



**DEMOCRACYPLUS**

# The (many) problems of public procurement

Kamenica, Podujeva, Fushë Kosova, Shtime and Obiliq





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# Acronyms

**PPRC** - Public Procurement Regulatory Commission

**PRB** - Procurement Review Body

**ROGPP** - Rules and Operational Guidelines for Public Procurement

**VAT** - Value Added Tax

# Executive Summary

This monitoring report of public procurement activities focuses on 10 tenders in five municipalities, namely Shtime, Podujeva, Kamenica, Obiliq and Fushë Kosova. For each municipality, two tenders were monitored, starting from initiation of procurement activity and up to the implementation of the contract.

As a result of the monitoring, D+ has identified a number of findings that are common to all five municipalities, but findings distinctive only to one municipality were also noted. The following constitute the focal findings of the report:

- Lack of planning of accurate estimated price of the tender. The municipality of Kamenica paid a much higher price for a cubic meter of wood, compared to the contract of the preceding year or when compared to the municipality of Obiliq. As a consequence of the estimated value which was very high, the municipality allowed economic operators to bid with high prices, resulting in a high value of the contract. The municipality of Fushë Kosova did not estimate accurately how much a used Gold VI cost would. The latter paid 12,975 euros for such a car, whereas its market value is between 9,000 to 10,000 euros.
- Alterations between the title of the tender and scope of work in the bill of quantities. A tender of the municipality of Shtime has the ensuing title and description "Restoration of bridges and riverbed", yet the bill of quantities contains only elements of renovation of bridges.
- Technical specification of contracted goods are not in compliance with the tender dossier requirements. Municipality of Shtime demanded audio and video cameras, nonetheless the cameras that were installed may record only video, but not audio.
- Difficulties in calculating costs for physical security tenders. The municipality of Obiliq did not calculate the costs according to expenses that an economic operator would have compliant to the Labour Law. Consequently, the municipality entered into a contract, which does not cover all costs.
- Imprecise requirements in the criteria of tender dossiers. In some municipalities, there are some unclear and undefined properly criteria. This consist of requests for transportation means without stipulating the weight, requests for space to store wood, but without specifying the range of space.
- Absence of specification of special conditions at the moment when the tender dossier is issued, which ensues only after the contract is signed.

# Introduction

Public procurement in Kosovo has seen continuous improvements from year to year, particularly nowadays when e-Procurement is becoming more and more advanced. Yet, areas that are still reliant on the human factor only, still face challenges. Continuous violations of the law by procurement officials and insignificant punishments against them are producing a state of affairs when the purpose of the Law on Public Procurement (LPP) to have an efficient and economic procurement is not being met.

Oftentimes, it's the companies who have bid on a tender procedure who expose the violations, firstly by complaining to the contracting authority, and when not satisfied with the decision by referring to the Public Review Body (PRB). Nevertheless, when violations are not observed, it's commonly the non-governmental organisations who uncover violations of the law.

For purposes of this report, two monitors per each of the municipalities of Kamenica, Podujeva, Fushe Kosova, Shtime and Obiliq were monitored. These municipalities are small when likened to other Kosovo municipalities, henceforth there is little interest in concentrating monitoring efforts by non-governmental organisations there. Alternatively, selection of terms was also done by combining risks in specific areas, such as tenders on physical security, building of roads, servicing of cars, the estimated value of the tender etc. All steps in the procurement process were examined in this report, including initiation of procurement activity, tender dossier and its criteria, receipt of bids and the selection of the winner and up to the implementation of the contract. Documents were obtained from the e-Procurement platform, whereas in cases when the documents were not found in the platform, they were attained through request for access to public documents.

Democracy Plus through incessant monitoring of procurement activities is dedicated to shed light on violations of the law and to expose potential corruption. Conversely, the findings and recommendations provide a reference point for procurement officials to avoid violations of law provisions in the future.

# Municipality of Kamenica

One of the two monitored tenders in the municipality of Kamenica was the wood supply. The lack of adequate definition of the estimated tender value aided companies to bid with higher prices than the contract for the same service delivered the year prior. Moreover, the prices were higher than in some other municipalities, despite being the same type of wood and quantity.

The other tender monitored was servicing of municipal vehicles. In both lots of the tender, both winning bidders had higher prices for some products and very low prices for others. It appears that the municipality has not compared the prices with the market at all, while companies have foreseen which car parts tend to get broken more often, and have thus provided higher prices precisely for these parts.

For both tenders there were unclear requests in the tender dossier, the area range and tools of work were not defined clearly.

## Wood supply 653-19-6263-1-2-1

The wood supply tender was broken down into two lots, one for wood supply for education institutions and the other one for wood supply for medical healthcare centres and other municipal institutions. The winner of both lots was NTP Mali Company with a price of 81,400 euros per Lot 1 and 25,434 euros for Lot 2. Regarding the first lot, there was a second offer in competition, which was more expensive, while for the second lot, there were three other offers, while one had bid with a higher price and two other bids were deemed not responsive but had lower prices than NTP Mali. Some had been eliminated due to its tools not complying with the circulation card, while the other company Çlirim Berisha B.I. had submitted two price lists. Out of the data provided, it may be concluded that they were eliminated in compliance with the LPP and ROGPP.

