

PROCUREMENT REVIEW PANEL, appointed by the President Pursuant to the article 105 as well article 106 of the Law on Public Procurement of the Republic of Kosova no.04/L-042, amended and supplemented by Law No. 04/L-237, amended and supplemented Law no.05/L-068, amended and supplemented Law no.05/L-092, composed of: Mr. Blerim Dina– President, individual panelist, deciding on the complaint lodged by the Economic operator: “DWH Kosova” SH.P.K-Prishtinë and EO “DWH Albania” SH.P.K.- Albania, against the contract notice, regarding with the procurement activity with title: “Re-advertisement, Supply of GPS Instrument and Total Station equipment”, with procurement no: 632-20-7318-1-2-1, initiated by the Contracting authority/MA of Gjakova, on the 25.02.2021 has issued this:

DECISION

I. APPROVED, as partly grounded the complaint of the group of Economic operators: “DWH Kosova” SH.P.K-Prishtinë and EO “DWH Albania” SH.P.K.- Albania”, regarding the procurement activity with title: “Re-advertisement, Supply of GPS Instrument and Total Station equipment”, with procurement no: 632-20-7318-1-2-1, initiated by the Contracting authority/MA of Gjakova.

II. OBLIGED the CA to consider the clarification given in the expertise during the examination, comparison and evaluation of tenders, regarding with the procurement activity with title: “Re-advertisement, Supply of GPS Instrument and Total Station equipment”, with procurement no: 632-20-7318-1-2-1, initiated by the Contracting authority/MA of Gjakova.

III. Contracting authority within 10 days must inform in written the Review panel for all actions taken regarding with this procurement activity and other parties in the procedure.

IV. Non-compliance with this decision obliges the Review Panel conform with the legal provisions of article 131 of the Law for Public Procurement of Kosova No.04 / L-042, amended and supplemented by Law No. 04/L-237, Law no.05/L-068, Law no.05/L-092, to take action against the Contracting Authority.

V. Since the complaints of the complaining economic operators are approved as partly grounded, it is returned the insurance fee of the complaint in the amount deposited when filing a complaint.

VI. Obligated complaining economic operator that conform article 31 point 6 of the Rules of Procedure of the PRB, within sixty (60) days is obliged to request to take back the funds, otherwise these funds will be confiscated and will pass to the budget of the Republic of Kosova.

REASONING

Complaining economic operators “DWH Kosova” LLC-Prishtina and EO “DWH Albania” LLC-Albania, as dissatisfied parties have filed a complaint in the PRB, on the 01.02.2021 with no. 95/21, and on 02.02 / 2021 with no. 98/21, against the contract notice, regarding the procurement activity with title “Re-announcement, Supply with equipment of GPS Instrument and Total Station”, with procurement no. 632-20-7318-1-2-1, initiated by the contracting authority-“MA-Gjakova”, claiming that:

- Contracting authority has acted in contradiction with article 1, 2, 7 and article 28 of the LPP, in the complaint with protocol no. 95/21.
- Contracting authority has acted in contradiction with article 1, 2, 7 and article 28 of the LPP, in the complaint with protocol no. 98/21.

Procurement Review Body, conform article 113 and 114 of the LPP on the 04.02.2021, has authorized the review expert of the procurement to review the validity of all claims of the complaining parties.

Procurement review expert in the report dated: 18.02.2021, regarding the complaining claim of the complaining EO explains as follows:

Response to the complaining claims of the complaining EO “DWH KOSOVA” SHPK-PRISHTINA and “DWH ALBANIA” SHPK – TIRANA

Introductory clarification: Initially we clarify that the complaining claims submitted by the complaining EO have to do with the tender documents, respectively the technical specifications. Complaining EO have submitted a request for reconsideration to the CA on the 25.01.2021 with the same complaining claims as in this complaint. CA on the 28.01.2021 has issued a decision by which rejects the request for reconsideration. In relation to this procurement activity have previously been lodged three complaints from the complaining EO “DWH KOSOVA” SHPK, for which the review panel of the PRB has decided according to the decisions with number 458/20, 640/20 and 1021 / 20. Also the complaining EO some of the complaining claims presented in this complaint such as the formats and the authorization has not presented as complaining claims in the past despite the fact that these claims have been decided from the beginning.

