the Panel did not consider it necessary to elaborate again in detail and unnecessarily in this case each complaint claim, since the same have been specifically singled out especially in the challenged decision of the contracting authority and have been analyzed and argued without objection by this Panel. Among other things, in the challenged decision of the contracting authority and in the reports of the review expert, fair explanations have been given also in relation to the complaints. The Panel notes that the reasons given in the challenged decision of the contracting authority are professional and argued without objection with material evidence, without the need to describe them again. Therefore, the Panel supports the assessments of the review expert with recommendation, who explained in his expertise report number; 2025/0591, that during the development of this procurement procedure, the contracting authority has implemented the legal provisions of the LPP.

The review panel emphasizes that in accordance with Articles 1 and 6 of the LPP, Contracting Authorities exercise their institutional independence in the public procurement process, however, it remains within the competences and responsibilities of this body to review complaints and legality in the procurement process according to 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 full compliance with this law" in relation to Article 59,1 cited "The contracting authority shall establish an Evaluation Commission for the examination, evaluation and comparison of bids. All members of the Evaluation Commission take full individual responsibility for the evaluation of the bid"

The Review Panel, based on the fact of the rejection of the complaint of the EO “Elen Energy” L.L.C, decided to confiscate the complaint fee in the amount deposited by the complaining economic operator based on Article 31, paragraph 5 of the Rules of Procedure of the PRB, while the funds are transferred to the Budget of the Republic of Kosova.

The Review Panel has decided in accordance with the legal competences in the sense of Article 104, paragraph 1 in connection with Article 103, Article 105 and Article 117 of the LPP to implement the procurement review procedure in a prompt, fair, non-discriminatory manner, with the aim of resolving the case legally and effectively. Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations, which may arise during a procurement activity.

From what was said above, it has been decided as in the provision of this decision.

President of the Review Panel

Mr.Isa Hasani

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 – Kosova Customs”;

1x1 EO – “Elen Energy” L.L.C;

1x1 Archive of the PRB;