

PROCUREMENT REVIEW PANEL, appointed by the President Pursuant to the article 105 as well article 106 of the Law on Public Procurement of the Republic of Kosova no.04/L-042, amended and supplemented by Law No. 04/L-237, amended and supplemented Law no.05/L-068, amended and supplemented Law no.05/L-092, composed of: Mr. Goran Milenković – President, Mr. Nuhi Paçarizi – referent, Mr. Blerim Dina - member, deciding on the complaint filed by the EO “ALFA.I SH.P.K”-Lipjan, against the contract award notice, where is recommended for contract economic operator: “Halit S. Rama, Perroi i Njelmët”-Prishtinë, regarding with the procurement activity: “Repair of damages and complete insulation of the roof of the sports gym in Istog”, with procurement no: “633-20-1203-5-2-1”, initiated by the Contracting authority/CA/ Municipality of Istog, on the 26.06.2020 has issued this:

DECISION

I. APPROVED, as partly grounded the complaint of the economic operator “ALFA.I SH.P.K”-Lipjan, regarding with the procurement activity with title: “Repair of damages and complete insulation of the roof of the sports gym in Istog”, with procurement no: “633-20-1203-5-2-1”, initiated by the Contracting authority/CA/ Municipality of Istog.

II. CERTIFIED the contract award notice, regarding with the procurement activity with title: “Repair of damages and complete insulation of the roof of the sports gym in Istog”, with procurement no: “633-20-1203-5-2-1”, initiated by the Contracting authority/CA/ Municipality of Istog.

III. Contracting authority within 10 days must inform in written the Review panel for all actions taken regarding with this procurement activity and other parties in the procedure.

IV. Non-compliance with this decision obliges the Review Panel conform with the legal provisions of article 131 of the Law for Public Procurement of Kosova No.04 / L-042, amended and supplemented by Law No. 04/L-237, Law no.05/L-068, Law no.05/L-092, to take action against the Contracting Authority.

V. Since the complaint of the complaining economic operator “ALFA.I SH.P.K”-Lipjan, is approved as partly grounded, it is returned the insurance fee of the complaint in the amount deposited when filing a complaint.

VI. Obligated complaining economic operator that conform article 31 point 6 of the Rules of Procedure of the PRB, within sixty (60) days is obliged to request to take back the funds, otherwise these funds will be confiscated and will pass to the budget of the Republic of Kosova.

REASONING

Complaining economic operator “ALFA.I SH.P.K” -Lipjan, as a dissatisfied party has filed a complaint in the PRB, on the 27.05.2020 with no.330 / 20, against the notification for contract award regarding the procurement activity with title: "Repair of damage and complete insulation of the roof of the sports gym in Istog", with Procurement no: “633-20-1203-5-2-1”, initiated by the contracting authority / CA / Municipality of Istog, claiming that:

- The contracting authority has acted in contradiction with articles: 1, 7, 59, 60, 64 and article 69 of the Law on Public Procurement of the Republic of Kosova.

Procurement Review Body, conform article 113 and 114 of the LPP on the 02.06.2020, has authorized the professional procurement expert to review the validity of all claims of the complaining party.

Professional procurement expert in the report of the 12.06.2020, regarding the complaining claim of the complaining EO explains as follows:

Response to Claim no. 1, complaining economic operator “ALFA.I SH.P.K” - claims that the Municipality of Istog has not respected article 1 of the LPP, the expert emphasizes that among other things the purpose of this article is to provide a more efficient way. efficient, more transparent and fairer use of public funds by determining the conditions, rules to be applied, procedures to be followed, rights to be respected and obligations to be met, therefore the treatment of the winning EO as a successful EO ensured that it has met all the criteria set out in the contract notice of the tender dossier is not in accordance with Article 1 of the LPP. Therefore, the Expert finds that this claim is partially grounded.