When it comes to these tenders, the timing of initiation of the procurement activity is the most crucial element. Wood is a product whose price depends on the season it is bought, hence it is important for this procurement activity to occur during spring/summer, when the price of a cubic meter of wood is the cheapest. Nevertheless, the municipality of Kamenica did not do this, as the tender was published by the end of the summer, while companies submitted their offers only on September 11, 2019.

The estimated tender value was 112,608.50 euros, though it was not specified per lots. For Lot 1 a quantity of 1,850 m<sup>3</sup> of beech wood was demanded while for Lot 2, 261 m<sup>3</sup> of beech wood and 300 m<sup>3</sup> of oak wood was requested. The total requested quantity for both lots was 2411 m<sup>3</sup>. If this number is divided per the estimated amount anticipated, then the estimated value per one cubic meter wood may be calculated (although it is combined between beech and oak wood, beech is 87.5% of the overall quantity), which is 46.7 euros.

The same tender, but for 2018 which had been initiated in June 2018, for Lot 1 it included 1,800 m<sup>3</sup> beech wood, the municipality had estimated the amount of 78,624 euros, or 43.7 euros per cubic meter of wood. This amount is three euros less per cubic meter when compared to the 2019 tender. The municipality has not adequately estimated the value of the tender and enabled companies to bid with higher prices. In the 2018 tender, the price provided for Lot 1 by NTP Mali was 44 euros, whereas the contract had been signed with NT Pylla with a price of 43.5 euros per m<sup>3</sup>. For Lot 2, the price provided by NTP Mali in the 2019 tender was 44 euros for beech and 46.5 euros for oak.

Meanwhile, in 2018, the price provided by NT Pylla was 45.5 euros for oak variety. Based on the aforesaid data, it may be noted that the contract signed in 2019 for Lot 1 is 0.5 euros higher for cubic meter of oak or 1,055.50 euros overall ( $2,111 \text{ m}^3 * 0.5$ ) when compared to the prices of the 2018 contract. Regarding Lot 2, the difference is even bigger, the 2019 contract, the price is higher for one euro per cubic meter or 300 euros more ( $300 \text{ m}^3 * 1$ ) than 2018. The fault of the municipality in the 2019 tender was that the latter did not provide an estimated value of the contract per each lot. In case the budgetary threshold would have been known, then the companies would bid with amount below the threshold.

There are municipalities in Kosovo which buy cheaper wood than the municipality of Kamenica. In October 2019, the municipality of Obiliq bough wood in the amount of 31.7 euros per cubic meter, while requesting oak in a similar quantity, which also included cutting them (2,111 m<sup>3</sup> in Kamenica, 1960 m<sup>3</sup> in Obiliq). Hence, defining the estimated value of a tender is one of the first steps before the publication of a tender. This stage must get indispensable attention, as an inflated price of a produce results in overpaying them. Such an example is the municipality of Kamenica, which paid 39% more than the municipality of Obiliq.

The tender dossier for Lot 1 foresaw as a criteria for companies to have an advance stock of 500 m<sup>3</sup> wood and 85 m<sup>3</sup> of beech or 100 m<sup>3</sup> of oak for Lot 2. This is a restrictive criteria and an unnecessary burden to the companies, as keeping and maintaining products comes has its own financial costs. Usually, tenders for supply do not require bidders to have advance stocks in their warehouses, while in this specific case, the municipality the municipality should not have put such a request, as it eliminates companies that do not have the required quantity in advance at the time of the bid, while companies that do not win the tender, may be left with unsold wood for a period of time as a consequence.

## **Servicing vehicles 653-19-5503-2-2-1**

Servicing of vehicles tenders are always problematic, due to the bill of quantities being voluminous and abnormally low or high prices provided by the companies. Such is the tender in the municipality of Kamenica, which was separated into two Lots, where the winner of Lot 1 was D.P.Z. Behari, while Lot 2 had been initially cancelled. However, D.P.Z Astriti had submitted a complaint to the PRB against this decision. The company alleged that the municipality had disqualified D.P.Z. Astriti for concerns that had not been fulfilled by D.P.Z. Behari either. The PRB had deemed this as unequal treatment, and had sent the tender back for re-evaluation<sup>1</sup>. After the re-evaluation, the municipality had corrected its mistake by announcing D.P.Z. Astritin as the winner of Lot 1 and D.P.Z. Erdionin for Lot 2. For this tender, the procedure of framework contract based on scoring was used, however the contract was signed based on price units, while the estimated price serves as a threshold, which may vary only for +/-30%. There are two problems resulting out of this procedure, the criteria for abnormally low price may not be applied due to the scoring, while high prices are another problem. Vehicles undergo at least one regular servicing each year, which includes changing of oil and oil filters, air conditioning and diesel filters etc. For both lots, the companies have provided prices that are a bit higher than the market. For vehicles under Lot 1, one regular service with four litters of oil 10/40, and changing all filters, would the municipality 151 euros, however the market price is 100 euros.