Response to the Complaining Claim 1: Complaining EO claim that CA has violated the provisions of the LPP by not setting sufficient requirements for GPS. CA in the tender dossier, respectively in the pre-measure has presented the technical specifications, where among others has defined “To support all global satellite systems that are in operation: GPS, GLONASS, Galileo, Beidou (with all relevant signals for each satellite system that the manufacturer offers) “. Law on Public Procurement in Kosovo, respectively Article 28 stipulates “CA will compile technical specifications in such a way that they are in line with the purpose of procurement and aimed at ensuring the best possible access for all interested operators economic and bidders. CA is particularly prohibited to draft technical specifications that favor or discriminate against one or more EOs. Regarding this claim we clarify that since the claims are not exclusive the complaint claim is unfounded.

Response to the Complaining Claim 2: Complaining EO also claim that CA has set discriminatory specifications for the internal memory, thus requesting 4 GB internal

memory. In the document PARAMASA-Supply with equipment of GPS instrument and Total Station published by CA on the 20.01.2021, is described in position 1. GNSS / GPS, respectively the GNSS antenna controller is described the request Memorization space (data storage) not less than 4 GB ". In the decision of the CA dated 28.01.2021 it was ascertained that no internal memory is written, consequently it means that it is not obligatory to be internal memory. Therefore, despite the specification of the storage space is done within the controller, the explanation given by the CA in response to the request for reconsideration would oblige the CA to take it into account during the evaluation therefore could not exclude EOs that provide external memory. In conclusion the claim on this point is partially grounded.

Response to the Complaining Claim 3: Complaining EO claims that CA has set requirements such as formats DGE, CSV, txt and Shapefile formats and according to the complaining EO these requests go beyond the requirements of the equipment required in this procurement activity. CA in the document PARAMASA-Supply with equipment of GPS instrument and Total Station published on 20.01.2021, in position 1, respectively in the Field Software, among others, has set the requirements: "To be able to export in D formatG, CSV, ShapeFile formats , TXT "and" To be able to import DGE, CSV, ShapeFile, TXT formats To be able to export to DGE, CSV, ShapeFile, TXT formats ". In the decision of the CA for rejection of requests for reconsideration dated 28.01.2021 CA has ascertained that the reason why these formats are needed is due to the use of CadastralMap software and all geodetic measurements accepted by the field are in the formats that CA has specified in the software requirements in this procurement activity and that these formats are a necessity. Therefore, according to the course details we first clarify that the type of formats is specified within the software of measuring devices. Further taking into account the statements of the CA we consider that based on the needs stated by the CA the complaining claim is unfounded on this point, as the CA can not be forced to give up claims that are basic needs and without which needs equipment.

Response to Complaint Claim 4: EOs claim that CA has acted in contradiction with the LPP in the case of division of positions in the request for Authorization from the manufacturer. CA in the contract notice and tender dossier has placed the request for technical and professional capacity number 3 "Authorization from the manufacturer or dealer that proves that the company is authorized to sell the GPS device - original or certified copy required" and for this request has requested that EO to present the documentary evidence formulated as follows: "Authorization from the manufacturer or dealer that proves that the company is authorized to sell the GPS device - original or certified copy is required." In the decision of the CA dated 28.01.2021, CA has not treated this claim consequently has not given reasoning or answer. Regarding this claim since the two positions are important and have interactive functions within a project it is recommended to the CA to request Authorization for both devices. Therefore the complaining claim is partially grounded for the fact that such a claim has not been addressed by the CA in the framework of the request for reviewing.

Response to the Complaining Claim 5: Regarding the complaining claim submitted by the complaining EO that CA must inform where are the technical specifications and provide information for "data sheet", we clarify that according to the LPP CA must compile the technical specifications in that so that they are in line with the purpose of procurement and aimed at ensuring the best possible access for all EOs and that it is forbidden to draft technical specifications that favor or discriminate against one or more EOs. Therefore in this sense, EO must submit claims in which case the wording of a

specification discriminates complaining EO and in no case CA can not use a concrete brochure of a product or a manufacturer. Therefore the complaining claim is ungrounded considering that such a request of the complaining EO is not based on any provision of public procurement legislation.

