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

Psh. No.732/26

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 Kimete Gashi Brajshori, as President, ruling on the complaint filed by the Economic Operator (EO) "IMK BALLKAN PROJEKT" L.L.C. against the decision to award a contract—or the outcome of a design contest—by the MUNICIPAL ASSEMBLY OF PRIZREN, acting as the Contracting Authority (CA), regarding the procurement activity: "Laboratory analyses for capital investment projects – a three-year project," with procurement number 622-26-1534-2-1-1, on the 17/11/2026 has issued this:

DECISION

1. Approved, as partly grounded the complaint of the EO “IMK BALLKAN PROJEKT” Sh.P.K., under reference no. 2026/0732 dated 24/09/2026, regarding the procurement activity "Laboratory analyses for capital investment projects" – a three-year project with procurement number 622-26-1534-2-1-1.

2. Confirmed, B58 Notice of the Decision of the Contracting Authority – MUNICIPAL ASSEMBLY OF PRIZREN, regarding the procurement activity: Laboratory testing for capital investment projects –a three-year project, procurement number 622-26-1534-2-1-1.

3. The refund of the complaint fee in the amount deposited is permitted; the complaining economic operator is therefore required to submit a request for the refund of the fee within a period of sixty (60) days from the receipt of this decision, in accordance with Article 31, paragraph 6 of the PRB’s Rules of Procedure. It is noted that if such a request is not submitted within the specified timeframe, the deposit shall be confiscated, and all deposited funds shall be transferred to the budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances –

On March 23, 2026, the Municipal Assembly of Prizren, acting as the Contracting Authority, issued an Invitation to Tender for the procurement activity titled “Laboratory testing for capital investment projects – a three-year project,” with procurement number: 622-26-1534-2-1-1.

The Contracting Authority conducted an open procedure; the contract type is “services,” and the estimated value of the contract is 150,000.00.€.

On 08.09.2026, the MUNICIPAL ASSEMBLY OF PRIZREN, acting in the capacity of the Contracting Authority (CA), published a Notice of Decision (B58) regarding the contract award notice, in which "N.SH. TEST&ING" was recommended for the contract.

On 14.09.2026, the complaining Economic Operator (EO) submitted a request for reconsideration; on the same date, 14.09.2026, the CA rejected the request for reconsideration as unfounded.

On 24.09.2026, the EO "IMK BALLKAN PROJEKT" SH.P.K. filed a complaint with the PRB (Procurement Review Body)—registered under protocol number 2026/0732—challenging the aforementioned decision of the CA regarding the contract award notice.

-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 subparagraph 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.

The claims of the complaining economic operator, "IMK BALLKAN PROJEKT" SH.P.K., are presented as follows:

Claim 1 (Project Manager / DAK accreditation): The expert concluded that, under Law No. 05/L-117 on Accreditation, the DAK (General Directorate of Accreditation) does not provide for personal accreditation; furthermore, the accreditation granted to the complaining economic operator—covering its entire staff and equipment—satisfies this criterion. This claim is well-founded.

Claim 2 (ISO Certificates): The expert concluded that the economic operator provided the ISO

9001:2015, ISO 14001:2015, and ISO 45001:2018 certificates, as required by the tender dossier. This claim is valid.

Claim 3 (Equipment/Technical): The expert concluded that the economic operator provided a signed/stamped list of equipment, rental agreements for items not owned by the operator, vehicle registration documents, and invoices/proof of purchase. This claim is valid.

The Review Panel, referring to Article 104, paragraph 1, and Article 1 of the Law on Public Procurement (LPP), has explicitly ordered the Contracting Authority to strictly adhere to all legal provisions of the LPP during the re-evaluation of this procurement activity.

However, following the re-evaluation—as communicated in the notification of the decision (B58) dated 08.09.2026 and in compliance with the PRB (Public Procurement Review Body) Decision No. 2026/0530—the contracting authority has once again disqualified us. It has recommended the same economic operator, N.Sh. Test&Ing Suharekë, for the contract at the same value, basing its decision essentially on the same three grounds that the PRB Review Panel had already deemed valid/substantiated: (i) the absence of a personal certificate/accreditation for the Project Manager issued by the DAK (General Directorate of Accreditation); (ii) the non-acceptance of ISO certificates (now on the grounds that they "cannot be verified online"); and (iii) the lack of technical equipment (a specialized drilling truck and equipment for measuring the integrity of piles).

