



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

Psh. No.0005/25

The Review Panel, appointed by the 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 Batisha Ibrahim – Batisha Ibrahim, Isa Hasani and Vedat Poterqoi - Members of the Review Panel, deciding upon the complaint of EO “Lurn SH.P.K , against the Decision to cancel the procurement procedure regarding the procurement activity Construction of a typical kindergarten in Klina with procurement number: 208 Leader-24-352-5-1-1, initiated by the contracting authority (CA) - Ministry of Education, on the 24/03/2025, has issued this:

DECISION

1. Approved, as grounded the complaint of the EO “Lurn Sh.P.K ,with no. 2025/0005 dated 01.01.2025 regarding the procurement activity "Construction of a typical kindergarten in Klina" with procurement number: 208 Udhehekesi-24-352-5-1-1, (AK) - Ministry of Education.
2. Remains in force, Notice on the Decision of the Contracting Authority - Ministry of Education, regarding the procurement activity with the data as in point I of the provision.
3. Since the complaint of the complaining EO is approved as partially grounded, the complaint's fee is refunded in the amount deposited when submitting the complaint. The complaining EO is obliged, in accordance with Article 31, point 6 of the Rules of Procedure of the PRB, to make a request for the return of the complaint security within a period of sixty (60) days, 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 Ministry of Education, in the capacity of the Contracting Authority, has published the Contract Notice B05 regarding the procurement activity with "Construction of a typical kindergarten in Kline" with procurement number: 208 Udhehekesi-24-352-5-1-1.

While on the 20.12.2024 the CA has published the B58 Notice on the decision of the Contracting Authority where it has awarded with the contract to Euroing SH.P.K.

This procurement activity was carried out through an open procedure with the type of work contract and with an estimated contract value of 1,400,000.00 Euro.

On the 24.12.2024 EO Lurn SH.P.K. submitted a request for review against the above-mentioned decision of the CA. On 27.12.2024 the Contracting Authority rejected as unfounded the request for review.

On the 01.01.2025, the PRB received the complaint from EO Lurn SH.P.K. with no. 0005/2025 regarding the procurement activity "Construction of a typical kindergarten in Kline" with procurement number: 208 Leader-24-352-5-1-1.

-On the preliminary review phase-

The PRB has found that the complaint contains all the elements set out 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 the resolution of disputes in the sense of Article 108/A of the LPP, by the economic operator who is an interested party according to Article 4 paragraph 1 sub-paragraph 26 of the LPP. In this way, the Review Panel 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 Lurn SH.P.K. are presented as follows: Claim 1: Lack of complete documentation for the tender: The contracting authority has declared the winner the company NPN EUROING SHPK, although this company has major shortcomings in the technical documentation and has offered a higher price than our offer. This has occurred due to a violation of the legal provisions that are set out in Article 59 (Examination, Evaluation and Comparison of Tenders) and Article 7 (Equality of Treatment / Non-Discrimination) of the Law on Tenders. We were eliminated on the grounds that our company did not submit some required documents. This is incorrect, as we submitted all the required documents for the tender security and followed the requirements of the tender dossier, which include the required security of 40,000 euros and the specified deadline of 120 days (as indicated in our attached documents).

Claim 2: Violation of the law by the Contracting Authority regarding staff documents: Furthermore, the Contracting Authority did not conduct a full and direct check of the documents submitted by us regarding the required staff. According to the law, if the economic operator (EO) has the list of required staff, the contracting authority is obliged to request additional documents

if necessary. This did not happen and there were no requests for additional information from the contracting authority. We submitted a full staff and relevant documents including:

Masar Kabashi (Project Manager - Architectural Engineer): All required documents, including list of completed projects.

Arsim Rapuca (Workshop Manager - Civil Engineer): All required documents, including list of completed projects.

Valdet Mehmetaj (Electrical Engineer): All required documents, including list of his completed projects.

Gazmend Krasniqi (Mechanical Engineer): All references and lists for completed projects.

Halim Bajramaj (Civil Engineer): Necessary documents for his experience and completed projects.

Suad Cmega (Geodetic Engineer): Completed documents for experience and relevant references.

