

Pursuant to Article 87, paragraph 2, sub-paragraph 2.6 of the Law No. 04/L-042 on Public Procurement, amended and supplemented by Law no. 04/L-237, Law no. 05/L-068, and Law no. 05/L-092, the Public Procurement Regulatory Commission issues this:

**Administrative Instruction No. 1/2019**

***on actions of PPRC and Contracting Authorities in public procurement procedures in case of barriers to the operation of Public Procurement electronic platform***

**Article 1**

**Purpose**

* 1. The purpose of this Administrative Instruction is to provide clarifications regarding procedural actions to be taken by PPRC and Contracting Authorities when carrying out procurement activities if there are barriers in platform operation:

1. During the period of submitting bids, applications for participation;
2. At the moment of public openings of bids, and
3. After the expiry of the deadline for submission of bids, applications

***Barriers during the period of submission of bids, applications for participation***

**Article 2**

2.1 The barrier under Article 1, paragraph 1.1, point a) of this Instruction, exists if, due to technical or other reasons in the electronic system of public procurement, within **4 hours** prior expiry of the deadline for submission of bids/application is not possible to:

1. *Ensure access in the electronic procurement system through* [*https://e-prokurimi.rks-gov.net*](https://e-prokurimi.rks-gov.net/Home/ClanakItemNew.aspx)*; and*
2. *Successfully submit the bid due to any situation created by barriers in the electronic procurement system*

**Article 3**

* 1. In case there are barriers referred to in Article 2 of this Administrative Instruction, Contracting Authority or Economic Operator is obliged to notify/report immediately in writing the IT Help Desk in PPRC through fastest possible means of communication (via phone and email), Monday to Friday, from 8:00 to 16:00.
  2. Upon receipt of the notice/report referred to in paragraph 3.1, the IT Help Desk and administration of e-procurement system in PPRC will control it and in case of verification and confirmation of barriers defined in Article 2 of this Instruction, it is obliged that in line with the internal procedure of PPRC to take technical actions in e-procurement systems, where such actions shall enable all procurement activities of the same day and affected by the technical barrier, to be postponed for another deadline regarding the submission of electronic bids by EOs.

The technical action will be taken for all procurement activities with less than 120 minutes until the deadline for submission of bids/applications. The following presents actions to be taken:

1. Stoppage/deactivation of opening bids process:
2. Allowing procedure correction by CA after the expiry of the deadline for submission of electronic bids/application; and
3. Activation of opening bids process

After verification/confirmation of the barriers and also after the barrier has been avoided, the IT Help Desk in PPRC, is possible, shall notify the CA and EO regarding the barriers arisen and their avoidance as well. The notification shall be made on the website of the e-procurement system.

**Article 4**

* 1. Following the actions taken and receipt of notice referred to in paragraph 3.2 of this Instruction, contracting authorities are obliged that through the B54 form to extend the tendering deadline at least for **three (3) days** (for high value procedures), **two (2) days** (for medium value procedures), and **one (1) day** (for small value procedures) after the publication date of the Notice of Procedure Correction / Invitation to Participate.

**Article 5**

5.1 In case of technical problems during the submission of bids, applications for participation and in case the IT Help Desk and administration of e-procurement systems in PPRC, there is no possibility to undertake actions under paragraph 3.2 and the deadline for submission of bids/applications has expired for procurement procedures of the same day, the Contracting Authority under **no** circumstance shall commence the opening bid process without the receipt of notice/instruction by PPRC on how to proceed further.

5.2 When the IT Help Desk and administration of e-procurement system in PPRC take actions under paragraph 3.2, CAs are obliged to act according to the instruction described in paragraph 4.1.

***Barriers at the time of opening bids***

**Article 5**

* 1. The barrier referred to in Article 1, paragraph 1.1, point b) of this Instruction, exists if in the system at the time of opening bids is not possible to:

1. To present private keys;
2. To inspect the register of bids submitted electronically;
3. To inspect bids submitted.

**Article 6**

* 1. In case that a barrier referred to in Article 5 of this Administrative Instruction, Contracting Authority or Economic Operator is obliged to immediately notify in writing the IT Help Desk in PPRC through fastest means of communication, Monday to Friday, from 8:00 to 16:00.
  2. Upon receipt of the notification referred to in paragraph 6.1, the IT Help Desk and administration of the system in PPRC will control it and in case of verification and confirmation of barriers defined in Article 5 of this Instruction, is obliged that in compliance with the internal procedure of PPRC to undertake technical actions in e-procurement systems, actions which shall enable the opening of bids after the elimination of technical barriers. Exceptions to this rule, if the barrier is eliminated for less than 30 minutes, it is accounted that the barrier has never been appeared.

**Article 7**

* 1. If a barrier has been ascertained by the IT Help Desk in PPRC at the time of opening bids, the deadline for opening bids shall be suspended for as long as the barrier lasts and commences at the time when the IT Help Desk in PPRC notifies the CAs affected by this barrier or publishes the **Notice on Barrier Elimination.**

**Article 8**

* 1. Upon receipt of the notice referred to in paragraph 7.1, the Contracting Authority shall be obliged to conduct the public opening of bids not later than 48 hours after notice receipt and in case the deadline expires on Saturday, Sunday or on a public holiday, the public opening shall be made on the first next working day.
  2. The Contracting Authority is obliged to immediately inform the participating economic operators of the venue and time of public opening of bids.
  3. From the elimination of a barrier until the continuation of the public opening of bids, bids must not be changed.

**Article 9**

* 1. IT Help Desk in PPRC is obliged to keep evidence of cases presented and barrier handlings in line with this instruction and to notify PPRC management.
  2. Pursuant to paragraph 2.12 of Article 87 of LPP, IT Help Desk shall be obliged to keep records regarding barriers in the system in compliance with this instruction and along with recommendations for improvement of electronic public procurement system, to include them into the report which is to be submitted to the Government not later than by the end of March of the following calendar year.

**Article 10**

11.1 This Instruction shall enter into force on the day of its signature.

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*(signature date) Osman Vishaj – President of PPRC*