Review of the review expert: Based on the clarifications mentioned in the report, Review expert proposes to the review panel that the complaint of the EO: "DWH KOSOVA" LLC-Prishtina and "DWH ALBANIA" LLC-Tirana and to be approved. as partially based. It is further proposed to oblige the CA to take into account the clarifications given in this expertise during the examination, comparison and evaluation of tenders.

Procurement review body has notified the parties on the: 18.02.2021 with the expertise's report.

Economic operator "DWH Kosova" LLC-Prishtina, on the 19.02.2021, through memo has notified the PRB, that does not agree with the opinion of the review expert.

Honored PRB,

We reject the Review Expert (ESH) and his report 95/21, dated 18.02.2021.

In the following we present before the trial panel, technical and legal arguments not understood and ignored by ESH. We refuse to merge the two cases into a single one, as our complaint is not related to the complaint of DWH - ALBANIA sh.p.k., which is a legal entity of Albanian law, while we are a legal entity of Kosovo law. The law firm, which advises and represents our subject, fails to find the legal basis for this amalgamation of two different subjects and two competing subjects in a single case, "creating a collective lawsuit", which conflicts with the civil code of Republic of Kosovo. We request the separation of the cases themselves and their reconsideration separately. The PRB could not understand our complaint, as its report clarifies that ESH has no geodetic education, no legal education and therefore does not meet the "job description" of ESH for geodetic issues. We remind the PRB, that it is about the purchase of Geodetic Equipment for field measurement, and ESH has not understood the following: 1. CA requires formats DĚG, TXT, CSV, Shapefile in Work Software. Workbook contains measurement applications (recording, marking, fixed distance, area, volume, reference line, etc., etc.) and the above required formats are not provided in GPS, Controller or Workbook. They are computer formats of Atocad, Autodesc, etc. (computer software firm), while AK a by-product of Autodesc ?!

We remind the PRB or CA or ESH, that Autodesc is neither a manufacturer of geodetic equipment nor a manufacturer of GPS software or Total Stations. Cadastral Map has nothing to do with the above formats provided. The argument of the CA and borrowed from ESH is empty words, without basis.

This request is placed there to be able to declare irresponsible all EO, and to default EO Geo TEC, which will invent a letter to manipulate the decision.

We point out to the PRB, that ESH rejects this point of our complaint, without any argument, but the copy - for the media - the text of the CA and the new brings as his own.

2. ESH - based on claim 5 - has no knowledge for LPP04 / L-042, Article 28 point 1 sub point (ii), which obliges the CA to make available to the EO "where can be found the required specifications"

Likewise ESH does not take it into account

how the needs of the CA for a certain product are determined

b) how the budget for the purchase of this product is determined, and

c) how the technical specifications are defined, so that the competition is open, fair, efficient, transparent and

non-discriminatory. According to ESH, it is enough for the CA to need a device (request) and then it is enough to dream, preferably with eyes closed and the budget and technical specifications appear in the dream. Then, in the dream, the requirements of the PPL are magically regulated, such as justice, non-discrimination, justice, transparency and efficiency, etc., etc. Someone has to explain to ESH, that it did not work that way.

We request the PRB

to select another SE, which in this geodetic education and experience, and

2. to have read LPP04 / L-042 and if he is lazy let him read article 1,2, 3, 7 and 28 and it is enough for this subject. We ask the PRB to hold open sessions, also in digital online form, as the whole world is doing. Friendly greetings.

Economic operator "DWH Albania" SH.P.K.-Albania, on the 19.02.2021 through memo has notified the PRB that does not agree with the opinion of the review expert.