Fehmi Shaqiri (Facade worker), Osman Pllana (Bricklayer), Azem Hyseni (Reinforcer), etc.

Claim 3: Lack of verification of technical and engineering staff: The tender dossier

requires a list of staff, which includes 20 employees employed on average over the last three years, including qualified persons with five years of work experience after graduation. We have submitted all documents proving compliance with the requirements of the dossier, including notarized training certificates for trained workers and the required documentation for technical and engineering workers. No other request for documents has been made by the contracting authority.

Claim 4: Insufficient control of machinery and equipment: Several types of machinery are required in the FDT, including a truck crane, a dozer, a compressor and a buffer compactor. We have provided all the required equipment, which is documented and contracted with other companies for use. For example, we have submitted: A truck crane with a capacity of 10 tons (in cooperation with NNT Bini shpk).; Dozer and buffer compactor, which are in accordance with the TDS requirements. A semi-trailer compressor, which is in accordance with the requirement for a compressor to be towed over 1.5 tons.

Claim 5: Incomplete diplomas and documentation of the winning company: The winning company, NPN EUROING SHPK, presented professional diplomas from Albania, which are not nostrified in Kosovo, thus violating the rules on the validity of educational documents for companies operating in Kosovo. For example, the diplomas of Astrit Morina (machine operator) and Taulant Morina (skeletist) are not nostrified and have not been verified as licensed.

Conclusion: Our company, Lurn Shpk, has been unfairly eliminated from the tender process, and the Contracting Authority has violated legal and technical procedures. This has resulted in considerable material and reputational damage to our company. We request that the decision be

reviewed and our claims be taken into account in accordance with the law. If the decision is not reviewed, we will be forced to turn to the competent authorities to resolve this issue.

Response to the request for reconsideration:

REJECTED as unfounded the request for review, submitted by:

Group of Economic Operators: LURN SH.P.K.; LIMITPROJECT SH.P.K., Rr. Ibrahim Krasniqi no.10, 10000, Prishtina.

Reasoning: Group of Economic Operators: LURN SH.P.K.; LIMITPROJECT SH.P.K., Rr.

Ibrahim Krasniqi no.10, 10000, Prishtina, as a dissatisfied party, has submitted a request for review on 24.12.2024, against the notification of the decision of the Contracting Authority, regarding the tender: Construction of a typical kindergarten in Klina, claiming that the provisions of the Law on Public Procurement (LPP) have been violated, as follows:

Complaint Allegations

The above Group of Economic Operators alleges that the Contracting Authority has violated:

Article 7 - Equal Treatment / Non-Discrimination

Article 59 - Examination, Evaluation and Comparison of Tenders

Article 1 - Purpose

Article 22 - Initiation of the Procurement Activity

Article 27 - Tender Dossier

F02 - Standard Form for Review of the Decision of the CA

Article 60 - Contract Award Criteria

Article 69 - Technical and/or Professional Capability

Detailed statement of facts and arguments regarding the EO's points of appeal

We, as the Contracting Authority, have carefully reviewed all the appeal claims submitted in the request for reconsideration. We consider that none of the complaining claims are grounded.

We, as the Contracting Authority, stand behind the decision: B58 - NOTICE on the decision of the Contracting Authority dated 20.12.2024.

Based on what was stated above, it was decided as in the petition of this decision.

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 16/01/2025 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 0005/2025, while on 27/01/2025 the review expert's report with no. 2025/0005 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 is rejected as unfounded and that the decision of the CA remains in force.

The expertise report has been duly accepted by all procedural parties. CA declares that it agrees with the recommendations of the review expert report, while EO has not responded regarding the review expert report. The review panel has assessed that the conditions have been met to decide on this case without a hearing session within the meaning 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 review expert report provide sufficient data to decide on the merits of the case.