In other words, we have been disqualified for the same reasons as those cited in the notification of the decision dated 09.07.2026. See the reasons for elimination:

During the re-evaluation of the tender, the commission—acting in accordance with the authority granted by the Law on Public Procurement (LPP) and the Public Procurement Regulation—determined that the Economic Operator (EO) failed to meet the requirements in the following respects:

Project Manager – The EO did not provide the required accreditation certificate/proof for the individual designated as Project Manager. According to the Tender Dossier (TD), this person must be a geodesy engineer, hold a "License A," and be certified by the Accreditation Directorate of Kosovo (DAK). In short, the Project Manager lacks the certificate from the DAK.

ISO Certificates – The ISO documents submitted by the EO cannot be verified online, even though the Tender Dossier and the Contract Notice explicitly required that they be verifiable. Consequently, the EO has failed to demonstrate compliance with this requirement set by the Contracting Authority.

Lack of required technical equipment – The EO failed to prove the possession or availability of the equipment necessary to execute the contract, specifically:

A specialized drilling truck with a minimum capacity of 6 tons.

Equipment for measuring and testing the integrity of piles.

This action by the Contracting Authority (CA)—which has once again disqualified us based on the same reasoning—constitutes a direct disregard for the Public Procurement Review Body (PPRB) Decision No. 2026/0530. This decision is final and binding upon the Contracting Authority (Article 117 of the Law on Public Procurement - LPP). The re-evaluation was

conducted in violation of the Review Panel's directive to adhere to the legal provisions of the LPP, as it merely repeats the very grounds for disqualification that had already been deemed unfounded. The formal change in the wording of the second reason (from "unclear certificates" to "cannot be verified online") does not constitute a genuine and independent re-evaluation; rather, it is merely a reformulation of the same conclusion that the PPRB has already rejected.

By failing to conduct a genuine and independent re-evaluation—and instead formally repeating the same disqualification decision—the Contracting Authority has undermined the authority and binding effect of the PPRB's decision (Article 117 of the LPP). In doing so, it has also committed a serious violation under Article 97.1 of Regulation No. 001/2022 on Public Procurement, specifically the following paragraphs:

d) – failure to comply with the fundamental principles of public procurement, through the unequal treatment of the complaining Economic Operator (EO) compared to the operator recommended for the contract; and

e) – failure to comply with the rules regarding the handling of requests for reconsideration/reevaluation.

For such serious violations, Article 99 of the same Regulation provides for disciplinary measures against the responsible procurement official(s), up to and including the revocation or suspension of their professional procurement certificate (Article 99.1–99.2).

Should the contracting authority fail to return the matter for reconsideration—and without intending this to be construed as a threat—we shall be compelled to request that the Procurement Review Body (PRB) determine that this non-compliance with Decision No. 2026/0530 constitutes a serious violation under Article 97.1 (d) and (e) of Regulation No. 001/2022, and that it refer the case to the Public Procurement Regulatory Commission (PPRC) to examine the disciplinary liability of the procurement official(s) of the MUNICIPAL ASSEMBLY OF PRIZREN who drafted/signed Notice B58, dated […].

Notwithstanding the fact that our complaints have been upheld as well-founded by the Procurement Review Body (PRB)—as per Decision No. 2026/0530—we wish to clarify once again that the Contracting Authority's (CA) reasons for excluding us from this procurement activity are untenable, based on the following facts:

Regarding the CA's first reason—which claims that the appointed Project Manager lacks the certificate required under the technical and professional capacity criteria—this assertion is unfounded and contradicts the documentation submitted with our bid.

In accordance with the requirements of the tender dossier, we appointed Mr. Fatmir Bajrami as Project Manager. He meets all the specified criteria: he is a qualified geologist (holding a university degree), possesses the required professional experience, holds a "License A," has received training in Occupational Health and Safety, and is a staff member of a laboratory accredited by the General Directorate of Accreditation of Kosovo (DAK).

Our bid included the Accreditation Certificate for the laboratory "IMK BALLKAN PROJEKT" L.L.C., along with its supporting documentation. Section 6.2, "Personnel," of the accreditation document explicitly lists Mr. Fatmir Bajrami, M.Sc. ...of Geology, as part of the laboratory personnel assessed by DAK in accordance with the standard SK EN ISO/IEC 17025:2018.

The document concludes with the formal statement that the laboratory meets the requirements of clause 6.2 of this standard, confirming that the competence of the personnel was verified during the accreditation process.

The tender dossier did not require the submission of an individual accreditation certificate for the Project Manager, as the DAK (Directorate of Accreditation of Kosovo) does not issue individual certificates for personnel; rather, it accredits the laboratory and, in the process, assesses the competence of its staff. For this very reason, the official accreditation documentation includes a list of the assessed staff, which features Mr. Fatmir Bajrami.

