

REPUBLIC OF RWANDA



**NATIONAL INDEPENDENT REVIEW PANEL (NIRP)
PUBLIC PROCUREMENT**

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**DECISION N° 235/2013/NIRP ON THE TENDER N° 1311/G/ICB/RDB/A/GOR/12 LOT 2 FOR
SUPPLY AND INSTALLATION OF A GENERATOR FOR AIR CONDITIONING SYSTEM.**

**COMPLAINANT : ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD
– ETS RUBANGURA & FILS**

AGAINST : RDB

COMPLAINT : APPEAL AGAINST THE DECISION ON THE TENDER AWARD

1. INTRODUCTION

Pursuant to the article 70 of the Law N° 12/2007 of 27/03/2007 on Public Procurement, the members of the National Independent Review Panel (NIRP), on 15/04/2013 and 22/04/2013 analyzed the appeal introduced by ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS contesting the decision on the tender mentioned above.

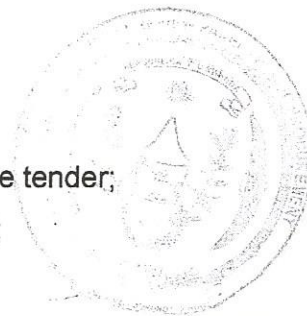
2. SUMMARY OF THE COMPLAINT

ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS is contesting the RDB decision to disqualify it due to its high price. It states that its high price is due to the cable of 4 x 150 mm² measuring 250 m, joining the Generator to Main Distributor Board.

3. SUMMARY OF FACTS

- On 07/09/2012, RDB advertised the tender;
- On 26/10/2012, Bids were opened;

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- On 07/03/2013, ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS received the provisional notification letter;
- On 14/03/2013 : ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS introduced the initial appeal before RDB;
- On 25/03/2013 : ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS received the response to its initial appeal from RDB;
- On 01/04/2013, NIRP received the appeal from ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS;
- On 02/04/2013, NIRP requested RDB to suspend procurement process and submit all documents related to this tender;
- On 10/04/2013, RDB submitted the requested documents to NIRP;
- On 15/04/2013, NIRP invited RDB and ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS representatives;
- On 22/04/2013, NIRP met RDB and ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS representatives;

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The bid of the complainant was disqualified due to its high price;
- The tender document indicates a cable of 25m with 4 x 95 mm² (Table 9.a: Outdoor units electrical power requirements);
- The complainant quoted a cable of 250 m with 4 x 150 mm² ;
- The instructions to bidders, clause 13 states: "Alternative Bids *shall not be considered*";
- There were no clarifications requested on this tender before the deadline of bids submission;
- There was no addendum published on this tender.

5. COMMENTS BY THE PANEL MEMBERS

Given that the tender document was not modified;



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Considering that the quotation of the complainant on item related to cable is not based on the technical specifications indicated in the tender document; its financial offer should be disqualified because it cannot be compared to others.

6. DECISION BY THE PANEL MEMBERS

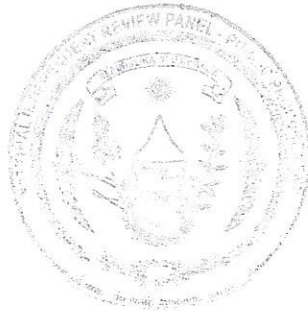
Pursuant to the article 70 of the Law 12/2007 of 27/03/2007 on Public Procurement,

NIRP members decide to dismiss the appeal introduced by ASSOCIATION MOMENTANEE HYMMELEC ENGINEERING EA LTD – ETS RUBANGURA & FILS because it is baseless.

NSENGIYUMVA Silas
Vice chairman of NIRP



KAZIMA Godfrey
Member



BUGINGO Emma Marie
Member



BATETA Jane
Member