Administration and evaluation of evidence —

In order to fully establish the factual situation, the review panel has administered as evidence the expert report, the opinions of the parties regarding the expert report, the complainant's submissions and documents, the letters and documents of the contracting authority, the relevant documents regarding the procurement activity, as well as all evidence proposed by the procedural parties. Regarding the claims of EO Lurn SH.P.K., the review expert through report no. 2025/0005 has assessed as follows:

Response to Claim No. 1 The Group of EO “LURN SH.P.K. LIMIT PROJECT SHPK” RR. AGIM RAMADANI NR. 1, Prishtina, claims that A.K., the Ministry of Education, has not respected Article 7 of the LPP.

The expert emphasizes that, among other things, the purpose of this article is to instruct contracting authorities on how to treat all economic operators equally without discrimination and with transparency during the conduct of procurement procedures. The claim of the complaining EO is, among other things, that we have met all the criteria set out in the RU and the tender dossier, and that in contradiction with the purpose of Article 7 of the LPP, we have been eliminated.

Finding of the Review Expert: The expert clarifies that regarding this claim of the complaining EO, the same claim is not more broadly based. You will find separate answers to each respective claim that are also related to this provision.

Response to Claim No. 2 and 6. The Group of EO “LURN SH.P.K. LIMIT PROJECT SHPK” RR. AGIM RAMADANI NR. 1, Prishtina, claims that A.K., Ministry of Education, has not respected Articles 59 and 69 of the LPP.

The expert emphasizes that the purpose of Article 59 of the LPP is to instruct contracting authorities on how to conduct the examination, evaluation and comparison of tenders. Initially, the contracting authority has established the evaluation commission, which, after evaluating the received offers, has given the recommendation and the same has been approved by the procurement manager.

While the purpose of Article 69 of the LPP is to guide contracting authorities regarding technical and professional capacity, and for this phase it means respecting the criteria set out in the NQ and TD regarding technical and professional capacity.

The complaining EO claims that “The tender security is charged in accordance with the request of the tender dossier, amounting to 40,000.00 € with a term of 120 days (please find attached to the offer)”.

Clarification: The Review Expert has checked the tender insurance policy and it has been confirmed that the same was submitted with the bid of the complaining EO as foreseen in the tender dossier and meets all the requirements, as required in the DT (FTD), article 13.1. More specific clarification from the Expert: Apparently, only in the standard letter for the eliminated tenderers has remained only the formally shaded text as compiled by the PPRC. The contracting authority has not deleted that data, has not modified the standard letter according to the needs, but has left it as it is on the PPRC website.

While in the justification of the standard letter, it is not stated that the offer did not fulfill the tender security, this is also confirmed in the evaluation report, where the CA has found that the tender security is in harmony with the requirements of the CA. Therefore, since the EO has not been eliminated for the tender security, the expert considers that there is no need to find out about this alleged point, only to clarify and eliminate these uncertainties for the complaining EO. The tender security is in harmony with the requirements of the CA and the CA has taken for granted the tender security submitted together with the offer by the complaining EO.

The complaining EO claims: "First of all, a violation was committed by the CA, because according to the law, if the EO has the list of required staff, it is obliged to request additional documents if necessary, which you as the CA have not even bothered to request additional documents. In fact, you have not even tried to open our bid to see if the documents conform to the requirements of the tender dossier."

Point 1: The complaining EO claims: “The project manager, architectural engineer, Masar Kabashi, has all the necessary documents, including the list of projects completed by him, to change your claims that he does not possess them.”

Clarification of the Review Expert: The claim of the complaining EO stands. The complaining EO has attached the evidence, the signed CV of the graduate engineer in architecture, Mr. Masar Kabashi, but the same has not submitted the list of managed projects, as requested by the NJK and DT. However, the projects he has managed have been listed in his CV, which fulfill the requirement for Project Manager. Although he has not attached the list of separate projects as requested, since he has listed them in the CV for the purpose of equal treatment, without wanting to favor the complaining EO, the review expert finds it right to take them for granted.

Point 2: The workshop manager, civil engineer Arsim Rapuca, also possesses all the required documents in accordance with the file, including the list of his completed projects. Therefore, your claims are incorrect and unprofessional.