Dear PRB, we are familiar with the expert report (ESH) and reject it for the following reasons: Step by step We note that the PRB has merged two different complaints into one, and this is a misdemeanor the already repeated legal of the PRB. This fact becomes even more serious, as by merging two different cases into one, the PRB turns the case from "individual complaint (lawsuit)" to "collective complaint (lawsuit)", but the collective lawsuit is not accepted in the system of Kosovar justice, which relies on European justice and not American justice (where the collective lawsuit is accepted in the system). But even in the American system, the collective lawsuit is not selected by the court, but by the plaintiffs. So this stagnation of the PRB is and remains unique in its kind, although wrong. But this illegal merging of separate cases into a single one, which has nothing to do with ESH, would be enough for the case to be reviewed. close the parentheses. Let us take turns the deeds and non-deeds of the so-called ESH Claim 1, (according to ESH) and non-existent claim (according to DVVHAL) It is raised (invented) by ESH, as we have not complained about the fact that CA has not set technical specifications for GPS. We have emphasized that CA has not set nominative technical specifications for GPS, to emphasize the fact that it sets specifications for the Controller (auxiliary part) and through the controller decides for GPS. Conclusion 1: ESH filed a complaint on its own and then dismissed it on its own! Claim 2 (according to ESH) and claim 1 (according to DVVHAL). CA decides on the technical specifications of the Controller, the request for 4GB Memory. The young woman then treats this request in response to our request for reconsideration as a "request for theoretical space and not as a request for internal memory". Conclusion 2: ESH, although it gives us the right, is not impressed by the behavior or the deceptive language of the CA, which puts in the controller a request that - yes according to the CA - is not for the controller (!). Claim 3 (according to ESH) or claim 2 (according to DWHAL), Foreign requests for products such as GPS / Total Station, e.g. formats such as DĚG, CSV, TXT, Shapefile etc. ESH borrows the response of the CA, that this is a need of the CA as it uses the Cadastral MAP system. But the tender is not based on one foot (request), but on two legs (also the offer) This request has nothing to do with Work Software, because in work software it contains the works, ie the applications that are offered, such as: Recording , Dotting Line reference Reference plan

Fixed remote distance altitude, etc., formats, also from the word, are forms of data packing, which are passed from the controller to the computer and vice versa and are therefore given in the controller datasheets, and not in the datasheets. of working software. Cadastral Map has nothing to do with these formats. Cadastral Map is a map with well-defined objects such as parcels, streets, canals, buildings, etc. etc. This

requirement is easily met by requesting the "possibility of map (maps and / or sketches) in the controller", which is now offered for 10 years by any manufacturer.

Whereas DĚG is a by-product of Autodesc, so it is a copy of Auto CAD and it is not understood why a copy is required and not the original, if the request would be obvious !!! DĚG has nothing to do with Cadastral map. Question: what GPS are you using at this time AK? Conclusion 3: Lacking education in the field of geodesy, ESH has been found "negligent" and therefore has fallen short of this point, borrowing the erroneous answer of the CA and making it to himself. But the legislator did not foresee that ESH, be foreign and uneducated for the field in which it must give expertise ?! this poses a problem for the law and its custodian (PRB). Claim 4: (according to ESH) and claim 3 (according to DWHAL) The request for authorization from the manufacturer for GPS, and not the request for Authorization for Total Station, was noticed by ESH, but the fact that CA has resisted in improving this request half, clearly shows that CA knew that the preferred EO would provide GPS from the manufacturer he represents and possibly Total Station from an anonymous manufacturer.

Conclusion 4: Now CA and preferred EO, will have to slightly review the terms of the preliminary agreement they have made between them, that with this recommendation the Station will have to be covered by MAF, and this may have an impact on the price and in the price / cost ratio, and the terms that stem from this change ?! Claim 5: (according to ESH) and claim 4 (according to DWHAL).

