



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

Psh. No.225/26

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 (Law No. 04/L-042, supplemented and amended by Law 04/L-237, Law 05/L-068, supplemented and amended by Law 05/L-092) composed of Vedat Poterqoi - President, Kimete Gashi and Batisha Ibrahim - Member, deciding upon the complaint of EO LIMITPROJECT SH.P.K., against the Decision to contract award or a design competition regarding the procurement activity "Conservation and Development of the Archaeological Site of Dresnik-Klina" with procurement number 207-25-9889-5-1-1, initiated by the contracting authority (CA) - MINISTRY OF CULTURE OF YS AND ÇJK, on the 03/06/2026 has issued this:

DECISION

1. Approved, as partly grounded the complaint of the EO LIMITPROJECT SH.P.K. with no. 2026/0225, dated 08/04/2026, regarding the procurement activity "Conservation and Development of the Archaeological Site of Dresnik-Klina", with procurement number 207-25-9889-5-1-1, initiated by the contracting authority - MINISTRY OF CULTURE OF YS AND ÇJK.
2. Remains in force, B58 Notice on the Decision of the Contracting Authority - MINISTRY OF CULTURE OF YS AND ÇJK for the procurement activity "Conservation and Development of the Archaeological Site of Dresnik-Klina", with procurement number 207-25-9889-5-1-1.
3. The return of funds deposited in the name of the appeal fee is allowed according to paragraph 4, 5 of Article 31 of the Rules of Procedure of the PRB, while the complainant has the right, according to paragraph 6 of the cited provision, to request the return of the funds within a period of sixty (60) days from the date of receipt of this decision, otherwise the funds are confiscated and transferred to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 13.11.2025, the MINISTRY OF CULTURE OF YS AND ÇJK, acting in the capacity of the Contracting Authority, has submitted the Contract Notice, for the procurement activity “Conservation and Development of the Archaeological Site of Dresnik-Klina” with procurement number 207-25-9889-5-1-1,

The contracting authority has implemented an open procedure, type of contract: work, estimated value of the contract: 2,479,822.44. €

On 17.03.2026, the MINISTRY OF CULTURE OF THE RS AND THE CURRENT ORGANIZATION, acting in the capacity of the Contracting Authority, submitted the Notice on the decision of the CA (B58), where the EO “100% Design Shpk & Termomontimi Shpk” was recommended for the contract.

On the 23.03.2026, the complaining EO submitted a request for review, where on 31.03.2026 the CA rejected the request for review as unfounded.

On the 08.04.2026, OEAS Tech Sh.P.K., submitted a complaint to the PRB, which was recorded with protocol number 2026/0225, challenging the Decision to award the contract.

-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 LIMITPROJECT SH.P.K are presented as follows:

Law on Public Procurement of the Republic of Kosovo No. 04/L-042 as amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092

Article 1: Purpose of the LPP

Article 7: Equal Treatment/Non-Discrimination

Article 10: Means for Promoting Transparency

Article 59: Examination, Evaluation and Comparison of Tenders

Article 60: Contract Award Criteria

Article 72: Additional documentation and information

A01. Regulation No. 001/2022 on Public Procurement

Article 40: Examination, Evaluation and Comparison of Tenders

A02. Guidelines No. 001/2023 on Public Procurement

Specifically of the articles:

General provisions

Purpose and Scope of the Operational Guide for Public Procurement

Clarification of tenders during the tender evaluation process.

Article 1

The purpose of this law is to ensure the most efficient, transparent and fair way of using public funds, public resources, as well as all other funds and resources of the contracting authority in Kosovo, by determining the conditions and rules to be applied, the procedures to be followed, the rights to be respected and the obligations to be fulfilled by persons, economic operators, undertakings, contracting authorities, works concessionaires and public bodies that develop, are involved in, participate in or have an interest in the procurement activity or that are involved because they relate to such funds and/or resources.