Clarification of the Review Expert: The claim of the complaining EO stands. The EO has attached evidence, the signed CV of the graduate engineer in construction, Mr. Arsim Rapuca, but the same has not submitted the list of managed projects, as requested by the NJK and DT. Also, in order not to repeat the clarification, the same clarification as in point 1 applies, therefore this claim is also grounded.

Point 3: The complaining EO claims that "The electrical engineer, Valdet Mehmetaj, has all the documents required according to the file, including the list of his projects, which are attached to the bid."

Clarification of the Review Expert: The CA responded to the EO as follows: "You have not submitted the list of projects that you have managed."

The EO has attached the required evidence, the signed CV of the electrical engineer, Mr. Valdet Mehmetaj, but he has not submitted the list of projects managed, as requested by the CN and TD. Also, in order not to repeat the clarification, the same clarification as in point 1 applies, therefore this claim is also grounded.

Point 4: The complaining EO claims that "The Machinery Engineer, Gazmend Krasniqi, has attached references and a list of projects for completed works in the documentation file."

Clarification of the Review Expert: The complaining EO's claim stands.

Clarification of the Review Expert: The EO has attached the required evidence, the signed CV of the Mechanical Engineer Mr. Gazmend Krasniqi, but the same has not submitted the list of projects managed as requested with the CN and TD. However, the projects he has managed have been listed in his CV, therefore in order to avoid repetition of the writing, the previous clarification in point 1 is also applicable to this case. Therefore, the claim is grounded.

Point 5 Claim of the complaining EO: "The hydro engineer has a CV and documents that show his experience. We can also prove his experience with the pension trust to prove his experience for the relevant references issued, in completed projects. However, we note again that the CA is obliged by law to request additional information at the moment the engineer is on the staff list, which you have not done." Clarification of the Reviewing Expert: The Expert has analyzed and reviewed this claim by checking the documentation of the complaining EO and comparing the CV of the Hydrotechnical Engineer Mr. Fevzi Jetullahu, as well as by comparing the CV with the criteria provided in the Contract Notice and the Tender Dossier. It has been noted that this CV is not in line with the stipulated criteria and the list of projects he has managed is missing, due to the correctness of the criteria set out in the Contract Notice and Tender Dossier. Also, the two jobs that he has presented as work experience in his personal CV are missing. The attached references do not match the jobs he has listed in the CV. Therefore, the CA has acted correctly by not taking these references into account. When the requested CV does not meet the

requirements, Article 10 of Guideline No. 002/2024, on Supplementing and Amending Guideline No. 001/2023 on Public Procurement, instructs us in this way.

For the reasons stated above, we clarify that the claim of the complaining EO is unfounded. Therefore, the expert concludes that this claim is unfounded.

Point 6. Claim of the complaining EO: "The construction engineer Halim Bajramaj has the requested documents, has sufficient experience and has lists of projects for completed works. However, you as the CA have not even taken the trouble to check our offer."

Clarification of the Review Expert: The EO has attached the required evidence, the signed CV of the Civil Engineer Mr. Halim Bajramaj. But he has not submitted the list of projects managed as requested with the NJK and DT. The projects that he has managed are listed in his CV. In order to avoid repetition of the writing, the previous clarification in point 1 is also applicable to this case. Therefore, the claim is grounded.

Point 7. Claim of the complaining EO: "The geodesy engineer Suad Çmega has the completed documents and your claim does not stand.

Clarification of the Review Expert: The EO has attached the required evidence, the signed CV of the Geodesy Engineer Mr. Suad Çmega. But he has not submitted the list of projects managed as requested with the CN and TD. The projects he has managed are listed in his CV. In order to avoid repetition of the writing, the previous clarification in point 1 is also applicable to this case. Therefore, the claim is grounded.