Response to Claim no.2, Complaining Economic Operator “ALFA.I SH.P.K”-claims the Municipality of Istog has not respected article 7 of the LPP, according to the complaining EO. The expert emphasizes that the purpose of this article is equal and non-discriminatory treatment of all bidders, therefore the treatment of the winning EO as a successful EO without ensuring that it has met all the criteria provided for the contract notice of the tender dossier is not in harmony with article 7 of the LPP Because if EO. declared the winner cannot prove that it possesses all ISO certificates as required by the contract notice of the tender dossier falls that it is favored by the contracting authority and is not in accordance with article 7 of the LPP Therefore, the Expert finds that this claim is partially grounded.

Response to Claim no. 3, complaining economic operator “ALFA.I SH.P.K”-claims that Municipality of Istog has not respected article 59 of the LPP, according to the EO. complainant. The expert emphasizes that the purpose of this article is the Examination, Evaluation and Comparison of Tenders. Initially the contracting authority has established an evaluation commission which has ascertained that EO declared the winner has met all the criteria set out in the TDS. Whereas EO Complainant claims that EO declared winner has not met the following requirements: ISO certificate 9001: 2015 and 14001: 2015, while in article 9.1 & 9.2 of FDT to Requirements on technical and / or professional possibilities, respectively requirement 9 is required: be certified with ISO 14001: 2015 for Epoxid flooring, ISO “9001: 2015 Epoxid paving, ISO 9000: 2015 Quality management systems, ISO9001: 2015 Quality management systems, ISO 9004: 2015 Quality Management” . While the EO recommended for contract has not provided

certificates certified with Epoxid, therefore it is clear that the above mentioned EO has not met the above requirement and is irresponsible. Also complaining EO claims that EO. declared the winner has not met the requirements provided by article 9.1 and 9.2 regarding the requirements on technical and / or professional possibilities where some engineers with professional experience are required. The expert states that EO. declared the winner does not have all the required certificates with ISO STANDARDE as in the contract notice of the tender dossier The expert during the examination of the documentation of the winning EO has not encountered these certificates ISO 9000: 2015 and ISO 9004: 2015. Regarding the claim regarding the lack of engineer staff this claim does not stand because EO. the winner has met all the criteria regarding the required staff for more see the documentation of each of the staff separately. The expert after reviewing and examining the documentation ascertains that the claim of the complaining EO is partially grounded regarding the violation of article 59 of the LPP Therefore, the expert ascertains that this claim is partially grounded.

Response to Claim no. 4, complaining economic operator “ALFA.I SH.P.K”-claims that Municipality of Istog has not respected article 60 of the LPP, according to the complaining EO. The expert emphasizes that the purpose of this article is to respect the criteria for contract award, therefore the complaining EO claims that CA has violated this article by awarding the contract to EO. irresponsible. The expert emphasizes that the claim is partially grounded because it was awarded with a contract EO without ensuring that it is a responsive tender with the lowest price. Therefore, the Expert finds that this claim is partially grounded.

Review expert’s opinion: Based on the above clarifications, Review expert proposes the review panel to approve the complaint of the economic operator as **PARTIALLY GROUNDED** (for the reasons stated in the response to each claim) and recommends the review panel to returns to Re-evaluation.

Contracting authority, on the: 12.06.2020, through official letter has been notified by the PRB regarding the opinion of the review expert, but the same have not returned a response.

Economic Operator, on the: 12.06.2020, through memo, has notified the PRB, that agrees with the opinion of the review expert.

The hearing session was held on the 26.06.2020, without the presence of the parties conform article 24.1 of the Regulation of the PRB, where the case files were reviewed by checking and analyzing the documentation for the procurement procedure which consists of: authorization of initiating the procurement activity, contract notice, minutes on the opening of bids, decision on the establishment of the bid evaluation commission, bid evaluation report, contract award notice, complaint of the economic operator, report of the procurement review expert and all memos of the parties to the proceedings.