The contracting authority failed to specify which document was missing or which requirement Mr. Fatmir Bajrami failed to meet, opting instead for a general assertion that he does not possess the required certificate. Such reasoning is not grounded in the facts of the bid and fails to meet the standard required for the justification of administrative decisions. Given that we submitted documentation proving that Mr. Fatmir Bajrami is part of the staff accredited by the DAK—and that he fulfills all other requirements set out in the tender dossier—our disqualification on these grounds is unfounded and invalid.

The contracting authority has misinterpreted the requirements of the tender dossier by treating the DAK accreditation as an individual certificate belonging to the Project Manager. In reality, under the DAK accreditation system and the standard SK EN ISO/IEC 17025:2018, accreditation is granted to the laboratory, while the competence of the personnel is documented within the official accreditation records. Consequently, the documentation submitted by our operator fully satisfies the requirements of the tender dossier, and there is no legal basis for disqualifying the bid on these grounds.

It should be clarified that, regarding the Economic Operator (EO) recommended for the contract, only a certificate of participation in training—organized by the General Accreditation Directorate of Kosovo (DAK) concerning the SK EN ISO/IEC 17025 standard—was accepted to satisfy this requirement. This certificate merely confirms attendance at the training; it does not constitute an accreditation certificate, nor does it serve as proof that the individual has been assessed and deemed competent according to the standard in question. Consequently, if the contracting authority deemed a training participation certificate sufficient to meet this requirement, there is no legal basis for our exclusion from the procurement process—especially given that we submitted documentation that is both more comprehensive and more compelling. We emphasize that this was precisely the conclusion reached by the PRB (Procurement Review Body) Reviewing Expert in Report No. 2026/0530. The expert determined that, under Law No. 05/L-117 on Accreditation, the DAK does not provide for the accreditation of individual project managers. Furthermore, the accreditation granted to the complaining EO—covering its entire staff and necessary equipment—satisfies this criterion. This finding was also upheld by the PRB

Review Panel, which deemed our claim to be well-founded. The Contracting Authority (CA), by reiterating the exact same reason for disqualification—without providing any new facts or documentation—has openly disregarded this definitive finding by the Procurement Review Body (PRB).

Regarding the second reason for our disqualification, the Contracting Authority stated: “ISO standards are missing (they are unclear and do not meet the conditions required in the tender dossier).”

This reason for disqualification is unclear and unfounded, as we submitted all the ISO certificates required by the tender dossier, which are in full compliance with the requirements established by the Contracting Authority.

In its justification for our disqualification, the contracting authority failed to specify the nature of the claim that the certificates are “missing,” “unclear,” or “do not meet the required conditions,” making it impossible to identify any specific deficiency in the submitted documentation.

Furthermore, had the contracting authority harbored any doubts regarding the submitted certificates, it could have—in accordance with Articles 59.2 and 72 of the Law on Public Procurement—requested clarifications from us (the economic operator) or directly verified their validity with the issuing entity. By failing to utilize these legal provisions and relying instead on a vague, unsubstantiated assertion, the contracting authority reached a conclusion unsupported by the facts or the documentation we submitted; in doing so, it also discriminated against us—a responsible economic operator offering the lowest price in this procurement process.

In notice B58 dated 08.09.2026, following a re-evaluation ordered by the PRB (Public Procurement Review Body), the Contracting Authority (CA) reformulated the reason for disqualification, now claiming that “the ISO documents submitted by the Economic Operator (EO) cannot be verified online, even though their verifiability was stipulated as a requirement in the Tender Dossier and the Contract Notice.” This new justification remains equally unfounded, given that the PRB’s own Review Expert, in report no. 2026/0530, explicitly concluded that the EO had provided all certificates required under points 9.1 and 9.2 (requirement no. 4) of the Tender Dossier (ISO 9001:2015, ISO 14001:2015, and ISO 45001:2018), and that the CA should act in accordance with Articles 59 and 72 of the Law on Public Procurement (LPP)—a finding that the Review Panel deemed sound.

Even now, the Contracting Authority (CA) does not specify which system or database it used to attempt verification, nor did it request further clarification from us—as permitted or required by Articles 59.2 and 72 of the Law on Public Procurement (LPP)—before eliminating us once again on this basis.

Regarding the third reason for our elimination, the Contracting Authority states: “You lack the technical equipment required under point 5 of the technical and professional capacity requirements.”