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<sup>1</sup> Decision 656/19. Procurement Review Body. 2019.  
<http://arkivaoshp.rks.gov.net/repository/docs/vendimet/2019/656-19vendim.pdf>

For other positions in the bill of quantities for both lots, there are prices that are cheaper in the market or vice versa. For example, in Lot 1, car wash was offered for four euros, while the market price is three euros. Big differences in prices are also in positions between two lots: under Lot 1, the car front pane and the rear have been quoted at 1 euro, while the company offered 55 and 35 euros under Lot 2 for the same service. It appears that the municipality did not deal with abnormally low prices in many positions at all, whereas the result was that during the implementation of the contract there is the risk for only parts of the market price or even higher prices being billed. Such a phenomenon had been revealed by D+ in the municipality of Gjakova, where the winner of the tender renovated only parts of the vehicles that had higher prices, surprisingly<sup>2</sup>.

A criteria of the tender dossier that limited the location of the auto service provider only in the territory of the municipality of Kamenica is restrictive, as there are many villages belonging to other municipalities but are in close proximity to Kamenica. In the tender dossier, the municipality did not stipulate whether it would take the car itself to the service, and if so, who takes the cars with defects for servicing. This should have been defined in the tender dossiers, so disagreements during the implementation of the contract are avoided. Another requirement is for the bidder to possess adequate space for servicing the vehicles. However, the request did not define how big should this space be. In this case, the municipality should define the dimensions or the range of the space to complete the work, and thus avoiding any potential conflicts that may arise in the future.

Some of the special conditions are defined in the tender dossier, however the most crucial element, the guarantee, was not defined in the tender dossier, but in the contract itself, for a period of one year. One economic operator should know in advance how much of a guarantee it will seek, in order to compile their offer with the guarantee costs included in the offer, which would increase if the time of the guarantee is prolonged or vice versa.

The bill of quantities for this tender, which is compiled in Excel format contains some mistakes in some areas. For Lot 1, in column S, the product was "Generator 95 KW-Wolvo-margen Maranella", which is not presented under the calculation in column T (the formula summing all number of columns E to R). Nonetheless, in the contract, the price presented under column T is presented, thus including S column as well. It is suspected that the winning company may have interfered in the bill of quantities.

## Municipality of Podujevo

Two tenders on procurement of works were monitored in the municipality of Podujevo. The criteria of the tender dossiers for both activities were unclear in some instances and had many flaws, which may create room for disagreements between the economic operators and the municipality. Another issue is the lack of publication of contracts with all the elements of the contracts, and in particular lack of the financial part in the published contracts, which makes it impossible for citizens or other stakeholders to understand what prices did the companies bid with in the tender.

*2 Towards municipalities with open, transparent and efficient public procurement. Page 41. Democracy Plus. 2018.*

<http://dplus.org/wp-content/uploads/2018/12/2018-12-03-Drejt-komunave-me-prokurim-t%C3%AB-hapur-llogaridh%C3%ABn%C3%ABs-dhe-efikas-ALB-Final-1.pdf>

Another problem is that the municipality did not specify the special conditions of the tender dossiers at the time of publication in the contract notice, however these conditions become part of the contracts upon signature. Meaning, the bidding companies must know the conditions set by the municipality before placing their bid.

## **Paving pedestrian trails with blocks in the City Park and the pathway in the new school in Batllava 615-19-4707-5-2-1**

Four companies placed bids for this tender, while the winning company was Vëllezërit Hyseni in the amount of 25,167.20 euros, which is the cheapest price offered. Two other companies were deemed not responsive as they lacked some documents, while another company was responsive, however due to the high price offered, it could be the winner.

This activity was not foreseen with the procurement plan for 2019, although in the Statement of Needs, it was presented as part of the plan. In the procurement plan there are only two tenders for works in Batllava, but none is about paving trails with blocks.

Some of the tender dossier criteria are restrictive to the competition and unclear. The requirement for 15 employees is in violation of the ROGPP, which states that minimum average manpower for each of the last 3 years from the contract notice should be taken into account<sup>3</sup>. Such an example would be if the request would be for the bidder to have an average manpower of 15 staff in the last three years from the date of the contract notice. The request of the CA could have restricted competition, however the municipality resolved the issue by adding a sentence that the CA should provide proof that it can engage the necessary staff. Another unclear request is for work tools. The municipality formulated the request only with asking for necessary work tools needed to complete the work, however it was not specified what tools were required. This enabled the CA to define what are the necessary work tools on their own while how they interpreted on what are the necessary tools could be different for various Contracting Authorities. This unclear requirement could create room for disagreements during the implementation of the contract between the municipality and the winning bidder, as it is not clear what tools will be used by the company in completing the work.

The special conditions of the tender dossier were not defined when the contract notice was published. As elaborated above, the guarantee is the key element of the special conditions, which when not defined in the beginning, it affects the offers of the companies, unless they have information on what are the guarantees required for the winner of the contract.

As this tender dealt with building trail ways with paving blocks, the technical specification should have defined the area to be paved, the material of the blocks, the thickness of the blocks and other elements. The foreseen area to be paved is in accordance with dimensions foreseen in the bill of quantities.

D+ findings presented in the "The level of publication of public procurement contracts" report<sup>4</sup>, show that the municipality of Podujevo does not publish the financial part of the contract, which makes it difficult to analyse the data. Per the ROGPP, the contract should be published on e-Procurement and should contain the contract, general conditions, special conditions and the description of prices. This is a continuous violations made by the municipality in almost the contracts it publishes.