Contracting Authority: Ministry of Culture, YS and ÇKJ, on 06.11.2025, has published in e-procurement the tender dossier entitled: "Conservation and Development of the Archaeological Site of Dresnik Klina", with procurement number 207-25-9889-5-1-1. On 17.03.2026 the CA has published its decision, in which it has announced the winner of the consortium: GOE: N.N 100% Design shpk, Termomontimi shpk, with the value: 2,276,064.20 €. On the same day we submitted a request for access to documents, which access was approved on 18.03.2026. On 23.03.2026 we submitted a request for reconsideration, for which on 31.03.2026 the decision was returned rejecting the request for reconsideration as unfounded.

Violated Article 7 - Equal Treatment/Non-Discrimination

We, the economic operator "LIMIT PROJECT SHPK", believe that the Contracting Authority: Ministry of Culture, YS and ÇKJ, is in violation of the Law on Public Procurement, by the fact that the law does not deny the participation of any company in tender procedures.

Allegations regarding the successful EO:

The Contracting Authority: Ministry of Culture, RS and ÇKK, on 17.03.2026 announced the winner of the GOE: N.N 100% Design shpk, Termomontimi shpk, with the value: 2,276,064.20. €

The request for access to official documents was made on 17.03.2026. Access was provided to us on 18.03.2026 and after reviewing the documentation of the GOE we suspect that it does not meet the requirements according to the TDS.

According to the Tender Dossier:

Request No. 2 - Certificate from the Tax Administration of the country of establishment that the economic operator has no delays in paying taxes at least until the last quarter before the submission of the tender (only for the winner).

And

Request No. 3 - Certificate from the competent Court that the economic operator meets the eligibility requirements, issued at least until the last quarter before the submission of the tender (original or copy, only for the winner).

In the specific case:

Date of submission of the contract notice to the PPRC: 06.11.2025

The tender dossier was submitted on 23.12.2025

The Contracting Authority (CA) requested these documents on 23.01.2026

While the decision to announce the winner was issued on 17.03.2026

Doubt:

The documents submitted by the winning EO may not have been valid at the time of submission of the bid, as the requests for tax and judicial certificates were related to the situation prior to the announcement of the winner, and the procedure has exceeded three months from the original submission.

This period of time indicates that the documents submitted by the winning economic operator may not have been valid at the time of submission of the bid, raising serious doubts about the fulfillment of Requirements No. 2 and 3 (tax and judicial certificates).

This raises serious doubts if the recommended EO does not meet Requirements 2 and 3, thereby jeopardizing the legality of the contract award decision.

Economic and financial capacity: Turnover

The Contracting Authority, in the Tender Dossier, has expressly requested that the EO/GOE have a turnover for the last three years in the amount of €4,959,000.00, and this must be proven by copies of the annual tax declarations submitted to the Tax Administration of Kosovo for the last three years or audited financial statements.

However, the GOE declared the winner is suspected of not meeting the turnover criterion for the last three years in the amount foreseen by the CA. Such an assessment constitutes an inconsistent

and selective application of the criteria of the Tender Dossier, as the criterion requires the fulfillment of all criteria.

This action conflicts with Article 59 of the LPP, which obliges the Contracting Authority to evaluate bids in strict accordance with the requirements of the Tender Dossier, and violates Article 7 and Article 1 of the LPP, creating unequal treatment and violating transparency and fair competition between economic operators.

From the examination of the bid documentation of the economic operator declared the winner, it results that this bid presents multiple and substantial non-compliances with the requirements of the Tender Dossier, including, but not limited to, the following categories:

These deficiencies undermine the formal validity of the bid and conflict with the obligation of the Contracting Authority to evaluate only bids that meet the requirements of the Tender Dossier, within the meaning of Article 59 of Law No. 04/L-042 on Public Procurement, as well as the principle of transparency according to Article 1 of the LPP.