This justification is unfounded and contradicts the documentation we submitted. In compliance with requirement 5 of the Tender Dossier, we submitted a signed list of work equipment,

accompanied by the evidence requested by the CA; this documentation confirms that the equipment we presented fully meets all the requirements set out in the Tender Dossier. Furthermore, if the contracting authority had any ambiguity or doubt regarding the list of submitted equipment or the relevant documentation, it could have—in accordance with Article 59.2 and Article 72 of the Law on Public Procurement—requested clarifications from us prior to making the decision to disqualify us. However, it failed to take such action, thereby discriminating against us as a responsible economic operator offering the lowest price in this procurement activity.

By failing to request clarifications and failing to specifically identify which pieces of equipment are allegedly missing, the contracting authority has reached an unfounded conclusion—one that is not supported by the submitted documentation and cannot serve as a legal basis for our disqualification from this procurement activity.

In notification B58 dated 08.09.2026, the Contracting Authority (CA) has further clarified this reasoning, specifying that we are specifically lacking: a "specialized drilling truck (minimum 6 tons)" and "equipment for measuring and testing the integrity of piles." This clarified justification remains unfounded, as the PRB's (Public Procurement Review Body) own Review Expert, in report no. 2026/0530, explicitly concluded that the Economic Operator (EO) had provided all required evidence regarding the list of work equipment—as stipulated in the tender dossier. This included a signed and stamped list of the necessary equipment, rental agreements for items not owned by the EO, registration documents for registrable vehicles, as well as customs declarations (DUDs) or purchase/sale invoices—a finding that the Review Panel deemed sound. The CA fails to explain why this documentation, which has already been positively assessed by the PRB, is now suddenly considered insufficient for these two specific pieces of equipment. Therefore, in light of the aforementioned facts, it is clear that the contracting authority has excluded us without any legal basis, and in complete contradiction to the requirements of the tender dossier, the decision of the Procurement Review Body (PRB), and the applicable legal provisions.

On September 14, 2026, we submitted a request for reconsideration; on that same date, we received a decision rejecting this request. It appears that the contracting authority rejected our request without any analysis, failing to base its decision on any legal provision or concrete fact that would refute the claims made in our complaint.

The decision of the Contracting Authority (CA) does not present any new facts or documents compared to the information contained in notice B58 dated 08.09.2026—information which has already been evaluated and deemed unfounded by the Review Panel of the Public Procurement Review Body (PPRB) in Decision No. 2026/0530. The Public Procurement Office of the Municipality of Prizren, acting as the body responsible for ruling on the request for reconsideration, has maintained its original formal position. It failed to independently address the specific claims we submitted, which constitutes a direct violation of Article 117 of the Law on Public Procurement (LPP) (regarding the binding effect of PPRB decisions) as well as Article 97.1 (d) and (e) of Regulation No. 001/2022.

Regarding our appeal concerning the ISO certificates, the decision dated 14.09.2026 explicitly acknowledges that "the Commission was unable to perform an online verification of the ISO standards."

This wording clearly indicates that the issue does not lie with our documentation, but rather with the inability—or failure—of the CA's own Commission to carry out the verification; a circumstance for which we, as an economic operator, cannot be held responsible. The ISO 9001:2015, ISO 14001:2015, and ISO 45001:2018 certificates were issued by an identifiable certification body, which can be contacted directly to confirm their validity. In the event of doubt or a technical inability to perform an online verification, the Contracting Authority had the option—and, pursuant to Articles 59.2 and 72 of the Law on Public Procurement (LPP), the obligation—to request additional clarifications from us (the Economic Operator) and/or to directly verify the validity of the certificates with the issuing certification body (e.g., via email or official correspondence with the certifying company) before reaching a decision to disqualify us; this is particularly relevant when the Contracting Authority's own online system proves insufficient or non-functional for this purpose.

The Contracting Authority (CA) has not taken any of these actions. It neither specifies which system or database was used for the attempted verification, nor does it explain why the issuing body was not contacted for direct confirmation—which would have been the most direct, secure, and objective method to resolve any ambiguity. This reasoning by the CA is untenable, especially given that the PRB's (Public Procurement Review Body) Review Expert, in report no. 2026/0530, explicitly concluded that the required certificates were provided in accordance with points 9.1 and 9.2 (requirement no. 4) of the Tender Dossier.

Regarding our second claim concerning technical equipment, the CA, in its decision, merely repeats a general assertion ("the equipment was not presented... not supported by evidence") without substantiating this claim by referencing the specific documentation we submitted (the signed/stamped list of equipment, lease agreements, registration documents, and invoices/proof of ownership)—documentation which the PRB's own Review Expert deemed sufficient. The failure to clarify which specific document is considered deficient—especially when compared to the documentation that the PRB (Public Procurement Review Body) had already deemed complete—renders this justification untenable. Consequently, we view the Contracting Authority's reasoning as biased, seemingly intended to prevent the award of the contract to us, despite our status as a responsive Economic Operator offering the lowest price.