<sup>3</sup> Article 26.8, page 61. Rules and Operational Guideline of Public Procurement. PPRC. 2019 [https://krpp.rks-gov.net/krpp/PageFiles/File/A01\\_2019/Rregullat\\_dhe\\_Udhezusi\\_10\\_04\\_2019\\_2.pdf](https://krpp.rks-gov.net/krpp/PageFiles/File/A01_2019/Rregullat_dhe_Udhezusi_10_04_2019_2.pdf)

<sup>4</sup> Level of publication of contract in public procurement. Democracy Plus. 2020. <http://dplus.org/wp-content/uploads/2020/01/2020-01-31-Niveli-i-publikimit-te-kontratave-ne-Prokurim-Publik.pdf>

## Building, renovating and maintaining public lighting 615-19-6796-5-2-1

The tender for building and maintaining the public lighting was published on 10 September 2019, in the estimated amount of 98,418.18 euros. This was a retendering procedure as the first time, the tender was annulled due to technical problems in the e-Procurement platform. The second time, six companies placed their bids, while the winner was the Consortium ABC & Elektro Meli & Graniti in the amount of 51,007.50 euros. A cheaper offer had been placed however it was deemed not responsible due to the lack of the project manager, which the requirements asked to be an engineer or an individual with an MA in electro-technics – energy. Another company was also deemed not responsible which had a higher price, whereas three others were cheaper than the winner but were not responsive. As the first tender had been cancelled due to technical problems, the municipality should not have published the report for opening of bids<sup>5</sup>, as it enabled the bidders to see each-others prices and base their offers in the second tender on them. It appears that this was the case, as the winning consortia decreased its offer for eight thousand euros compared to the first bid.

The municipality had shortened the deadline for accepting offers the second time from 20 days to only 10 days, justifying it with the many defects on the ground that needed fixing, however the reason should have been the technical problems in the e-Procurement. In the criteria of the tender dossier, a good practice noted was the requirement to have “completed works in the amount of 140,000 euros in the past three years”, while the leader of the consortia should have about 60% of the requested amount. This requirement makes it impossible for consortia of companies who have very little experience in similar fields with public lighting to get together and apply. Same as with the tender on paving blocks, municipality also requested a fixed number of staff, and not the average manpower in the last three years, as stipulated in the ROGPP. Furthermore, contracts with employees were not requested at all, which could potentially create a situation when employees are declared in the tender, without their consent. This has been the case in some tenders monitored by D+ at the PRB. The only work tool requested was a truck mounted aerial work platform. This is an equipment that lifts employees up to fix electricity poles. In this specific case, it was not specified what the height is required to lift up to, as not all trucks can reach the same heights.

The special conditions of the tender dossier were not stipulated when the contract notice was published, but were included in the contract once the winner was selected. It is surprising that the municipality did not request a period of guarantee in the special conditions of the contract. As the tender deals with execution of works, the guarantee is a must.

This procurement activity was foreseen in the procurement forecast for 2019, however, it had been estimated to cost 150,000 euros, whereas the estimated cost of the tender is much lower, with 98,418.18 euros. The amount is the same with the one presented in the Statement of needs and determination of availability of funds. Based on the two different amounts, it may be noted that the municipality did not properly plan how much financial means are required for the tender. In the procurement forecast, the activity had been planned for April 2019, but it started only in September 2019, with a four month delay.

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<sup>5</sup> Report on opening of tenders. E-Procurement.

[https://e-prokurimi.rks-gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=609883](https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=609883)

Similar to the tender on paving blocks, the financial part of the contract was not published. It appears that the municipality does not include the financial part in the contract at all, as it is missing even in the documents sent to D+ as well as in the contract published on the e-procurement and the web site of the municipality.

## Municipality of Fushe Kosova

Two tenders were monitored in the municipality of Fushe Kosova, one on purchase of vehicles and the second on supply with food and sanitary tools. The municipality did not grant access to public documents, thus D+ used the documents found in the e-Procurement platform.

The tender on purchase of vehicles was adapted for a Gold VI car, while the municipality did not properly estimate the price as it paid 12,975 euros for a car that has a market price of 9,000 to 10,000 euros. The municipality thus harmed its budget in an estimated amount ranging from 4,700 to 9,420 euro overall.

In the tender on supply with food and sanitary tools, there are many mistakes, including wrongful units, flawed description of goods and identification of some goods with the names of the producer.

### Purchasing four official vehicles 612-19-6432-1-2-1

The tender to purchase four official vehicles was annulled once due to lack of offers. In the second tender, the estimated value was increased from 50,000 to 53,500 euros, where only one company placed a bid, Dreni-A, which won the tender with an amount of 51,900 euros. The only difference in terms of technical specifications between the two tenders, was that the first time, the municipality had requested vehicles produced minimally on 2012, whereas the second time the request was decreased to vehicles produced minimally on 2011. Regarding the tender dossier, the municipality increased the criteria on the reference of similar supplies in the last three years from 75,000 euros to 80,250 euros. As there were no offers the first time the tender had been announced, the criteria in fact should have been lowered instead of increased. The municipality also asked to shorten the deadline to accept offers, despite this being a re-tendering procedure. The shortened deadline should not happen due to actions of the municipality, but deadline may be shortened only due to force majeure, for example due to natural disasters. Another finding was that the municipality had not planned purchasing these cars, as this activity was not included in the procurement forecast for 2019<sup>6</sup>.