D. Key staff - experience and professional qualifications

According to the Tender Dossier, the Contracting Authority has requested that the economic operator prove the availability of professional staff as follows:

Architectural Engineer

Civil Engineer - Structural

Civil Engineer - Hydrotechnical

Electrical Engineer

Mechanical Engineer

Archaeologist with A4 license

From the documentation provided (partial access), there are doubts that the economic operator recommended for the contract does not meet this criterion, specifically:

There is a lack of evidence for an Archaeologist with a valid A4 license

There is uncertainty about the full fulfillment of the list of required staff

Since this criterion is an essential criterion for technical and professional capacity, its non-fulfillment should result in the disqualification of the economic operator.

Also, in the Tender Dossier it is stipulated that:

Economic Operators should not have more than three (3) active contracts with MCYS of the same nature, and a licensed staff cannot be engaged in more than three contracts at the same time.

Therefore, there are doubts that the group of economic operators declared the winner:

May have more than three active contracts with MCYS using the same licensed staff There may be the same licensed staff engaged in several projects simultaneously

If this is confirmed, then we have a direct violation of the Tender Dossier requirement and, consequently, a non-responsive bid.

These deficiencies constitute a failure to meet the professional and technical qualification criteria, in contravention of Article 59 of the LPP and the principle of equal treatment according to Article 7 of the LPP.

These deficiencies constitute a failure to meet the technical and professional criteria, and violate the principle of transparency and proportionality in the evaluation of bids, in contravention of Article 1 and Article 59 of the LPP.

According to the Tender Dossier (Criterion no. 4), economic operators must submit a stamped and signed list, which shall contain 20 professional and support workers, with full details of their name, surname, personal data, experience and function in the project, including:

Reinforcer

Lathe

Adjuster

Welder

Tile worker

Sheet metal worker

Plumbing and sewage installer

Bricklayer

Machine operator

Crane operator

Electrical installer

Heating and air conditioning installer

10 manual workers

There are suspicions that the group of economic operators declared the winner does not meet this criterion of the Tender Dossier even after the clarifications requested by the CA. On 19.01.2026 the CA requested clarification for the technical staff for reinforcement and lathing, since the GOE did not submit the documents requested by the FTD, which are high school diplomas, but only submitted certifications, which do not meet the requirements set for these points. This indicates that the economic operator does not meet Criterion No. 4, making its bid non-

responsive in this part, even after the request for clarification made by the Contracting Authority.
List of equipment

According to the Tender Dossier (Criterion no. 5), the economic operator must submit a list of equipment to be used in the project, including:

Trucks

Tipper truck with crane - 1 piece

Scaffolding minimum 300m²

One generator (aggregate)

From the information and documentation provided during the procedure, there is a suspicion that the group of economic operators declared the winner does not fully meet these equipment requirements and according to the criteria provided for in the Tender Dossier.

This suspicion, in combination with the failure to meet the criteria for staff and tax documentation, indicates that the economic operator's bid is not responsive, thus violating fair competition and the transparency of the procedure.

Legal conclusion:

The above violations are not of a formal nature, but are material and cumulative violations, which directly affect the responsiveness of the bid of the GOE declared the winner. As such, the bid cannot be considered responsive within the meaning of Article 59 of Law No. 04/L-042 on Public Procurement, and its acceptance violates the principles of equal treatment, transparency and fair competition, set out in Articles 1 and 7 of this law.

Having considered the violations presented in detail of:

A. Law on Public Procurement of the Republic of Kosovo No. 04/L-042, amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092

B. A01. Regulation No. 001/2022 on Public Procurement

C. A02. Guidelines No. 001/2023 on Public Procurement

We propose to the Procurement Review Body "PRB":

The complaint submitted by LIMIT PROJECT SHPK to be assessed as grounded.

The procurement activity: "Conservation and Development of the Archaeological Site of Dresnik - Klina" to be returned for RE-EVALUATION and to make a decision that the only responsible and successful EO is our consortium.