For the sake of accuracy and to inform the PRB, we recently received a notification via email from the company that issued our certificates, INVICTA ASSURANCE INTERNATIONAL (SHPK). The email states that the previous entity, SIGMACERT DOO—formerly based in Montenegro—has relocated its headquarters to Albania and changed its name to INVICTA ASSURANCE INTERNATIONAL (SHPK). The notification further clarifies that accreditation certificate no. IAS MSCB-136 has been transferred to the new entity without any changes, and that both the accreditation number and the scope of accreditation remain identical.

Furthermore, we have been informed that for companies whose surveillance audits are scheduled after the renewal date, certificates will be renewed under the name INVICTA ASSURANCE INTERNATIONAL (SHPK). Therefore, should the PRB (Public Procurement Review Body) deem it appropriate—in order to resolve any ambiguity regarding the authenticity, validity, and status of the certificates we submitted—it may contact the issuing entity directly, which can verify the certificates via the relevant official email address.

Regarding our third claim concerning the Project Manager, the Contracting Authority (CA) argued that the evidence "was not submitted at all." However, this assertion is factually incorrect; the Accreditation Certificate for our laboratory, issued by the DAK (General Directorate of Accreditation) and included in our bid, explicitly lists the name "Fatmir Bajrami" under section 6.2, "Personnel." He is identified as part of the staff assessed in accordance with the SK EN ISO/IEC 17025:2018 standard—a fact already established and acknowledged by the PRB itself in Decision No. 2026/0530. Based on the above, we clarify that the Contracting Authority's (CA) decision to reject our request for reconsideration does not constitute a genuine, independent re-evaluation in compliance with the Public Procurement Review Body's (PPRB) directive.

Instead, it is a formal reaffirmation of the same disqualification—which has already been determined to be unfounded—issued without utilizing the legal mechanisms available to the CA under the Law on Public Procurement (Articles 59.2 and 72) to clarify ambiguities directly with the interested parties (including in the case of the ISO certification) or with the certification body itself.

Considering all the points mentioned above, it is clear that the Contracting Authority has discriminated against us from the very beginning of this procurement activity, with the sole intent of favoring the Economic Operator (EO) recommended for the contract, while ensuring that we—as a responsive EO offering a lower price—are eliminated from the procurement process based on grounds that are neither sound nor supported by legal provisions.

In this procurement activity, the examination, evaluation, and comparison of tenders were not conducted in accordance with Article 59 of the Law on Public Procurement (LPP) regarding the bid submitted by the EO recommended for the contract versus those of other EOs. Therefore, this procurement activity must be re-examined, taking into account all the evidence provided.

Furthermore, the primary criterion for the award of the contract—namely, the responsive tender with the lowest price, as stipulated in Article 60, paragraph 1.1 of the LPP—was not upheld; we were not recommended for the contract, despite being a responsive EO that offered a lower price. In this procurement activity, Article 7 of the Law on Public Procurement (LPP) was not observed; the economic operator recommended for the contract was favored, whereas we—despite meeting all the requirements set out in the Tender Dossier and the Contract Notice—were not declared the winner of this tender.

Paragraph 1 of Article 7 of the LPP clearly stipulates that: “The contracting authority shall treat economic operators equally and in a non-discriminatory manner, and shall act in a transparent manner.

Furthermore, Paragraph 6 of Article 7 of the Law on Public Procurement (LPP) stipulates that, when conducting procurement activities, all contracting authorities must ensure that (vi) the selected tender complies with all substantive aspects of the relevant terms, criteria, and specifications. However, in this instance, the contracting authority failed to adhere to this legal provision; although we met all the requirements set out in the tender dossier, we were not recommended for the contract. Moreover, Article 1 of the LPP was not taken into consideration, given that the purpose of this Law is to ensure the most efficient, transparent, and fair utilization of public funds and resources, as well as all other funds and resources available to contracting authorities in Kosova.

Response to the request for reconsideration:

The economic operator “IMK BALLKAN PROJEKT” L.L.C. has submitted a request for reconsideration pursuant to Article 108/A of the LPP. In the request form, the economic operator alleges violations of Articles 1, 6, 7, 59, 60, 69, and 72 of the LPP, as well as Article 40 and Article 97.1 of Regulation No. 001/2022, and also refers to the Review Panel Decision No. 2026/0530.