Technical specifications compiled were adapted to one brand of vehicles, Volkswagen Golf VI, where not only do technical specification fully match the brochure on the webpage of Volkswagen, but even the document of technical specifications is titled "Specifications Golf 6 fks\_2011 (3)". Adapting criteria to one singular brand or company is prohibited by the LPP, while in this specific case, the municipality has restricted competition. Adapting of criteria was done with mistakes in some instances by the municipality. For example, the municipality asked for the vehicles to have a level 6 of gass emission, a criteria that

<sup>6</sup> *Planning on procurement for 2019. Municipality of Fushë Kosova.*  
[https://kk.rks-gov.net/fushekosove/wp-content/uploads/sites/16/2019/02/Planifikimi-i-prokurimit-per-vitin-2019\\_1.pdf](https://kk.rks-gov.net/fushekosove/wp-content/uploads/sites/16/2019/02/Planifikimi-i-prokurimit-per-vitin-2019_1.pdf)

entered into force in 2015, however Gold VI was manufactured only until 2014. This means that the company cannot offer Golf VI with EURO 6 standard, meaning that it would be impossible to apply the requested technical specifications as per the tender dossier.

The municipality requested to purchase four vehicles, whereas the amount of 51,900 euros which was contracted means that the Dreni-A offered a price of 12,975 euros per one vehicle. Municipality requested engine capacity of 2.0, manual or automatic and other standards features of the vehicle. Based on the set criteria, the market price varies between 9,000 to 10,000 euros, while when adding the 18% VAT, the price would be between 10,620 to 11,800 euros. In the best case scenario, the municipality has paid 1,175 euros more than the market price including the VAT per each, whereas the worst case scenario would mean that it has paid 2,355 euros more per each car, thus paying between 4,700 to 9,420 euros more than the market price. According to this calculation, the budget of the municipality has been damaged. Before launching the tender, the municipality should have conducted better market research in order to understand how much does such a car cost in the market and then to proceed with procuring the activity.

## Supply with food and sanitary equipment 612-19-6057-1-2-1

In the tender for supply with food and sanitary equipment, two companies placed their bids, while EE Eximi was the winner with an amount of 56,076.26 euros, which was the cheapest offer. The costs had been estimated at 120,000 euros or more than double the offer of EE Eximi. Due to the huge difference and the various types of goods requested, it is difficult to conclude whether there was inadequate planning on the side of the municipality or whether EE Eximi offered abnormally low prices. After reviewing the contracts, for some positions, it appears that EE Exim offered very low prices:

- Eight cents per one kilogram of black pepper – on the market a small package containing about 10 grams costs 10 cents;
- One euro per one kilogram of broccoli – on the market, one head of broccoli with about 300 grams costs about 3 euros;
- 0.47 euro cents per one kilogram of peanuts – on the market one kilogram of peanuts costs about five euros.

Out of 158 goods requested, some of them do not have the adequate measurement unit:

- Celery was requested in kilograms, while in the market it is sold in pieces;
- Red pepper and black pepper were requested in kilograms, whereas they are sold in small packages and weight in grams in the market;

Many products were not specified adequately, which enables the companies to deliver cheaper goods. Some of them include:

- In position number 62 in the Bill of Quantities, scrap of cloth and paper of high quality were requested, however what constitutes high quality was not defined at all;
- In position number 133, “100 grams of cake” were requested, without specifying what kind of cake.

Errors in measurement unit together with the lack of adequate description of goods enabled the company to bid with very low prices in many positions, which have reflected on the end price of the overall contract.

In the bill of quantities, for many goods the name of the brand or the manufacturer was written. This is prohibited by the LPP in principle, however the municipality added the “or equivalent” good by the name of each brand, thus avoiding to violate the Law. However, it should be emphasized that the municipality should compile technical specifications without having to mention names of certain goods.

## Municipality of Shtime

Two tenders were monitored at the municipality of Shtime, one on installing cameras throughout the city and the other one on building two bridges in the city. The tender on installation of cameras saw many violations, as for example in the technical specification cameras were requested to have audio recording as well, however the winning company provided cameras that enable only video recording. In addition, some of the specifications requested are not compatible with the model of the camera provided by the economic operator.

The tender on renovation of bridges and riverbed also had flaws, as the execution project was not provided together with the tender dossier. The title and description of the tender are not in line with the bill of quantities, which include renovation of two bridges but not the riverbed.

### Placing camera system across all the city of Shtime 617-19-5785-1-2-1

The tender on installing cameras across the city of Shtime was published on August 2019 with an estimated value of 35,000 euros. The tender was for a framework contract with a deadline of completion of work on May 2020. Five companies submitted their bids for the tender, while the winner was AFAIng which offered the cheapest price of 23,333 euros. All other companies were deemed responsible, potentially also due to all criteria stipulated in the dossier being attainable. The evaluation of offers was done in accordance with the law and within the 30 days deadline.