Point 8, 8.1. Complaining EO's claim: "We have attached the staff list with the relevant documents of all the above-mentioned, as follows: We have attached 2 construction workers: Arsim Rapuca, Civil Engineer, Halim Bajramaj, Civil Engineer, Architect Masar Kabashi, Florim Kajtazi, Architect, Fevzi Jetullahu, Hydro Engineer, Gazmend Krasniqi, Machinist, Valdet Mehmetaj, Electrician, and Suad Çmega, Surveyor. While the technicians as Facade Worker Fehmi Shaqiri, Bricklayer Osman Pllana, Reinforcer Azem Hyseni, Machinery Operator Leotrim Bajraktari, Scaffolder Ahmet Avdiu, Plasterer Mendurim Shoshi, Crane Operator Sadri Sutaj. In the FDT, the engineering staff is not required to be technicians and the term "technician" is not mentioned anywhere. The same can be used in point 8, unless otherwise stated. Regarding trained workers, we have attached the documents as requested in the file:

For trained workers, notarized certificates for training from accredited institutions or certification bodies must be presented and no other documents are required, as you claimed in the decision sent to our company.

Finding of the Review Expert: The claim of the complaining EO does not stand. Regarding the finding of the CA, that the complaining EO has not presented two qualified construction workers with vocational schools accredited by state institutions, as was the request no. 8, and the required

evidence, you have also not attached the list of projects identified and signed for two construction workers.

The expert explains that this finding of the CA stands, because the complaining EO claims to have attached two construction workers: Arsim Rapuca, Civil Engineer and Halim Bajramaj, Civil Engineer, who claim to meet the requirement III.2.4 and also the requirement no. 8 of the CN and TD. See requirement no. 8 of the CN and TD.

The expert explains more specifically that with the Contract Notice and the Tender Dossier, requirement III.2.4 and requirement no. 8 are different requirements and with these criteria different staff are required.

The complaining EO claims that with the staff for the Request III.2.4, it claims to also meet the criterion no. 8 of the Contract Notice and the Tender Dossier. This is wrong, because requirement no. 8 requires at least 20 workers with different qualifications, which means that both requirements, separate and defined as they are, must be met.

So, two requests cannot be fulfilled with the same staff, as each one must be fulfilled separately. Therefore, the expert finds that the claim of the complaining EO is unfounded.

8.2. Regarding the finding of the CA, that the complaining EO has not presented two qualified architects with professional schools accredited by state institutions, as was the request no. 8, and the requested evidence, you have also not attached the list of projects identified and signed for two architects. The expert explains that this finding of the CA stands, because the complaining EO has attached two Architects, such as Masar Kabashi, architect and Florim Kajtazi, architect, and has also presented them for the fulfillment of the request III .2.4, who it claims also fulfills the request no. 8 of the CN and TD, as you can see in the request with number 8 of the CN and TD. In order not to repeat the explanation, it is worth emphasizing the explanation given in point 8.1 of this report. Therefore, the Expert concludes that the claim of the complaining EO is unfounded.

8.3. Regarding the CA's finding that the complaining EO has not presented a qualified hydroengineer with vocational schools accredited by state institutions, as was the request 8 and the requested evidence, you have also not attached the list of projects identified and signed for the hydroengineer. The expert explains that this finding of the CA stands, because the complaining EO has attached as a hydroengineer Mr. Fevzi Jetullahu. However, he does not meet the requirements set out in the CN and TD, as explained above in point 5 of this report (in order not to repeat it, refer to point 5 of this report). This means that he does not meet either criterion III .2.4, nor criterion no. 8 of the CN and TD. Therefore, the expert concludes that the claim of the complaining EO is unfounded.

8.4. Regarding the CA's finding that the complaining EO has not presented a machinist, an electrician and a qualified surveyor with professional schools accredited by state institutions, as was the request 8 and the requested evidence, you have also not attached the list of projects identified and signed for the same. The expert explains that this finding of the CA stands, because the complaining EO has attached as a machinist Mr. Gazmend Krasniqi, Mr. Valdet

Mehmetaj electrician and Suad Çmega surveyor, and has also presented them for the fulfillment of the request III .2.4, which it claims also fulfills the request no. 8 of the CN and TD, as you can see in the request with number 8 of the CN and TD. In order not to repeat the clarification, it is worth emphasizing the clarification provided in point 8.1 of this report. Therefore, the Expert finds that the claim of the complaining EO is unfounded.