Response to the request for reconsideration:

Claim No. 1

Request for review by EO: LIMIT PROJECT SH.P.K

Procurement activity: Conservation and Development of the Archaeological Site of Dresnik – Klina Procurement No.: 207-25-9889-5-1-1 and 207-25-120-5-1-1

The Ministry of Culture, Youth and Sports (MKYS) and the ÇKK, on 17.03.2026, have announced the winner of the Group of Economic Operators (GOE): N.N. 100% Design SH.P.K & Termomontimi SH.P.K, with a contract value of €2,276,064.20.

The request for access to official documents was made on 17.03.2026, while access was provided on 18.03.2026. After reviewing the documentation of the GOE declared the winner, the complaining EO claims that the same does not meet the requirements according to the Tender Dossier (TD).

1. Claims regarding tax and judicial certificates (Requests no. 2 and 3)

According to the Tender Dossier, the following has been requested:

Request no. 2

Certification from the Tax Administration of the country of establishment that the economic operator has no delays in paying taxes at least until the last quarter before the submission of the tender (only for the winner).

Request no. 3

Certificate from the competent Court that the economic operator meets the eligibility requirements, issued in original or copy, at least until the last quarter before the submission of the tender (only for the winner).

In the specific case:

Deadline for submission of bids: 23.12.2025

The Contracting Authority has requested the documents: 23.01.2026

Decision on the announcement of the winner: 17.03.2026

The complaining EO claims that the documents submitted by the winning EO could not have been valid at the time of submission of the bid, since the procedure has exceeded the three-month period from the date of submission of the bids. According to the complainant, this creates serious doubts about the fulfillment of requirements no. 2 and 3 and jeopardizes the legality of the contract award decision.

2. Economic and financial capacity - Turnover

The Contracting Authority in the Tender Dossier has requested that the EO/GOE have a turnover for the last three years in a minimum value of €4,959,000.00, proven through annual tax declarations or audited financial statements.

The complaining EO claims that the GOE declared the winner does not meet this criterion and that such an assessment constitutes an inconsistent and selective application of the criteria of the Tender Dossier, in violation of:

Article 59 of the LPP (strict assessment according to the TDS)

Article 7 and Article 1 of the LPP (equality and transparency)

The complainant claims that the bid of the EO declared the winner contains numerous and substantial inconsistencies with the requirements of the Tender Dossier, which violate the formal validity of the bid.

3. Position of the Contracting Authority

The claim is rejected as unfounded.

The Contracting Authority has verified the tax forms of both companies within the GOE and has found that their financial turnover is around €7,000,000, respectively €1.95 million more than the minimum requirement of the Tender Dossier. Consequently, the financial turnover criterion is fully met.

Regarding the TAK certificates, both companies have submitted valid certificates:

100% Design SH.P.K

Date of issue: 26.02.2026

Reason: Tender application

Serial No.: 1001324292

Termomontimi SH.P.K

Date of issue: 27.01.2026

Reason: Tender application

Serial No.: 1001316128

These certificates prove that the economic operators declared winners have no tax debts.

4. Professional staff and archaeologist with A4 license

According to the Tender Dossier, the EO must prove the availability of professional staff as follows:

Architectural Engineer

Civil Engineer - structural

Civil Engineer - hydrotechnical

Electrical Engineer

Mechanical Engineer

Archaeologist with A4 license

The complaining EO claims that:

Evidence for an archaeologist with a valid A4 license is missing

There is uncertainty about completing the staff list

There is a suspicion of exceeding the limit of 3 active contracts with MCYS and using the same staff in several projects simultaneously.

According to the complainant, if this is confirmed, we have a violation of the requirements of the Tender Dossier and non- fulfilment of the criteria of professional and technical capacity in violation of Article 59 and Article 7 of the LPP.

These shortcomings constitute non-fulfilment of the technical and professional criteria and violate the principle of transparency and proportionality in the evaluation of bids, in violation of Article 1 and Article 40 of the LPP.