Our request, that the CA to inform us where are the specifications required by the CA, ESH calls it unfair and then plunges into a salad of irrelevant and meaningless words. ESH even requires that EO should say (quote) "in which case the formulation of a specification discriminates against EO" and further adds "CA can not use a concrete brochure of a product or a manufacturer" Short introduction - Philosopher Socrates people in the unlearned, semi-learned and learned, where at first he classified them as harmless to society, even generous, because sooner or later, but much earlier, they voluntarily admit their mistake, which of course stems from ignorance, as the respondent does not know he is ignorant. The defendant demands only one condition, to admit his mistake, which as we said stems from the lawsuit. He wants you to give him a chance to speak. The more it talks, the faster it decomposes. closing the parenthesis. ESH with his "expertise", confirms the claim of Socrates. He finally admits that he is ignorant in the field of geodesy, but talking at length - even as long as he adds the points of complaint from 4 to 5 and what he adds he drops himself - he admits that he has not even read the LPP of the Republic of Kosovo.

You have discrimination in the request for formats, which are not found in the datasheets of any manufacturer, but ESH has not understood and continues and asks ?????? !!!!! But it is enough to read the "rrumpallen" that he writes in claim 5 to understand that he is not only without knowledge in the jurisdiction of the Republic of Kosovo, but has not even read the PPL of the Republic of Kosovo. ESH calls our request to the CA, to "inform us where are the technical specifications required by the CA" wrong, even illegal (?!). But ESH did not understand that this request is not ours but LPP04 / L-42, Article 28, point 1, sub-point (ii) "Anyone send a clear statement indicating where such technical specifications can be obtained "ESH does not even have the idea that LPP puts in the groove CA, with a series of articles and points, to ensure justice, transparency, non-discrimination, integrity, efficiency, etc. etc. But the CA, if it were based only on its own needs - as ESH thinks - how could it ensure justice, transparency, non-discrimination, integrity, efficiency, etc. for things he does not know and has not taken into account? We inform ESH, the procedure provided by law for the preparation of the tender dossier. A

year ago the CA identified its need for the product it wanted to buy (eg geodetic equipment). For this it must determine a) technical specifications, and b) budget CA researches the internal market - when the internal market is insufficient and the external market - looking for offers from different bidders / manufacturers. Based on the received bids are determined 1. technical specifications, which a) are met by as many datasheets of products, and b) that meet as satisfactorily as possible the needs of the CA, and 2. Tender budget, based on economic bids So , ESH, must understand that only based on two legs DEMAND (needs of the CA) and OFFER (market) can be realized the requirements of the PPL. Conclusion 5: CA should provide not one datasheet, but several datasheets, on which the CA is based to select technical specifications. Only this market analysis makes it possible for the tender to be fair, transparent, non-discriminatory, efficient, professional, with integrity etc, as well as foresees the PPL.

Request to the PRB. We request the PRB to establish an ESH, which has the necessary geodetic education and sufficient knowledge of the PPL of the Republic of Kosovo, to analyze the case 98/21. The report of ESH, Kreshnik Spahiu, is a desperate proof that this person is absolutely unable to perform this task. He has no stature for such a task. The PRB should be sensitive to the limits of Mr. Spahiu. Eri Celiku Office Manager
Legal advice: Haxhia & Hajdari Law Firm - Technical advice: Leica Geosystems.

The hearing session was held on: 23.02.2021, the President of the panel opened the main review session of the complaint held in ZOMM at 14:00, which was attended by all members of the review panel, the representative of the complaining EO, representatives CA was not present at the hearing, review expert, where the case files were reviewed by checking and analyzing the documentation for the procurement procedure which consists of: authorization to initiate the procurement activity, contract notice, complaints of operators economic report of the procurement review expert and all complaints of the parties in the procedure.

Review panel after reviewing the complaint of the economic operator “DWH KOSOVA” LLC - PRISTINA and reviewing the complaint of the economic operator “DWH ALBANIA” LLC - TIRANA, clarifies that the complaining claims submitted by the two complaining economic operators are the same and relate to the tender documents, respectively the technical specifications. Both complaining economic operators, on the 25.01.2021 have submitted a request for reconsideration to the CA with the same complaining claims as in this complaint. CA on the 28.01.2021 has issued a decision by which rejects the request for reconsideration.

Since both economic operators have the same claims in terms of the content of the points of complaint, as well as the same in terms of allegations of legal violations, the Review Panel will provide clarifications on these claims for both economic operators.