The biggest problem in public procurement in Kosovo are the technical specification. On information technology products, there aren't many terms in Albanian language, thus usually the technical specifications are copied from an internet page are presented in English. For this specific case, the technical criteria were very detailed, thus raising the suspicion that they have been copied from the specifications of a certain product. AFA Ing offered the model of camera DS-2CD2T43G0-I5<sup>7</sup> manufactured by Hikvision, however some of the specifications of this model do not comply with the requirements of the tender dossier. In the table below, differences in the specifications are presented:

	Specifications in the tender dossier	Specifications of DS-2CD2T43G0-I5 camera
1	IR distance of min. 100m	IR distance up to 50 meters
2	Compression of audio should support G.711a/ G.711Mu/ AAC/ G.726	Does not provide audio recording but only video recording

Table 1. Difference between the specifications requested for the camera and what the winning company delivered.

<sup>7</sup> Page of the model of the camera DS-2CD2T43G0-I5/I8 by Hikvision

<https://www.hikvision.com/es-la/Products/Network-Camera/EasyIP-2.0plus/4MP/DS-2CD2T43G0-I5/I8>

On the first point, the IR distance means how far away can the camera record during the night. From the above table, it can be seen that the delivered camera can only record half of what was requested in terms of the distance. For point two, the shortcoming is even bigger, the cameras installed do not provide audio recording at all, despite the technical specifications requesting this feature. This shortcoming affects the price as well, as a camera that records audio as well, would have been more expensive.

In order to check the cameras, an NVR (Network Video Recorder) is needed. The winning company provided the DS-7732NXI-I4S model<sup>8</sup>. This equipment is not in line with the specifications requested on the tender dossier. NVR was requested to contain at least eight SATA ports in order to install the hard disks, but the equipment has only four ports. Municipality also requested four USB ports but the equipment has only three ports.

In two instances, in the bill of quantities the municipality mentioned the products with the brand name (Intel Core and Seagate), which is prohibited with the LPP<sup>9</sup>, however this can be done only when the word "or equivalent" is added at the end.

The special conditions of the tender dossier were not requested when launching the tender, but were specified only upon signature of the contract. This is in violation to the ROGPP<sup>10</sup>, which stipulates that conditions should be compiled together with the tender dossier. Lack of specification may create room for economic operators may be at an advantage if they know the conditions in advance. The conditions should specify the guarantee for the products, which affects the price that the economic operators offer. In the case of the municipality of Shtime, a positive action is the request for a 12 months guarantee, which D+ has noted in the past that in many tenders it is not requested at all. Another good practice is that the start and completion dates of the contract have fixed dates, as in many contracts the completion is set only with days.

The biggest violation in this tender is the request for the cameras to contain audio recording, whereas the winning company offered only video recording cameras. Since the municipality did not require companies in the tender dossier to indicate with what cameras they would submit their offers, it is impossible to know what type of cameras would other economic operators have provided, in case they would have won the tender. Nevertheless, the municipality should request economic operators in the tender dossier to submit a catalogue for the products they would offer, as in that case the municipality would know in advance the type of cameras it would buy.

## Renovation of two bridges and a riverbed 617-19-5848-5-2-1

The tender on the renovation of two bridges, in fact is a tender for the renovation of one bridge and the demolition and building of a new one. This activity was re-tendered, as in the first it was cancelled due to the winning company not having filed the tender security per the requirements of the municipality. The second time, the winner was NTP Ardhmëria in the amount of 45,320.50 euros. The company had bid the first time but with a higher price of 48,736 euros. Both times, only NTP Ardhmëria had submitted a bid. The requirements of the tender dossier were not restrictive to competition, however the lack of interest of other companies to submit their bids, may be explained with the small

<sup>8</sup> Page of the model NVR DS-7732NXI-I4S by Hikvision

<https://www.hikvision.com/en/products/IP-Products/Network-Video-Recorders/Pro-Series/DS-7732NXI-I4-4S/>

<sup>9</sup> Law on Public Procurement. Article 28.7. Official Gazette of the Republic of Kosovo. 2016. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2772>

<sup>10</sup> Rules and Operational Guideline of Public Procurement. Article 18.3. Public Procurement Regulatory Commission. 2019. [https://krpp.rks-gov.net/krpp/PageFiles/File/A01\\_2019/Rregullat\\_dhe\\_Udhezusi\\_10\\_04\\_2019\\_2.pdf](https://krpp.rks-gov.net/krpp/PageFiles/File/A01_2019/Rregullat_dhe_Udhezusi_10_04_2019_2.pdf)

value of the tender. However, the requirements of the tender dossier were not without flaws: two heavy trucks and two excavators were requested, but without specifying the weight of the equipment. The practice used by other contracting authorities is for them to define the weight.

Another finding is that the municipality did not publish the executive plan for the bridges, which is a requirement of the ROGPP.

*20.13 The Executive Project is the graphic design of all the administrative and engineering processes of the required works as described in the Technical Specifications and, therefore, sets forth, and in any particular, architectural, structural and plants of the works to be executed. The Contracting Authority is responsible for drawing up the Executive Project which shall be mandatorily attached (also on electronic devices) to the Technical Specifications, which are part of the Tender Documentations. No Contracting Authority is allowed to issue Tender Documentation without attaching the detailed project description.*

Lack of publication of the executive project together with the tender dossier, creates room for unequal treatment of all economic operators and the elimination of fair competence, as one economic operator may obtain the executive project through informal means. This would give advantage for that economic operator, who may submit their offer based on the project. On the other hand, the other companies who did not obtain the executive project other means, would be in disadvantage and it would be difficult for them to offer competitive prices.