Following a re-examination of the procurement file, the Economic Operator’s (EO) bid, the requirements previously established in the Contract Notice/Tender Dossier, and the results of the documentation verification, the Contracting Authority concludes that the claims do not alter the outcome of the evaluation. Article 59.4 of the Law on Public Procurement (LPP) establishes the fundamental principle that a tender is considered responsive only when it complies with all the requirements set forth in the Contract Notice and the

Tender Dossier. Deviations may be tolerated only when they are minor and do not materially alter the terms or requirements of the tender.

Article 69 of the Law on Public Procurement (LPP) grants the Contracting Authority the right to request evidence regarding the minimum technical and/or professional qualifications specified in the Tender Dossier and the Contract Notice. Consequently, when a piece of evidence is defined as a qualification requirement, the Economic Operator (EO) must demonstrate compliance with it in the manner prescribed.

Article 40.2 of Regulation No. 001/2022 stipulates that tenders shall be examined, evaluated, and compared in accordance with the procedures and criteria set out in the Contract Notice/Tender Dossier, and that the Contracting Authority may not alter, modify, or remove the requirements established beforehand.

According to Article 40.6 of the Regulation, a tender is considered responsive only if it is administratively compliant with formal requirements, technically compliant with the specified requirements and specifications, and submitted by an Economic Operator (EO) that meets the selection criteria.

The Tender Dossier/Contract Notice explicitly required that ISO standards/certificates be verifiable online. During the re-evaluation process, the Commission was unable to verify the ISO standards submitted by the Economic Operator (EO) online, as required by the tender documents. This requirement cannot be waived during the evaluation, as doing so would amount to the removal or relaxation of a pre-published condition for a single bidder—contrary to Article 40.2 of the Regulation and the principle of equal treatment. For this reason, the economic operator's claim that its bid should have been considered responsive, despite the impossibility of online verification, is rejected as unfounded.

A review of the list of equipment and the supporting documentation submitted reveals that the equipment required by the Contracting Authority is not included in the Economic Operator's (EO) list; furthermore, there is no evidence of ownership, possession, or right of use, as required by the Tender Dossier. This omission directly affects the technical/professional capacity required for the execution of the contract and constitutes more than a mere formal deficiency.

Pursuant to Article 69 of the Law on Public Procurement (LPP) and Article 40.6(c) of the Regulation, the EO must demonstrate that it meets the pre-established selection criteria. Accepting a bid that lacks the required equipment and the corresponding supporting evidence would be contrary to the published criteria and the Contracting Authority's obligation to ensure equal evaluation for all tenderers.

The Tender Dossier specifically required evidence/certification for the Project Manager, in accordance with the Contracting Authority's requirement regarding certification/accreditation by the DAK (General Directorate of Accreditation). An examination of the EO's tender documentation confirms that this required evidence was not submitted at all. Since this requirement is part of the pre-established criteria regarding technical and professional capacity, the Contracting Authority cannot consider it fulfilled without the relevant evidence. This is based on Article 69 of the Law on Public Procurement (LPP) and Articles 40.2 and 40.6 of the Regulation.

Given that failure to meet any of the aforementioned requirements is sufficient to compromise the eligibility/qualification of a tender—and noting that, in this specific case, several cumulative deficiencies have been identified—the Contracting Authority concludes that there is no legal basis to alter the evaluation outcome. For these reasons, the request for reconsideration is rejected in its entirety as unfounded.

Pursuant to Article 111, paragraph 5, in conjunction with Articles 113 and 114 of the Law on Public Procurement (LPP), the Procurement Review Body authorized a reviewing expert on September 28, 2026, to conduct an initial review of the case file and the claims set forth in complaint no. 2026/0732. On September 29, 2026, the reviewing expert submitted their report (no. 2026/0732), which includes the following recommendations: Based on the aforementioned clarifications, the reviewing expert proposes that the complainant's (Economic Operator's) complaint be upheld as well-founded, that the contract award notice be cancelled, and that the matter be remanded for re-evaluation.

All procedural parties have duly received the expert report. The Contracting Authority (CA) did not respond to the recommendations in the Review Expert's report, whereas the Economic Operator (EO) expressed agreement with the Review Expert's report.

The Review Panel determined that the conditions for deciding on this matter without a hearing—pursuant to Article 24, paragraph 1 of the PRB's Rules of Procedure—have been met, given that the parties' claims and submissions, the evidence, and the Review Expert's report provide sufficient information to reach a decision on the merits of the case.

-Administration and assessment of evidence -

In order to accurately establish the factual situation, the review panel has admitted as evidence: the Review Expert's Report; the submissions and documents from the complaining economic operator; the filings and documents from the Contracting Authority; relevant documents pertaining to the procurement activity; as well as all evidence proposed by the procedural parties.