The complaint claim is rejected as unfounded: The Contracting Authority has examined the documentation and claims, and finds that the Group of Economic Operators has presented licensed staff who are engaged in less than three contracts. The same has also attached an Archaeologist with a valid license and certification according to License A4, who is an Archaeologist and Master of Archaeology, exactly as requested in the Tender Dossier. All staff have met the requirements set by the Contracting Authority in the Tender Dossier.

According to the Tender Dossier (Criterion No. 4), the economic operator must submit a sealed and signed list, which must contain at least 20 professional and support workers, with full details of name, surname, personal data, experience and function in the project, including: reinforcement workers, lathing workers, adjusters, welders, tile workers, sheet metal workers, water and sewage installers, bricklayers, machinery operators, crane operators, electrical installers, heating and air conditioning installers as well as 10 manual workers.

There are suspicions that the Group of Economic Operators declared the winner does not meet this criterion of the Tender Dossier even after the clarifications requested by the CA. On 19.01.2026, the CA requested clarifications for the technical staff for reinforcement and lathing, as the GOE had not submitted the documentation according to the TDS requirements, namely high school diplomas, but had only submitted certifications that did not meet the requirements set for these positions. This indicates that the economic operator does not meet Criterion No. 4, making the offer irresponsible in this part even after the request for clarification made by the Contracting Authority.

The claim does not stand, as the Group of Economic Operators meets the criterion as follows:

Criterion No. 4: The Economic Operator must submit a sealed and signed list of at least 20 professional technical and support workers. The list must contain the first and last name,

personal details, experience and function within the company or the tasks to be performed in the project:

- 4.1. At least 1 reinforcement worker
- 4.2. At least 1 lathing worker
- 4.3. At least 1 adjuster
- 4.4. At least 1 welder
- 4.5. At least 1 tile worker
- 4.6. At least 1 sheet metal worker
- 4.7. At least 1 water and sewer installer
- 4.8. At least 1 bricklayer
- 4.9. At least 1 machine operator
- 4.10. At least 1 crane operator
- 4.11. At least 1 electrical installer
- 4.12. At least 1 heating and air conditioning installer
- 4.13. At least 10 manual workers

For staff 4.1 and 4.2, secondary education diplomas (also acceptable in construction and architecture), at least 3 years of work experience (proven by a signed CV) and at least one reference in cultural heritage or similar work, as well as a contract or a preliminary work contract signed by both parties and stamped by the EO must be presented. For staff 4.3 and 4.4, a contract or preliminary work contract is required. For staff 4.5, at least 3 years of work experience and a contract or preliminary work contract are required. For staff 4.6, a contract or preliminary work contract is required.

List of equipment

According to the Tender Dossier (Criterion No. 5), the economic operator must present the list of equipment that will be used in the project, including: pickup truck, dump truck with crane, scaffolding of minimum 300 m² and a generator (aggregate). There are suspicions that the winning GOE does not fully meet these requirements.

The claim does not stand, as GOE has submitted:

- Trucks and a crane truck with valid licenses;
- For the scaffolding and generator, it has attached purchase invoices or loan contracts, proving that they are in accordance with the requirements of the Contracting Authority.

The procedure “Conservation and Development of the Archaeological Site of Dresnik - Klina” compared to other procedures in cultural heritage had the same criteria, with the addition of an archaeologist

due to the need for archaeological interventions in Dresnik. All criteria are in accordance with the legal provisions and public procurement regulations. With similar criteria, you have also been declared the winner in other procedures. In this procedure, the winning Group of Economic Operators has an offer about 200,000.00 € cheaper than your offer, and the Contracting Authority intends to award the contract to the operators that meet all the conditions and have the cheapest offer.

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 16.04.2026 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 2026/0225, while on 27.04.2026 the review expert's report with no. 2026/0225 was submitted, with the following recommendations: Based on the above-mentioned clarifications, the review expert proposes to the review panel that the complaint of the complaining EO be partially approved as grounded and that the decision of the CA remain in force.

The expertise report has been duly accepted by all procedural parties. The CA agreed with the recommendation of the review expert's report, and the EO did not agree with the review expert's report.