From the title of the tender it may be noted that the renovation of the riverbed was requested, however in the bill of quantities there is no position where this activity is foreseen. The entire value of the contract was spent in renovating the bridge, however the title of the tender and the description of the work provided in the contract notice, speak about renovation of bridges and of the riverbed of the river. The estimated value of the tender was 50,000 euros while when taking into account the value, it cannot be known if the riverbed was taken into account during the estimation or only the renovation of the bridges.

During the implementation of the contract, in one of the positions, the company did not complete the work adequately, namely for position 2.3 of the bill of quantities:

*2.3 The supply and work of asphalt paint which must be resistant to weathering and abrasion. Supervisory body assignes the colour.*

The company painted the asphalt over the bridge in red, which after few days was almost completely erased<sup>11</sup>, and as of January 31, 2020 was not fixed. For this position the company has given a price of 2,000 euros. This position compared to the others does not have any technical specification for colour parameters and other elements. From the data it is not known how much this colour cost in the market, the company could have given a very high price.

The municipality should ensure in the future, that tenders relating to the execution of works contain the executive project, as well as ensure that the tender title and project purpose are matched to the bidding position.

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<sup>11</sup> *The paint of the bridge in Shtime fades only two days after renovation. 2019. Accessed on 20.01.2020 <http://buletiniekonomik.com/index.php/2019/12/10/ures-se-shtimes-i-del-ngjyra-dy-dite-pasi-u-rregullu-a/?fbclid=IwAR0Nx0hVPMFExanaK4InvUyUr7oAqXxjmNHfNHZJAqwcYXwmutmQ-D1z4CkM>*

# Municipality of Obiliq

The municipality of Obiliq when compared to other municipalities stands better in terms of criteria set in the tender dossier and in estimating the value of the tender. Furthermore, the special conditions of the tender dossier are defined in the beginning, so before the offers are submitted.

The tender on supply of combustibles for heating is a good example of adequate preparation of a dossier, as well as adequate estimation of the budget, which enabled the municipality to sign a much cheaper contract than the municipality of Kamenica.

In the physical security tender, the municipality despite having estimated a sufficient budget including all expenses, it did not calculate the threshold below which the offers of the companies would not be able to cover expenses, while it selected a winning company with an offer of 866 euros cheaper than the costs. This may potentially create the risk for the employees to bear the costs, for example their pension contributions not being paid.

## Supply of combustibles for heating 614-19-6415-1-2-1

The tender for the supply of combustibles for heating includes the supply of wood and pellets. The specifications for wood supply are the same as those of the Municipality of Kamenica, beech wood and their sawing. In this tender the contract winner was NTP Agoniti with a price of 65,583,10 euros, which also was the lowest price, while the other two bids were not responsive, two others were responsive but with higher prices. The price per one-meter cubic wood, of 31,70 euros is significantly lower than the price in the Kamenica Municipality contract. In fact, all the bids in this tender are lower than the winner of the contract in Kamenica's Municipality. This has happened because the Obiliq's Municipality for 1,993 meters cubic wood and 16 tons of pellets. Assuming that a ton of pellets is estimated to cost of 200 euros, then 13 tons make 2,600 euro, with the remaining 70,405 euros persist for wood. Estimated value per cubic of wood would be 35,33 euros, which is significantly lower than 46,7 euros in the Municipality of Kamenica.

Compared to 2018, in that year's tender the municipality purchased wood at a price of 32 euros per cubic meter, while in 2019 it bought them for 30 cents cheaper. This indicated that the 2019 tender was not a special case, but if budgeted well, the wood could purchase for around 32 euros per cubic meter.

The criteria of the tender dossier were likely to be less stringent, as the financial turnover required twice the estimated value. This is allowed by the PPL, but since it's a simple product such as wood, there would be no risk of lower bidding, while the number of bids would be bigger. Unlike other municipalities, special conditions are included together with the tender dossier, but some of them have been changed in the contract, which shouldn't be done in this case, since they should be identical.

The purchase of wood at a price of 31,70 euros per cubic meter, indicated that the Municipality of Obiliq has predicted well how much a cubic meter of wood can cost in the market, when it comes to large quantities, as for few woods, the market price can be higher. The municipality should continue calculating the estimated value as in previous years in the previous year's tenders, and since there are over five bids in one tender, than it is implied that the companies can supply at price below 35 euros per cubic meter.

## Physical security of the municipal building 614-19-149-2-2-1

The tender for physical insurance was published in early 2019, but due PRB complains, the contract was not signed until July 2019. The winner of the contract was Rosa Security, priced at 25,344 for a period of 36 months. Since the contract is a framework contract, it is allowed to have +30% ramp. In this tender 12 companies bid, while nine were irresponsible, seven of which were eliminated due to tender's security, which did not contain the demand. Two other companies, though responsive, have offered a higher price than Rosa Security.