Regarding this procurement activity, have been complained three complaints from the complaining EO “DWH KOSOVA” LLC, for which the review panel has decided according to the decisions with number PSh.no.458 / 20, PSh.no.640 / 20 and PSh.nr.1021 / 20. Also, complaining EO some of the complaining claims presented in this complaint such as formats and the authorization has not presented as complaining claims in the past despite the fact that these claims have been decided from the beginning.

Complaining EO claim that CA has violated the provisions of the LPP by not setting sufficient requirements for GPS. CA in the tender dossier, respectively in advance has

presented the technical specifications, where among others has defined "To support all global satellite systems that are in operation: GPS, GLONASS, Galileo, Beidou (with all relevant signals for each system satellite provided by the manufacturer) ”.

Review panel clarifies that the Law on Public Procurement in Kosovo, respectively Article 28 stipulates “CA will compile technical specifications in such a way that they are in line with the purpose of procurement and aimed at ensuring the best possible access to it. all interested economic operators and tenderers. CA is particularly prohibited to draft technical specifications that favor or discriminate against one or more EOs.

Regarding this claim we clarify that since the claims are not exclusive the complaint claim is unfounded.

Complaining economic operators also claim that CA has set discriminatory specifications for the internal memory, thus requesting 4 GB internal memory.

Review panel conform to the review expert clarifies that in the document PARAMASA-Supply with equipment of GPS instrument and Total Station published by CA on the 20.01.2021, is described in position 1. GNSS / GPS, respectively the GNSS antenna controller is described the request “Space storage (data storage) not less than 4 GB ”.

Review panel conform review expert clarifies that in the decision of the CA of the 28.01.2021 it was ascertained that no internal memory is written, consequently it means that it is not obligatory to be internal memory. Therefore, despite the specification of the storage space is done within the controller, the explanation given by the CA in response to the request for reconsideration would oblige the CA to take it into account during the evaluation therefore could not exclude EOs that provide memory. external. In conclusion the appellate claim on this point is partially grounded.

Complaining economic operators claim that CA has set requests such as formats DĚG, CSV, txt and Shapefile, formats according to the complaining EO these requests go beyond the requirements of the equipment required in this procurement activity.

Review panel conform review expert clarifies that CA in the document PARAMASA-Supply with equipment of GPS instrument and Total Station published on the 20.01.2021, in position 1, respectively in the Field Software among others has set the requirements: “To have the possibility of export in DĚG, CSV, ShapeFile, TXT formats ”and“ To be able to import DĚG, CSV, ShapeFile, TXT formats To be able to export in DĚG, CSV, ShapeFile, TXT formats ”. In the decision of the CA for rejection of requests for reconsideration dated 28.01.2021 CA has ascertained that the reason why these formats are needed is due to the use of CadastralMap software and all geodetic measurements accepted by the field are in the formats that CA has specified in the software requirements in this procurement activity and that these formats are a necessity. Therefore, according to the course materials, the type of formats is specified within the software of measuring devices. Further taking into account the statements of the CA, we consider that based on the needs stated by the CA, the complaining claim is unfounded on this point, as the CA cannot be forced to give up claims that are basic needs and without which do not need equipment.

EO claim that CA has acted in contradiction with the LPP in the case of division of positions in the request for Authorization from the manufacturer.

Review panel conform to the review expert clarifies that CA in the contract notice and tender dossier has placed the request for technical and professional capacity number 3 “Authorization from the manufacturer or dealer that proves that the company is