Regarding the claims made by "IMK BALLKAN PROJEKT" SH.P.K., the review expert, in Report No. 2026/0732, has provided the following assessment:

Claims by the Economic Operator (EO): These relate to Requirement no. 2 regarding technical and professional capacity—specifically concerning the company's accreditation, or more precisely, the personal accreditation of the project manager. According to the Contracting Authority (CA), the evidence provided failed to satisfy this criterion. Furthermore, the EO was disqualified for failing to meet ISO standards. Additionally, the Contracting Authority disqualified the EO on a third ground, reasoning that the EO lacks specialized drilling trucks and equipment for testing the integrity of the "piles" (foundation piles). These same claims were raised in the previous complaint, which was the subject of the Procurement Review Body (PRB) Decision no. 2026/0530.

Response of the Contracting Authority (CA) to the EO's claims:

On September 14, 2026, the CA rejected the EO's complaint (submitted on the same date), reasoning that the claims do not alter the outcome of the evaluation. Findings of the Review Expert regarding the Economic Operator's (EO) claims: Once again, the Review Expert finds that the complaining EO has met the requirements of the tender dossier. Furthermore, during the re-evaluation, the Contracting Authority (CA) failed to present any new findings—relying instead on the incorrect assertion that the complaining EO lacked a specialized drilling truck and equipment for measuring and testing the integrity of the "piles." In fact, the complaining EO does possess both pieces of equipment.

Regarding these claims by the complaining Economic Operator (EO), the Contracting Authority (CA) was required to comply with the decision of the Procurement Review Body (PRB) Review Panel—Decision No. 2026/0530, dated August 28, 2026—in which the Review Panel upheld these claims; alternatively, it could have appealed to the Commercial Court in Pristina. By failing to do so, the CA has committed a violation of Article 117 of the Law on Public Procurement (LPP) and Article 97.1 of Regulation No. 001/2022. As for the EO's request to refer the matter to the Central Procurement Regulatory Agency (CPRA) regarding a disciplinary violation for non-

compliance with the PRB's decision, any such determination remains at the discretion of the Review Panel.

The Review Expert concludes that these claims by the complaining EO are founded.

-Findings of the Review Panel -

The Review Panel has evaluated all evidence in the case independently, objectively, conscientiously, and with professional due care. Consequently, it has been determined that, following the re-evaluation, the Contracting Authority acted in compliance with the legal provisions on public procurement and the requirements of the tender dossier regarding the procurement activity: "Laboratory analyses for capital investment projects – a three-year project," with procurement number: "622-26-1534-2-1-1.

The Review Panel examined all the case files, including the acts and actions of the Contracting Authority (CA), the submissions and evidence provided by the complainant, and the report from the review expert. Upon analyzing these materials within the broader context of the case, the Panel reached an independent conclusion that the complaint filed by the Economic Operator (EO) should be upheld in part. In this regard, the Panel notes that the expert's report was drafted in overly general terms, failing to address the entirety of the documentation submitted with the complainant's bid; instead, the reasoning focused exclusively on a single document—specifically, the list of technical equipment. Consequently, the Review Panel does not endorse the review expert's recommendation that the procurement activity be returned for re-evaluation.

The Review Panel does not fully support the position of the review expert, who recommended returning the activity for re-evaluation without providing substantiation based on the relevant documentation, particularly concerning the technical equipment. Such a report was provided without a thorough analysis of the grounds for the complainant economic operator's (EO) disqualification—grounds which are now being contested—specifically, without evaluating their alignment with the requirements set out in the Tender Dossier (TD) or considering the specific needs of the Contracting Authority (CA).

Regarding the complainant EO's arguments concerning its disqualification from this procurement activity—noting that in a previously adjudicated case (2026/0530), the disqualification was handled in a generalized manner—the Review Panel has upheld the expert's report. However, the Review Panel determines that, in its examination of this complaint, it will focus on the pivotal argument concerning the failure to meet technical equipment requirements as specified in the TD—a point upon which the complainant EO bases its claim of having been unfairly disqualified. This issue constitutes the core matter that directly influences the Review Panel's final decision.

For this reason, the Review Panel does not deem it necessary to further address other claims related to the economic operator (EO) in question, as the position and final classification of said EO within this procurement activity have become clear at this stage.