8.5. Regarding the CA's finding that the complaining EO has not presented a machine operator trained by an accredited institution, as was the request 8 and the required evidence, also the finding that you have not presented the evidence recorded and signed for the machine operator. The expert explains that the machine operator, specified in the staff list, is Mr. Leotrim Bajraktari. He has provided a contract and certificate for professional training and meets the criteria set out in the DT. The documentation of Mr. Leotrim Bajraktari is present in the documents of the consortium member, which means that this criterion has been met by the complaining EO. Therefore, the claim of the complaining EO is grounded.

8.6. Regarding the CA's finding that the complaining EO has not presented evidence for the facade worker, bricklayer, reinforcement worker, scaffolder, plasterer and crane operator. The expert explains that for this staff, the complaining EO has presented evidence as required in the criteria provided for in point 8 of the contract notice. Therefore, the expert finds that the complaining EO's claim is grounded.

Point 9. The claim of the complaining EO, among other things, states: "The risk assessment is in accordance with the request. All job positions have been presented. Nowhere in the FDT does it mention an architectural technician or a geodesy technician. Only an architect and a geodesist are required." The expert finds it necessary to remove all dilemmas about this criterion and therefore presents the criterion defined by the NU and DT as follows: The requested evidence 9 denies the claim of the complaining EO, because it is clear that it was requested that the risk assessment be proven through a report, the risk assessment for all jobs required in requirements 1-8 of this DT, by a company licensed by the MLSW, notarized. As can be seen in the risk assessment report submitted by the complaining EO, not all positions foreseen in the tender dossier criteria have been included. See the positions foreseen for risk assessment. That this criterion has not been met is evidenced by comparing these two criteria and the Risk Assessment Report provided by the consortium member Limit Project shpk. Furthermore, this is also verified by the claim of the complaining EO, which states: "At no point in the FDT is there any mention of an architectural technician or a geodesy technician. Only an architect and a geodesist are required." Meanwhile, the criterion is clear and understandable, that the risk assessment must be carried out for all job positions required in requirements 1-8 of this dossier.

Therefore, the Expert finds that the claim of the complaining EO is unfounded. Point 10 Claim of the EO:

"Machinery A) requires a truck crane with a minimum carrying capacity of 10 tons."

The complaining EO claims: "The company has offered the truck crane with the required capacity by making an agreement for the use of the equipment with the company NNT Bini shpk and we have also attached the truck crane's manual. Therefore, your claim is rejected." The

Expert explains that in the manual of this machinery with no. 01-293-UM rented from NNT Bini shpk, it is written as the name: Tipper truck with 2-door crane, therefore the same is not in accordance with the requirement of the tender dossier. Therefore, the Expert explains that the claim of the complaining EO is unfounded. The Expert explains that the claim of the complaining EO is unfounded.

Claim of the EO: "Findings on the winning company: The company declared the winner by your authority, in addition to the price being higher than ours and damaging the Kosovo budget by 114,583.99 euros, has offered Albanian professional skills diplomas, which in fact it is not even known whether they are licensed.

The Ministry of Education, as an institution, verifies all diplomas issued by countries other than Kosovo. Therefore, how can a company that has used non-verified diplomas be declared the winner, specifically the diploma of the construction machine operator, Astrit Morina, issued by a center in the Republic of Albania, the Albanian Employment Agency, and it is not known whether it is accredited and without verification. Likewise, the same diploma without verification is also of Taulant Morina, a scaffolder.

The expert explains: The complaining EO, with this claim, has deviated from the criteria provided for in the NJK and DT. To remove all dilemmas and to provide a more concrete explanation, we are setting the criteria as follows: For this staff, no validated diplomas were required, but the EO declared the winner has submitted evidence as provided for in this criterion, proof of offer from the EO declared the winner.

Therefore, the expert explains and finds that the claim of the complaining EO is unfounded.

Response to Claim No. 3: The Group of EO "LURN SH.P.K. LIMIT PROJECT SHPK"

RR..AGIM RAMADANI NR.1, Prishtina, claims that A.K., the Ministry of Education, has not respected Article 1 of the LPP.

