



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

Psh. No.0023/25

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, as well as Article 17, paragraph 6 of the PRB Working Regulations No. 01/2020 after reviewing the complaint of the Economic Operator (EO) “Domid” SH.P.K, against the decision of the CA regarding the procurement activity:
“Construction work for the implementation of detailed [main implementation] projects for the construction and reconstruction of stadiums in Ferizaj, Peja, Prizren and Vushtrri, in accordance with the regulations and technical instructions for stadium infrastructure, approved by UEFA” with procurement number 207-24-12176-5-1-1, initiated by the contracting authority (CA) - Ministry of Culture of the YS and ÇJK, Acting Head of the PRB Secretariat, Mr. Agim Sheqiri on the date:, on the 09.01.2025, has issued this:

DECISION

I. Dismissed as out of time, the complaint of the EO “Domid” SH.P.K, with no.2025/0023 of the 07.01.2025, submitted for the procurement activity ““Construction work for the implementation of detailed [main implementation] projects for the construction and reconstruction of stadiums in Ferizaj, Peja, Prizren and Vushtrri, in accordance with the regulations and technical instructions for stadium infrastructure, approved by UEFA” with procurement number 207-24-12176-5-1-1, initiated by the contracting authority (CA) - Ministry of Culture of the YS and ÇJK.

II. Allowed, the contracting authority - Ministry of Culture of the YS and ÇJK is allowed to continue with the procurement activity as in point I of the provision, regarding this complaint, if there is no other complaint regarding this activity.

III. In accordance with Article 31, point 4, of the Rules of Procedure of the PRB, the complaining economic operator shall be refunded the complaint fee in the amount deposited upon filing the complaint. The complaining EO is obliged, in accordance with Article 31, point 6 of the Rules of Procedure of the PRB, to make a request for the return of the complaint security

within sixty (60) days, otherwise the deposit shall be confiscated, and these funds shall be transferred to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances –

The Procurement Review Body in the electronic system on the 07.01.2025, has received the complaint of EO “Domid” SH.P.K regarding the procurement activity entitled: “Construction work for the implementation of detailed [main implementation] projects for the construction and reconstruction of stadiums in Ferizaj, Peja, Prizren and Vushtrri, in accordance with the regulations and technical instructions for stadium infrastructure, approved by UEFA” with procurement number 207-24-12176-5-1-1 of the contracting authority (CA) - Ministry of Culture of the YS AND ÇJK in the capacity of Contracting Authority.

On the 20.11.2024, the Ministry of Culture of the Republic of Serbia and the ÇKK in the capacity of the Contracting Authority published the contract notice, while on 26.12.2024 the form for correcting errors was published. The opening of the bids is scheduled to take place on 08/01/2025.

The Economic Operator “Domid” SH.P.K, on 03.01.2025, submitted a request for reconsideration to the CA.

The complainant (with the above information) filed a complaint at the PRB on the 07.01.2025.

-Evaluation and administration of evidence –

From the evidence presented, it is established that for the procurement activity “Construction work for the implementation of detailed [main implementation] projects for the construction and reconstruction of stadiums in Ferizaj, Peja, Prizren and Vushtrri, in accordance with the regulations and technical guidelines for stadium infrastructure, approved by UEFA” with procurement number 207-24-12176-5-1-1, the Ministry of Culture of the RS AND the KJC in the capacity of the Contracting Authority has published the contract notice on 20.11.2024, while on 26.12.2024 the form for correcting errors has been published. The opening of bids is scheduled to take place on the 08.01.2025.

The Economic Operator "Domid" SH.P.K, on the 03.01.2025, has submitted a request for reconsideration to the CA.

The PRB finds that from the verification of the documentation it is seen that the EO submitted the request for review outside the legal deadline, because on 08.01.2025 when the opening of the bids is planned, while the request for review was submitted on 03.01.2025, less than five (5) calendar days.

The PRB clarifies that against any decision taken by the contracting authority in accordance with the circumstances of Article 108/A, any interested party may file a complaint with the PRB, after conducting a preliminary dispute resolution procedure in accordance with Article 108/A of this Law. According to Article 60, point 1 of the Public Procurement Regulation, the Request for Review must contain the data in accordance with the F02 form and must be submitted to the relevant contracting authority through the electronic procurement system, function “Requests for Review” within the following deadlines:

Whenever the request for review concerns the contract notice or tender documents, at least five (5) days before the deadline for submission of bids. In calculating the time limits, the day of submission of bids is day (0). This deadline does not apply in cases where the CA extends the deadline for submission of bids after the decision to reject the request for review according to Article 63.1.1 of this regulation.

Therefore, from the evidence presented and the course of this procurement activity, it is concluded that the request for review submitted to the Contracting Authority on 03.01.2025 was submitted outside the legal deadline, and not as provided for in Article 60, point 1 of the Public Procurement Regulation.

-Conclusion-

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 relates to the contract notice or tender documents within five (5) days prior to the deadline for submission of bids”.

The contracting authority - Ministry of Culture of the RS AND the KJC, may proceed further with the procurement activity “Construction work for the implementation of detailed [main implementation] projects for the construction and reconstruction of stadiums in Ferizaj, Peja, Prizren and Vushtri, in accordance with the regulations and technical instructions for stadium infrastructure, approved by UEFA” with procurement number 207-24-12176-5-1-1, regarding this complaint, if there is no other complaint for this procurement activity.

The Complaints Office also found that the complainant submitted proof of payment of the fee when submitting the complaint to the PRB, which fee is returned in accordance with Article 31, paragraph 4 of the PRB's Rules of Procedure.

The Deputy Head of the Secretariat at the PRB, based on what was said above, decided as in the provision of this decision.

Acting Head of the PRB Secretariat

Mr. Agim Sheqiri

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 – **MINISTRY OF CULTURE OF YS AND ÇJK;**

1x1EO–**“DOMID " SH.P.K..”;**

1x1 Archive of the PRB;