



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

Psh. No.795/23

Pursuant to the article 105 point 1 and 2 as well article 109 point 2 of the Law on Public Procurement of the Republic of Kosova no.04/L-042, amended and supplemented by Law No. 04/L-237, Law no.05/L-068, and Law no.05/L-092, after reviewing the complaint of the Economic Operator (EO) “DataProgNet” SH.P.K, related to the procurement activity: “Maintenance and Update of the Electronic Document Management and Archiving System (SMAED)”, with procurement no: 214-23-7918-2-1-1, initiated by the Contracting Authority (CA) - MINISTRY OF INTERNAL AFFAIRS, the President of the Procurement Review Body Vjosa Gradinaj Mexhuani, on the 02/11/2023 has issued this:

DECISION

Dismissed as not allowed, the complaint of the EO “DataProgNet” SH.P.K, with protocol no.2023/0795 of the 14/10/2023, complaint filed for the procurement activity: “Maintenance and Update of the Electronic Document Management and Archiving System (SMAED)”, with procurement no: 214-23-7918-2-1-1, initiated by the Contracting Authority (CA) - Ministry of Internal Affairs.

It is allowed the Contracting authority - Ministry of Internal Affairs, to continue further with the procurement activity: “Maintenance and Update of the Electronic Document Management and Archiving System (SMAED)”, with procurement no: 214-23-7918-2-1-1, regarding this complaint, if there is no other complaint about this procurement activity.

In accordance with Article 31, point 4, of the Rules of Procedure of the PRB, the complaining economic operator will be refunded the complaint’s fee in the amount deposited when the complaint was submitted. The complaining EO is obliged to, in accordance with Article 31 point 6 of the Rules of Procedure of the PRB, within a period of sixty (60) days, make a request for the return of the insurance of the complaint, otherwise the deposit will be confiscated, and these funds will go to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances-

The Procurement Review Body in the electronic system dated 14.10.2023 has received the complaint no. 795/23 from EO "DataProgNet" SH.P.K, regarding the procurement activity: "Maintenance and Update of the Electronic Document Management and Archiving System (SMAED)", with procurement no: 214-23-7918-2-1-1, initiated by the Ministry of Internal Affairs, in the capacity of the Contracting Authority.

On the 04.10.2023, the Ministry of Internal Affairs in the capacity of the Contracting Authority has published the Notice on the Decision of the CA.

Dated 09.10.2023 EO "DataProgNet" SH.P.K. at 11:43 p.m. he made a request for reconsideration at the CA. Whereas on the 11.10.2023 the CA rejected the request for reconsideration of the economic operator as out of deadline.

-Administration and Evaluation of Evidence –

From the evidence presented proves that for the procurement activity "Maintenance and Update of the Electronic Document Management and Archiving System (SMAED)", with procurement no: 214-23-7918-2-1-1, initiated by the Contracting Authority - Ministry of Internal Affairs, the notice of the CA was published in the e-procurement system on the 04.10.2023. While on the 09.10.2023 at 23:43 EO "DataProgNet" SH.P.K. had made a request for reconsideration at the CA. On the 11.10.2023, the Contracting Authority rejected the request for reconsideration of the economic operator as out of deadline.

The complaining EO was obliged, in accordance with paragraph 3.2 of Article 108/A of the LPP, within the legal deadlines to submit a request for reconsideration to the CA and only after conducting the preliminary procedures in the CA, the economic operator in accordance with Article 109 of The LPP will be able to file a complaint to the PRB. Article 108/A paragraph 3.2 of the LPP stipulates that the complaining economic operator must submit the request for review to the relevant contracting authority: *if the alleged violation is related to the decision for contract award or a design competition, within the period of five (5) days after the date of the notification for the contract award or the notification on the results of the design competition that is sent to the complainant.*

Likewise, Article 60.1 point b) in Regulation 001/2022 on Public Procurement determines that: *Whenever the request for reconsideration concerns the decision to contract award or a design competition within the period of five (5) days after the date of publication of the notice on the decision of the CA (B58) or the notice on the results of the design competition in the electronic procurement system. In calculating the time limits, the day of publication of the Notice on the decision of the CA (B58) is day (0).*

It is established that the complaint submitted to the Procurement Review Body dated 14.10.2023 by EO "DataProgNet" SH.P.K., for the procurement activity with title: "Maintenance and Update of the Electronic Document Management and Archiving System (SMAED)", with procurement

no: 214-23-7918-2-1-1, initiated by the CA- Ministry of Internal Affairs, is dismissed as not allowed because the complainant did not submit the request for reconsideration within the legal deadlines against the notification of the Contracting Authority. Therefore, the Procurement Review Body clarifies that only after leading a regular preliminary procedure and within the legal deadlines at the CA, the complainant can file a complaint at the PRB.

In conclusion, this complaint is in violation of Article 108/A and 109 of the Law on Public Procurement, and Article 60 of Regulation 001/2022 on Public Procurement, and as such it is dismissed as not allowed and was not reviewed by the PRB.

Contracting authority - Ministry of Internal Affairs, can continue with the procurement activity (described above) if there is no other complaint about this activity. The Procurement Review Body informs that in every activity CA must act in accordance with the provisions and legal authorizations as defined by article 1, 6, 7, 27, 28, 59, 60, 65 of the LPP.

Regarding the complaint's fee, it is decided in accordance with Article 31, point 4, of the Rules of Procedure of PRB, that the complaint's fee is returned to the complaining economic operator in the amount deposited when the complaint is submitted. The complaining EO is obliged, in accordance with Article 31 point 6 of the PRB's Rules of Procedure, within sixty (60) days to make a request for the return of the complaint insurance, otherwise the deposit will be confiscated, and these funds will go to the Budget of the Republic of Kosova.

The President of PRB, based on what was said above, decided as in the provision of this decision.

President of the PRB

Vjosa Gradinaj

Legal advice:

An appeal is not allowed against this decision,
but the dissatisfied party can appeal to the Commercial Court,
within 30 days from the date of acceptance of this decision.

Decision to be submitted to:

1x1 CA –**MINISTRY OF INTERNAL AFFAIRS;**

1x1 EO – **“DataProgNet” SH.P.K.;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.