authorized to sell GPS device-original or copy of certified ”and for this request has requested that EO to present the documentary evidence formulated as follows:“ Authorization from the manufacturer or dealer that proves that the company is authorized to sell the GPS device-original or certified copy is required ”. In the decision of the CA dated 28.01.2021, CA has not treated this claim consequently has not given reasoning or answer. Regarding this claim since the two positions are important and have interactive functions within a project, it is recommended to the CA to request Authorization for both devices. Therefore the complaining claim is partially grounded for the fact that such a claim has not been addressed by the CA in the framework of the request for reviewing. Regarding the complaining claim submitted by the complaining EO that CA must inform where are the technical specifications and provide information for "data sheet". Review panel conform review expert clarifies that according to the LPP, CA must compile the technical specifications in such a way that they are in accordance with the purpose of the procurement and aimed at providing the best access for all EOs and that it is forbidden to draft technical specifications that favor or discriminate against one or more EOs. Therefore in this sense, EO must submit claims in which case the wording of a specification discriminates complaining EO and in no case CA can not use a concrete brochure of a product or a manufacturer. Therefore the complaining claim is ungrounded considering that such a request of the complaining EO is not based on any provision of public procurement legislation.

Regarding the complaint of the economic operator “DWH Kosova” LLC-Prishtina dated 19.02.2021, where in this memo rejects the merging of two cases into one only with the reasoning that the complaint is not related to the complaint of DWH - ALBANIA sh.pk, which is a legal entity of Albanian law, while we are a legal entity of Kosovo law. Further, in this preamble he emphasizes that the law firm, which advises and represents our subject fails to find the legal basis of this merging of two different cases and two competing subjects in a single case, "creating collective lawsuits" , which contradicts the civil code of the Republic of Kosovo.

Review panel initially explains to the complaining economic operator “DWH Kosova”, that in the Republic of Kosovo there is no Civil Code as claimed by the complaining EO. Regarding the claim that the legal studio of the complaining EO fails to find the legal basis where he emphasizes: "of this amalgamation of two different cases and two competing entities between them in a single case", Review Panel clarifies the complaining EO and the legal studio. of the complaining EO, that the merging of the procedure is done based on the Law on General Administrative Procedure, more precisely based on article 84 (Merger of administrative issues in a procedure), where in this article is defined:

The competent public body may merge several administrative proceedings into a single one, if the rights and obligations of the parties involved are based on the same or similar factual situation and legal basis.

2. The joinder of proceedings does not restrict the right of the parties to file various claims or claims.

Since it is about the same procurement activity and the same complaining claims, review panel in order to efficiency of the administrative procedure, based on the article 10 of the Law on General Administrative Procedure, made merging several administrative procedures into one, by par. 2 of article 10 of this law has defined:

The public body conducts the administrative procedure as soon as possible and with the least expenses, for it and for the party, without compromising what is necessary for a lawful and appropriate result of the administrative procedure.

Regarding the other claims in the complaints of the two economic operators, violating the professionalism, integrity, dignity of everything else of the review expert, Review Panel clarifies to the economic operator that for any dissatisfaction in the procedure, either with the opinion of the expert or with the findings of Review Panel may file a complaint with the competent court. On the contrary, the Review Panel warns the two economic operators to file a complaint in accordance with the provisions of the LPP and not to deal with insults by going to the personal level because it is not in the competence of the economic operators to assess the skills of the review experts. Also, the Review Panel clarifies to both economic operators that it is not the first time that in their complaints they have an aggressive approach towards the review experts only because they do not agree with the opinion of the experts. On the contrary, the two economic operators oblige the Review Panel to take legal action against them.

Review panel after reviewing the case file, reviewing the complaining claims of the complaining EO, findings, concrete analysis and recommendations of the review expert, declaration of the parties in the procedure, discussions and screening of evidence in general, comes to the conclusion that the contracting authority should necessary changes in the tender dossier, taking into account the clarifications of the review expert and the findings of the review panel.

Review panel conform article 117 of the LPP, and based on the evidence presented above decided as in the provision of this decision.

Legal advice:

Aggrieved party can not appeal against this decision, but it can file charges for damage compensation within 30 days, after the receipt of this decision with the lawsuit In the Basic Court In Prishtina at the Department for Administrative Affairs.

President of the Review Panel

Mr. Blerim DINA

Decision to be submitted to:

1x1 CA – MA of Gjakova

1x1 EO “DWH Kosova” SH.P.K-Prishtinë;

1x1 OE “DWH Albania” SH.P.K.-Tiranë-Shqipëri

1x1 Archive of the PRB

1x1 For publication on the website of the PRB.