Regarding the claim of the complaining economic operator “ALFA.I SH.P.K” -Lipjan, that contracting authority Municipality of Istog has not respected article 1 of the LPP. Review panel after reviewing this complaining claim and the case file clarifies that this complaining claim is ungrounded for the fact that EO recommended for contract award “Halit S. Rama, Perroi i Njelmët” -Prishtina has met the criteria defined in the file. of the tender and at the same time offered with the price of 67,648.30 euro. Therefore, CA

during the evaluation of bids has taken into account article 1 of the LPP, as it is known that the purpose of this law is to provide the most efficient, transparent and fair way of using public funds, public resources and all funds and other resources of contracting authorities in Kosovo.

Regarding the claim of the complaining economic operator “ALFA.I SH.P.K” -Lipjan, that contracting authority Municipality of Istog has not respected article 7 of the LPP. Review panel after reviewing the case file which has been sent by the contracting authority through memo with reference number “procurement office ISTOG // 633/20/011/521” entitled “clarification regarding the expertise no.330 / 20 dated; 12/6/2020 ”clarifies that CA in the case of evaluation of bids has acted conform article 7 by treating equally EO and has not discriminated complaining EO. Therefore, this complaining claim is unfounded.

Regarding the claim of the complaining economic operator “ALFA.I SH.PK” -Lipjan, that contracting authority Municipality of Istog has not respected article 59 of the LPP because the EO declared the winner has not met the following requirements: ISO certificate 9001 : 2015 and 14001: 2015, while in article 9.1 & 9.2 of FDT in the Requirements on technical and / or professional possibilities, respectively requirement 9 is required: the company to be certified with ISO 14001: 2015 for Epoxid flooring, ISO “9001 : 2015 Epoxid coating, ISO 9000: 2015 Quality management systems, ISO9001: 2015 Quality management systems, ISO 9004: 2015 Quality management ”. While the EO recommended for contract has not provided certificates certified with Epoxid, therefore it is clear that the above mentioned EO has not met the above requirement and is irresponsible. Also complaining EO claims that EO declared winner has not met the requirements provided by article 9.1 and 9.2 regarding the requirements on technical and / or professional possibilities where some engineers with professional experience are required. Review panel after reviewing the case file which has been sent by the contracting authority through letter with reference number “procurement office ISTOG // 633/20/011/521” entitled “clarification regarding the expertise no.330 / 20 dated 12 / 6/2020 ”explains that the following certificates are attached to this letter: ISO 14001: 2015, Sika PU and epoxy resin system, ISO 9001: 2015 quality management system, Business statement“ Urb Pro ”dt. 20.01.2019 regarding the experience of the engineer Daut Retkoceri, working reference for Daut Retkoceri issued by "Izolimi Construction" dated 02.10.2017, announcement on the appointment of the project manager Daut Retkcoeri dated 17.04.2020 from "Izolimi Construction", Diploma of university qualification issued by UP on 06.02.2006, as well as some other documents which we have attached as follows relating to ISO certificates as required by the CA in the tender dossier:



DATE: 20.11.2019

DEKLARATË

Z. Daut Retkoceri, i lindur në Lupc i Poshtëm, me datë 04.05.1964 me vendbanim të përhershëm në Prishtinë, me nr.personal 1010296672 i cili ka të mbaruar Fakultetin e ndërtimitarise dhe Arkitekturës në vitin 28.10.1992 me Diplomë si Inxhinier i Diplomuar i Arkitekturës.

Z. Daut Retkoceri ka punar në "URB-PRO" SH.P.K. që nga viti prill,2016 deri ne nentor 2019.

Gjatë këtyre viteve ka menaxhuar me sukses shumë projekte i cili i shte i kontraktuar si puntor në Kontratë mbi veper ne lidhje me te gjitha projektet që është kërkuar Ing. i Arkitekturës i cili ka përvoj pune me shume se 3 viteve vetëm në ndërmarrjen tonë.

Kjo deklaratë lëshohet me kërkes të z. Daut Retkoceri.

