



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

Psh. No.903/23

Pursuant to the article 105 as points 1 and 2, article 108/A paragraph 7 and article 109 of the Law on Public Procurement of Kosovo 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 consideration of the request dated 03.11. 2023 for withdrawal from the complaint submitted by EO "ABNID" SHPK, dated 27/11/2023, related to the procurement activity: “Provision of mobility services” with procurement number 616-23-6444-2-1-1, initiated by the contracting authority (CA) - "Municipal Assembly of Prishtina", the Review Panel composed of Vjosa Gradinaj Mexhuani, Vedat Poterqoi and Isa Hasani on the 27/11/2023 has issued this:

DECISION

1. Approved, the request of the 20/11/2023, submitted by "ABNID" SHPK, for the withdrawal of complaint no. 2023/0903, dated 13/11/2023, this complaint submitted for the procurement activity “Provision of mobility services” with procurement number 616-23-6444-2-1-1, initiated by the contracting authority (CA) - Municipal Assembly of Prishtina.
2. It is allowed the contracting authority - Municipal Assembly of Prishtina to continue with the procurement activity: “Provision of mobility services” with procurement number 616-23-6444-2-1-1,, regarding this complaint, if there is no other complaint about this procurement activity.
3. Since the complainant has withdrawn from the complaint based on Article 31 point 4 and 6 of the PRB's Rules of Procedure, this EO, this EO shall return the complaint’s insurance fee in the amount deposited when the complaint was submitted.

REASONING

The economic operator EO "ABNID" SHPK, on the 13.11.2023, submitted a complaint to the PRB regarding the procurement activity "Provision of mobility services" with procurement number 616-23-6444-2-1-1, initiated by the contracting authority (CA) - Municipal Assembly of Prishtina.

The economic operator "ABNID" SHPK, on the 20.11.2023, announced through the system that it withdraws from the complaint related to the procurement activity "Providing services for mobility" with procurement number 616-23-6444-2-1-1.

Upon being informed about the actions described above, the Review Panel made a decision to approve the request for withdrawal from the complaint, allowing the CA to continue the procurement activity (described above) if the CA does not have any other complaints about this activity. In addition, it should also be noted that in such cases the suspensive effect of the complaint is absent in the sense of Article 112, paragraph 1, of the LPP, according to which the submission of a complaint obliges the CA to automatically suspend the implementation of the procurement activity in the specific case. Based on the facts and circumstances briefly described above, it is concluded that the conditions (legal presumptions) have been created to complete the appeal procedure at this stage, without the need to open the merit evaluation stage related to this procurement activity, because the object of appeal is missing and the essential elements of the complaint according to Article 111 of the LPP;

Based on the facts and circumstances briefly described above, it is concluded that the conditions (legal presumptions) have been created to complete the appeal procedure before PRB at this stage and related to this procurement activity, due to the fact that:

- the object of the complaint and the essential elements of the complaint according to Article 111 of the LP are missing
- the complainant lacks the status of the interested party, according to article 4, paragraph 1.26 of the LPP.

In this case, it should be noted that according to Article 13 of the Law on General Administrative Procedure (LPPA), each person has the right to exercise legal remedies against an administrative action or inaction of a public body that infringes a right or an interest. legal. Whereas in terms of Article 109, paragraph 1, of the LPP, it is also provided that any interested party has the right to submit a complaint to the PRB. However, in terms of the basic principles of the legislation, especially provided by the provision of Article 93 of the Law on General Administrative Procedure, this simultaneously implies the fact that every interested party has the right to also amend (complete, improve, specify) the complaint and also attract it. In fact, the Review Panel has confirmed the fact of withdrawing the complaint, based on the actions of the party through their publication on the platform or the official website of the public procurement system, therefore it did not find a reason to act in terms of Article 110 of the LPP, therefore they were

created the conditions for the procedure in this legal-administrative matter to be completed in accordance with Article 97 of the LPPA.

However, the Review Panel informs the CA that in every activity it must act in accordance with the legal provisions and authorizations as provided for in Article 1, 6, 7, 24.2 quoted "The contracting authority is responsible for ensuring that all procurement activities of the authority such contractors to be executed in full compliance with this law" related to 27, 28, 59, 60, 65, 69, 72 of the LPP related to 26.6 of RPP-001/2022.

Since the complainant has withdrawn from the complaint and complaint claims, based on Article 31 points 4 and 6 of the Rules of Procedure of the PRB, this EO will return the complaint security in the amount deposited when the complaint was submitted

Therefore, briefly based on the above, the Review Panel 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 –**MUNICIPAL ASSEMBLY OF PRISHTINA;**

1x1 EO – **ABNID SHPK;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.