The review panel has assessed that the conditions have been met to decide on this case without a hearing session in the sense of Article 24 paragraph 1 of the Rules of Procedure of the PRB, taking into account that the claims of the parties and their submissions, the evidence and the report of the review expert provide sufficient data to decide on the merits of the case.

- Administration and evaluation of evidence –

In order to correctly establish the factual situation, the review panel has administered as evidence the Report of the Review Expert, the submissions and documents of the complaining economic operator, the documents and documents of the Contracting Authority, the relevant documents related to the procurement activity and all the evidence proposed by the procedural parties.

Regarding the claims of EO LIMITPROJECT SH.P.K, the review expert through report no. 2026/0225 has assessed as follows:

The procurement activity entitled: “Conservation and Development of the Archaeological Site of Dresnik-Kline” with procurement no.: "207-25-9889-5-1-1", initiated by the

Contracting Authority (CA) - MINISTRY OF CULTURE RS AND ÇKL, open procedure, type of contract work, criterion lowest responsive price.

The complaint is filed against Notification B58 on the decision of the Contracting Authority.

The complaining EO was declared unsuccessful with a price higher than the recommended EO.

The complaining EO, after the rejection of the request for review by the CA, files a complaint with the Procurement Review Body (PRB), claiming that the CA, during the evaluation of the bids, violated the Public Procurement Law, respectively articles: 1,7,10,59,60,72, the Public Procurement Regulation, article 40 and the Guideline no. 001/2023 on Public Procurement, articles 1 and 10. (Note: The claims of the complaint are described above in the section Violated Provisions and Complaining Claims).

Furthermore, the complaining EO in the complaint claims that the CA has not provided full access to the bid of the group recommended for the contract, which in the absence of access to the documentation of the recommended group, the same suspects that the CA has not assessed correctly, because it is suspected that the tax certificate is older than three months, because the procedure has exceeded three months from the original submission. It also suspects that the turnover has not been met, the professional staff Archaeologist has not been met, the support staff Reinforcer and Lathing criterion no. 4, as well as the list of equipment there are suspicions that it does not meet because they did not have full access.

Response to the complaining claims of the complaining EO:

The review expert after analyzing and reviewing the case files clarifies that, regarding the tax certificates, the same have brought the certificates within the time limit as the winner and also the same are still within the 90-day validity period, which have also been verified according to the serial number in TAK and result that they have no debts and are valid. The same certificates, CA has also proven with photos in the response to the request for review. The claim of the complaining EO is not found to be sustainable.

Regarding the request for circulation, the bid of the recommended group contains declarations which, in total, the consortium reaches a value exceeding 5 million euros. The claim of the complaining EO is not found to be sustainable.

Furthermore, regarding the doubts regarding the non-fulfillment of the request number 3, namely 3.6 An Archaeologist with A4 License (A4-1 or A4-2 or A4-3 or A4-4), which request the recommended group in the bid has attached a Master of Archaeology graduated in France and attached is also the Decision for Recognition of the degree title in 2014, also attached is the A4-2 License - No expiration date, 3 other relevant certifications with archaeology and heritage, as well as other documents required according to the tender dossier. The claim of the complaining EO is not found to be sustainable.

Regarding the suspicions of non-compliance with request number 4 of the DT, which the complaining EO suspects that due to the request for clarification from the CA, consequently the complaining EO suspects that the recommended group does not meet, which the review expert has analyzed the offer and the response to the clarifications, resulting in it meeting the request, but the CA has misunderstood the list of supporting staff, because according to the CA's responses to the clarifications regarding the Reinforcer and the Lathier, in the DT it was allowed to offer with secondary education diplomas in Architecture and Construction, as such, the recommended group has brought a Reinforcer with a secondary education diploma in Construction and a Lathier with a secondary education diploma in Architecture, and also two

assistant Reinforcers and Lathiers for whom it has attached only the certificates for Reinforcers and Lathiers, but in the DT the request was at least one, while the recommended group brought more than one, and meets the requirement according to the TD. The claim does not stand.