At the first evaluation of the bids, the municipality had recommended Rosa Security as a winner, but the process was suspended after the International Security Association complained to the PRB, claiming that the Rosa Security bid failed to cover all costs arising from the Law of Labour PRB approved the appeal and returned the tender for reassessment<sup>12</sup>. After reassessment, Rosa Security was again recommended for the contact, the decision postponing the International Security Association to appeal again to the PRB. The second time, PRB decided to approve the municipality's decision to award the contract, on the grounds that Rosa Security fulfils all the criteria under Labour Law and it's the cheapest bid<sup>13</sup>.

In physical security tenders, the key element that often includes 100% of the cost, are the employee salaries. Municipality of Obiliq has requested in the tender dossier to respect Labour Law and to calculate all applicable taxes, while net salary should be 270 euros per month. The tender dossier required two employees to work eight hours a day, five days a week for 36 months. Bid costs for a worker are net salary+ payroll tax + employee pension contribution + company pension contribution +18% VAT. Expenditure of one employee per month would be:

$(270 + 9.13 + 14.69 + 14.69) * 1.18 = 364.04$  euros, while 2 employees are 728.08 euro, while for 36 months 26,210.88 euros.

Rosa Security's bid was 25,344 euros and from a comparison to the higher price it can be seen that the bid is in the cost, with a difference being 866,88 euros. The PRB in the analysis of the financial offer did not include the employee's pension contribution (one employee, 14,69 euros, two 29,38 euros), a thing which was explicitly requested in the tender's dossier. The PRB concluded that the employee pays the pension contribution himself, but it is a wrong finding, since in this case the net rather than the gross wage was claimed. In other words, when the net wage is claimed, the worker does not pay a pension contribution, but the company performs this obligation. The fact that the full cost of the bid is not included can also be seen from the tender's proposal, where the price was requested to be paid per hour, while Rosa Security Provided a price of two euros per hour including all taxes. In the bill, for one month, two workers were given 352 euros or 176 euros per worker. From the cost per employee per month which was 364,04 euros, can be calculated as the cost per hour per worker:

$364.04 / 176 = 2.0684$  euro

The above calculation shows that the cost per hour is about seven cents higher than the company's offer. When counting for two employees, per 36 months the result is:

$176 * 2 * 36 * 0.0684 = 866.76$  euro

<sup>12</sup> Decision 106/19. Procurement Review Body. 2019.

<http://arkivaoshp.rks.gov.net/repository/docs/vendimet/2019/106-19vend.pdf>

<sup>13</sup> Decision 298/19. Procurement Review Body. 2019.

<http://arkivaoshp.rks.gov.net/repository/docs/vendimet/2019/298-19vendim.pdf>

From the calculation of the values from the bill (866,76 euros) and the calculation made from the PRB decision's data (866,88 euro), it is seen that the values are the same (very small difference due to rounding in two numbers after the decimal comma), where it has been confirmed that Rosa Security's bid does not cover all costs.

Criteria in the tender's dossier, as in the supply of woods, have no restrictive elements, while the special conditions are specified together with the dossier. Also, the municipality has acted correctly when it mentioned all the elements of the Labour Law and has asked the bidders to sign statements that will adhere to all the requirements, including the net salary along with other liabilities and Vat. Concern still stays in the fact that costing errors are being continued by both contracting authorities and PRB. In the bids for physical insurance it is precisely the calculation of the cost of the bid that also determines the winner. In this case, if one hour and 36 hours were correctly calculated, then the threshold below which bids would not be able to cover their costs would be known. First you have to know the threshold, then choose the lowest priced responsive offer. In this case, the cheaper price has fallen short of the cost incurred and Rosa Security at the price offered will not be able to pay the employee's pension contribution.

# Recommendations

For all municipalities:

- To pay more attention in defining the estimated value of a tender, in order to save the budget. Comparison of prices with previous periods or with prices of contracts of other contracting authorities are a good basis on how to define the estimated value.

For the municipality of Shtime:

- Technical specification for information technology products should be less complicated;
- To set a requirement in the tender dossier for economic operators to submit a catalogue of the product they will offer;

For the municipality of Podujevo:

- To ensure that special conditions are specified with the launching of the tender dossier in order for the bidders to prepare their offers in accordance with these conditions;
- In the signed contract, list of prices should be included, as apart from this being a legal requirement, it would help all interested parties to know what price is the municipality for certain works or services.

For the municipality of Kamenica:

- To pay more attention to calculating the estimated value of a tender. This should be easier when only one product is in question, for example the tender on wood supply;
- To ensure that the tender on servicing of vehicles will not be billed only for parts that are more expensive. In addition, municipality should use services especially for parts that have abnormally low prices;

For the municipality of Obiliq

- For future physical security tender, the municipality should calculate the threshold below which the bids would be deemed not responsible, as calculations show that they would not be able to cover expenses. But, in order to do so, they would need professional people with adequate knowledge in the evaluation committee.

For the municipality of Fushe Kosova

- To respond to requests for access to official documents in accordance with the Law on Access to Public Documents;
- To ensure that technical specifications are not adapted to specific brands and manufacturers;
- Before launching a tender, to consult the market prices and costs of previous similar contract, in order to avoid budget losses due to high prices.



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