



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

Psh. No.779/23

Pursuant to the article 105 point 1 and 2 as well article 109 point 2 of the Law on Public Procurement of the Republic of Kosova no.04/L-042, amended and supplemented by Law No. 04/L-237, Law no.05/L-068, and Law no.05/L-092, after reviewing the complaint of the Economic Operator (EO) “HIDRO” SH.P.K, related to the procurement activity: “Supply of spare parts for IVECO buses”, with procurement no: TU-23-10152-1-1-1, initiated by the Contracting Authority (CA) - N.P.K. “TRAFIKU URBAN” SH.A, the President of the Procurement Review Body Vjosa Gradinaj Mexhuani, on the 25/10/2023 has issued this:

DECISION

Dismissed as not allowed, the complaint of the “HIDRO” SH.P.K, with protocol no.2023/0779 of the 10/10/2023, complaint filed for the procurement activity: “Supply of spare parts for IVECO buses”, with procurement no: TU-23-10152-1-1-1, initiated by the Contracting Authority (CA) - N.P.K. “TRAFIKU URBAN” SH.A.

It is allowed the Contracting authority - N.P.K. “TRAFIKU URBAN” SH.A, to continue further with the procurement activity: “Supply of spare parts for IVECO buses”, with procurement no: TU-23-10152-1-1-1, 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 10/10/2023 has received the complaint from “HIDRO” SH.P.K., regarding the procurement activity: “Supply of spare parts for IVECO buses”, with procurement no: TU-23-10152-1-1-1, initiated by N.P.K. “TRAFIKU URBAN” SH.A, in the capacity of the Contracting Authority.

The office for receiving complaints after receiving the complaint, while verifying whether the complaint was submitted according to the rules and legal provisions, found that the complainant for the said complaint did not provide the evidence as required by point 10 paragraph 1 of article 111 of the LPP.

Based on the fact that the complainant did not attach the bank's confirmation of the fee to the above complaint, the office for receiving complaints on the 12.10.2023 via email notified the complaining EO that he did not attach the form to the above complaint to secure the Complaint's deposit, complete the complaint according to Article 111 of the LPP, otherwise the complaint is dismissed as inadmissible. However, despite this notification and the clarification of the PRB until 25.10.2023, the complaining EO has not completed the complaint according to the request of the institution.

From the evidence presented, it is estimated that the complaint submitted by EO “HIDRO” SH.P.K, dated 10/10/2023 (protocol 779/2023), for the procurement activity with title: Supply of spare parts for IVECO buses”, with procurement no: TU-23-10152-1-1-1 initiated by N.P.K. “TRAFIKU URBAN” SH.A, is considered incomplete because the complainant has not deposited the insurance fee of his complaint as required in point 10 paragraph 1 of article 111 of the LPP in relation to article 118 of the LPP.

Therefore, the review procedure of this complaint ends at this stage by discarding it as incomplete because this complaint does not meet the conditions to proceed further as required by the aforementioned legal provisions.

CA - N.P.K. “TRAFIKU URBAN” SH.A can continue with the procurement activity “Supply of spare parts for IVECO buses”, with procurement no: TU-23-10152-1-1-1, regarding this complaint, if there is no other complaint about this procurement activity. 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 in accordance with the legal provisions and authorizations as provided by Articles 1, 6, 7, 27, 28, 51, 59, 60, 65, 69, 70 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

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 – **N.P.K. " TRAFIKU URBAN " SH.A.;**

1x1 EO –**"HIDRO" SH.P.K ;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.