Request in DT number 5, regarding doubts about the equipment and machinery, the review expert after analyzing and reviewing the case files explains that the group recommended in the bid has attached a list of equipment, one of which it possesses with a notarized rental agreement for the project in question with notarial signatures, and for the others it has also brought evidence according to the tender dossier, therefore the claim of the complaining EO is not found to be sustainable.

In conclusion, the Contracting Authority has evaluated the analysis and examination of the bids in accordance with Articles 1, 6, 7, 59, 72 of the LPP, resulting in a recommendation of the bid according to the criterion of the lowest responsible price, while regarding the failure to provide full access by the CA to the complaining EO, the review expert considers that, based on paragraph 3 respectively 3.1, 3.2, and 3.3 of Article 11 of the LPP, according to the request in Complaint 3 for Business Secrets by the recommended EO, the CA has respected Article 11 paragraph 4 by submitting a cleaned version of the documents, and consequently since the requested documents are the requests under Articles 68 and 69, then, the complaint of the complaining EO was handled by the review expert with access to E-Procurement in accordance with Article 10 paragraph 8 of LPP.

10.8 LPP- Means for Promoting Transparency

8. The contracting authority shall provide a review expert, the PPRC, the PRB and/or a review panel with access to copies of any procurement activity, including confidential business information and any other information related to the procurement, promptly upon request by the above. The contracting authority shall also provide access to and copies of the records and information to a competent court, if such access or copies are required by an order issued by such court. The contracting authority shall promptly provide the requested access and copies in a timely and unhindered manner.

The complaint of the complaining EO is recommended to be partially approved based on the fact that, in the absence of access, the same suspects that the CA has not assessed correctly and that the documents of the recommended Group have not been provided according to the requirements of the DT, however, according to the review of the case files, it results that the recommended group meets the requirements and the doubts of the complaining EO do not stand, as such it is recommended that the decision of the CA remain in force.

Findings of the Review Panel -

The Review Panel, having analyzed the documents of this case and the actions taken by the parties, their statements and the evidence administered during the course of this procurement activity, considers that the findings of the review expert and his opinions are acceptable and that the Review Panel rightly took into consideration his Report when making the decision.

In the specific case, from the report of the review expert, the evidence presented by the complaining economic operator, the documents of the tender dossier and other evidence of the case, it has been found that the complaining claims are unfounded. Based on the factual situation established above, the Review Panel has given full credence to the findings and recommendations in the report of the review expert. Consequently, the Review Panel has found that the claims of the complaining economic operator are partially founded.

The review panel, after administering and evaluating the evidence, fully ascertaining the factual situation, relying on the LPP as the applicable substantive law, after reviewing the complaint claims, taking into account all the case files and the expert's recommendations, has found that the complaint of the Economic Operator should be approved as partially grounded, but insufficient to change the final epilogue of the CA's decision-making. Consequently, the Review Panel has decided to remain in force the contract award notice of the Contracting Authority MINISTRY OF CULTURE YS AND ÇKJ.

The Review Panel has decided in accordance with the legal competences in terms of Article 104, paragraph 1, in conjunction with Article 103, Article 105 and Article 117 of the LPP for the implementation of the procurement review procedure in a prompt, fair, non-discriminatory manner, with the aim of resolving the case legally and effectively. Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations that may arise during a procurement activity.

For points I and II of the decision, it was decided based on Article 117 of the LPP in conjunction with Article 29 of the PRB Rules of Procedure.

For point III of the decision, it was decided based on Article 31, paragraph 5 of the PRB Rules of Procedure in conjunction with Article 118 of the LPP.

From what was said above, it has been decided as in the provision of this decision.

President of the Review Panel

Mr. Vedat Poterqoi

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;**

1x1 EO – **LIMITPROJECT SH.P.K;**

1x1 Archive of the PRB