The Panel considers this claim decisive for the resolution of the case; although the reviewing expert noted that the EO had completed the list, the expert's report failed to provide clarifications

regarding technical equipment that does not comply with the requirements set out in the Tender Dossier (TD). Upon reviewing the technical documentation submitted by the complaining EO, the Review Panel finds that the equipment presented does not satisfy the requirement specified in the TD—namely, the requirement to possess a specialized drilling truck with a minimum capacity of 6 tons. This is because the technical documentation for the offered equipment specifies a gross weight of 3,000 kg and a net weight of 3,000 kg; consequently, the declared value is significantly below the minimum threshold required by the Contracting Authority. The Panel finds that, although the equipment offered may be intended and designed for drilling operations, the fulfillment of such a function does not automatically imply compliance with the required technical specifications. In this instance, the complaining Economic Operator was required to demonstrate not only that it possesses equipment capable of performing drilling operations, but also that such equipment meets the minimum parameter established by the Contracting Authority. Consequently, the Review Body concludes that the equipment offered cannot be considered equivalent to the Contracting Authority's requirements solely on the basis of its intended use for drilling, given that the submitted technical documentation fails to demonstrate compliance with the required minimum capacity.

Therefore, based on the assessment and conviction of the Review Panel, and in accordance with the legal and sub-legal provisions governing public procurement, the complainant has failed to ensure that their bid complies with the requirements set out in the Tender Dossier (TD). Consequently, the Review Panel finds the complaint to be unfounded.

Following the examination and assessment of the evidence, a comprehensive establishment of the facts, reliance on the Law on Public Procurement (LPP) as the applicable substantive law, a review of the claims, and consideration of all case documentation as well as the recommendations of the review expert, the Review Panel has determined that the Economic Operator's complaint should be upheld only in part. Nevertheless, the decision notice issued by the Contracting Authority—the MUNICIPAL ASSEMBLY OF PRIZREN—regarding the procurement activity titled "Laboratory analyses for capital investment projects – a three-year project" (Procurement No. "622-26-1534-2-1-1") shall remain in force. There are insufficient legal grounds to order the Contracting Authority to return the procurement activity for re-evaluation, for the reasons elaborated upon earlier in this decision.

Therefore, based on the assessment and conviction of the Review Panel, and in accordance with the legal and sub-legal provisions governing public procurement, the complainant has failed to ensure that their bid complies with the requirements set out in the Tender Dossier (TD). Consequently, the Review Panel finds the complaint to be unfounded.

Following the examination and assessment of the evidence, a comprehensive establishment of the facts, reliance on the Law on Public Procurement (LPP) as the applicable substantive law, a review of the claims, and consideration of all case documentation as well as the recommendations of the review expert, the Review Panel has determined that the Economic Operator's complaint should be upheld only in part. Nevertheless, the decision notice issued by the Contracting Authority—the MUNICIPAL ASSEMBLY OF PRIZREN—regarding the procurement activity titled "Laboratory analyses for capital investment projects – a three-year

project" (Procurement No. "622-26-1534-2-1-1") shall remain in force. There are insufficient legal grounds to order the Contracting Authority to return the procurement activity for re-evaluation, for the reasons elaborated upon earlier in this decision.

- Conclusion -

Based on the competencies of the PRB (Procurement Review Body) as stipulated in Article 105, in conjunction with Article 106 of the Law on Public Procurement (LPP), the Review Panel applied, among other provisions, Article 103 of the aforementioned Law. According to this article, all interested parties shall have equal access to procurement review procedures and legal remedies; furthermore, no decision by the PRB shall be taken or issued in a manner that discriminates—whether to the advantage or disadvantage—of any participant in the procedure, or any other person or enterprise.

The Panel clarifies that, in addition to Articles 1, 7, 27, 28, and 59 of the Law on Public Procurement, it is important to note that all bidders are well-versed in the application process and the submission of documentation, in accordance with the tender dossier and the contract notice. They possess sufficient experience in this field and are regular participants in tenders published in the Republic of Kosovo, thereby contributing to a fair and equitable application process for all.

This ensures a level playing field for all bidders and prevents the unnecessary prolongation of procurement procedures—which can occur when bidders repeatedly submit "requests for clarification" regarding documentation that they are already in the process of preparing for their own bids.

Therefore, the Panel clarifies that, in this instance, the responsibility lies with the bidder—who is participating in the tender with the intent to win. It is evident and widely understood that, upon the issuance of a contract notice, any bidder should—during the preliminary phase (prior to bid submission)—raise objections, pose questions, or seek clarifications from the Contracting Authority (CA). In this context, and in the independent judgment of this panel, neither the Contracting Authority (CA) nor the Economic Operator (EO) should rely on secondary legislation to request additional clarifications regarding bidders' documentation in every instance; as previously explained, all bidders are aware of the obligations and procedures for participating in tenders.

President of the Review Panel

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Mrs. Kimete Gashi

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 – **MUNICIPAL ASSEMBLY OF PRIZREN;**
1x1 EO **– IMK BALLKAN PROJEKT" SH.P.K.;**
1x1 Archive of the PRB