The Expert emphasizes: Among other things, the purpose of this article is to guide contracting authorities to ensure the most efficient, transparent and fair way of using public funds, by determining the conditions and rules that will be applied, the procedures that will be followed, the rights that will be respected and the obligations that will be fulfilled, as well as to ensure the integrity and responsibility of public officials.

The CA has treated the complaining EO as eliminated, because the submitted offer was not in accordance with all the criteria foreseen in the Contract Notice and the tender dossier, even though it was the offer with the lowest price.

Therefore, the Expert finds that this claim is unfounded.

Response to Claim No. 4: The Group of EO “LURN SH.P.K. LIMIT PROJECT SHPK”

RR..AGIM RAMADANI NR.1, Prishtina, claims that A.K., Ministry of Education, has not respected Article 22 of the LPP.

The Expert emphasizes: Among other things, the purpose of this Article is to instruct contracting authorities that, after the NAO has submitted to the Authorizing Officer the Declaration of Needs and Determination of the Availability of Funds, duly prepared and signed by the NAO and the CFO, the Authorizing Officer authorizes the Procurement Officer to initiate the procurement activity.

The Expert clarifies that this provision of the LPP is not related to the claims of the complaining EO, which has only mentioned it superficially without specifying what was not in accordance with this provision.

Therefore, the Expert clarifies that the claim of the complaining EO is unfounded.

Response to Claim No. 5: The Group of EO “LURN SH.P.K. LIMIT PROJECT SHPK”

RR..AGIM RAMADANI NR.1, Prishtina, claims that A.K., Ministry of Education, has not respected Article 27 of the LPP.

The expert emphasizes: Among other things, the purpose of Article 27 of the LPP is to instruct contracting authorities to prepare a tender dossier that provides relevant information regarding the contract in question, including all its material terms and conditions, the applicable procurement procedures, any applicable eligibility requirements or selection criteria, the appeal procedures, and other relevant information as required by this law. The complaining EO has not clearly specified what was not in compliance with Article 27 of the LPP, but has mentioned general allegations related to the violation of Articles 59 and 69 of the LPP, which have been clarified above in this report.

Therefore, the Expert clarifies that the claim of the complaining EO is unfounded

Response to Claim No. 6: The Group of EO “LURN SH.P.K. LIMIT PROJECT SHPK”

RR..AGIM RAMADANI NR.1, Prishtina, claims that A.K., the Ministry of Education, has not respected Article 60 of the LPP.

The Expert emphasizes: The purpose of this article is to establish the criteria for awarding the contract, where the criterion was the responsive tender with the lowest price. The complaining EO has compared its bid with the bid of the EO declared the winner and emphasizes that the declaration of the EO with the highest price as the winner has damaged the budget of Kosovo. However, this claim does not stand, because the bid of the complaining EO, as explained above, did not meet the criteria foreseen by the CN and TD. Therefore, this is also in contradiction with Article 60 of the LPP. The criterion established was the responsive tender with the lowest price, and the winning bid was in accordance with the planned budget.

Therefore, the Expert concludes that this claim is unfounded.

-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 deposited for this procurement activity, as well as from other evidence of the case, it was found that some of the claims are well-founded, as the expert himself has qualified in the report as grounded, the complaining claims: 1,2,3,4,6,7,8,11 and 12.

Based on the factual situation established above, the Review Panel has granted credence to the findings and recommendations in the review expert's report so that the CA's decision remains in force, but considers that the complaint should be approved as partially grounded.

Consequently, 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 Lurn SH.P.K. be approved as partially grounded, while it has decided to remain in force the Notice on the Decision of the Contracting Authority, Ministry of Education, regarding the procurement activity "Construction of a typical kindergarten in Kline" with procurement number: 208 Udhehekesi-24-352-5-1-1.

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 to implement 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 point I of the decision, it was decided based on article 117 of the LPP in connection with article 29 of the PRB Rules of Procedure.

For points II and III of the decision, it was decided based on article 31 paragraph 4, and 6 of the PRB Rules of Procedure in connection with article 118 of the LPP

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

President of the Review Panel

Mrs. Batisha Ibrahim

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 EDUCATION;**

1x1EO–**“LURN SH.P.K;**

1x1 Archive of the PRB;