Kujt mund t'i interesojë për cdo informacion shtesë ju lutem na kontaktoni. 049-666-051

Me respekt,

Drejtor:



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E-mail: info@izolimi.com; web: www.izolimi.com
Adresa: Km.3- Magjistrala Prishtinë- Mitrovicë

Data : 02.10.2017

REFERENCË PUNE

1. Daut Rretkoceri I lindur me pregatitje profesionale inzhinier i diplomuar i Arkitektures ka qene pjese e staffit ne keto projekte:

Nr.	Emri i Projektit	Investitori	Data e Kontrates	Vlera e kontrates
1	Pune ndertimore: furnizim me material, ne objekt te Albi commerce	Albi Group	14.04.2015	3,349,718.00
2	Renovimi i stuhimit te Qytetit te Prishtines (vlera e 30%e taksat, ne bashkëpunim me Al Trade)	Ministria e Kulturës, Rritje dhe sportit	09.06.2016	1,153,114.63
GJITHSEJ:				5,228,440.13

Gjatë kësaj periudhe Daut Rretkoceri ka qenë bashkëpunues për kompaninë tonë, gjatë implementimit të projekteve në cilën e ekspertit të Arkitektures, ka receptuar afërsisht, kushtet dhe specifikat e kontratës, ka përfunduar projektet me afat dhe në mënyrë profesionale.

Duke parë sukseset nga projektet e përmendura me lart, kompania jonë ka interesim që të vazhdojë bashkëpunimin dhe në të ardhmen.

Me këtë letër referencë dëshirojmë që të dhënat janë reale, me cka mund të konfirmoni në adresat me lart.

Drejtori
Halit Rama



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Adresa: Km.3- Magjistrala Prishtinë- Mitrovicë

Data: 17.04.2020

Autoriteti Kontraktues: KOMUNA E ISTOGUT
Titulli: SANIMI I DEMEJE DHE IZOLIMI KOMPLET I KULMIT TE PALESTRIS SPORTIVE
NE ISTOG.
Nr i Prokurimit: 633-20-1203-S-2-1; Nr i brendshme: 633-020-011-521

Lënda: Nivellim mbështetës dhe menaxher të projektit

Në bazë të dispozitave të Statutit të NP Izolimi, menaxher i projektit EMEROHET:

1. Daut Rretkoceri inzh.dip. Arkitektures

Z. Rretkoceri ka kualifikimet e nevojshme shkollore dhe përvojë të konsiderueshme profesionale për menaxhimin me sukses të këtij projekti.



Regarding the claim of the complaining economic operator “ALFA.I SH.P.K” -Lipjan, that contracting authority Municipality of Istog has not respected article 60 of the LPP. Review panel clarifies that the purpose of this article is to respect the criteria for contract award and given the certificates listed above, CA has acted conform article 60 of the LPP after having respected the criteria for contract award.

Review panel after reviewing the case files and reviewing the documents sent by the contracting authority through memo with reference number “procurement office ISTOG // 633/20/011/521” entitled “clarification regarding the expertise no.330 / 20 dated; 12/6/2020”, comes to the conclusion that CA has examined the tenders conform article 59 by evaluating and comparing the tenders in accordance with article 59 of the LPP. Also, Review panel evaluates that CA in the evaluation of bids has taken into account that public funds and public resources to be used in the most economical way, because the EO recommended for contract has offered a significantly cheaper price than the bid of the complaining economic operator. in the amount of about 20,000.00 euro. So, the contracting authority in this procurement activity has considered article 1 and article 6 of the LPP.

Review panel conform article 117 of the LPP, and based on the evidence presented above decided as in the provision of this decision.

Legal advice:

Aggrieved party can not appeal against this decision, but it can file charges for damage compensation within 30 days, after the receipt of this decision with the lawsuit In the Basic Court In Prishtina at the Department for Administrative Affairs.

President of the Review Panel

Mr. Goran Milenković

Decision to be submitted to:

1x1 CA – Municipality of Istog

1x1 EO – “ALFA.I SH.P.K”-Lipjan

1x1 Archive of the PRB

1x1 For publication on the website of the PRB.