

DECISION N° 47/2011/NIRP ON TENDER N° 015/T/2010-2011/1/MINISANTE-PEACE PLAN/DK FOR EXECUTION WORKS FOR CONSTRUCTION OF KIBUYE DISTRICT HOSPITAL IN KARONGI DISTRICT

COMPLAINANT : ENTREPRISE RUBARE JOSIAS (EJR)
AGAINST : KARONGI DISTRICT
COMPLAINT : APPEAL AGAINST THE TENDER AWARD

1. INTRODUCTION

Pursuant to 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 June 30th, 2011, discussed the appeal introduced by **Enterprise Rubare Josias (ERJ)** contesting against the decision of Karongi District of disqualifying it.

2. SUMMARY OF THE COMPLAINT

EJR is complaining against decision taken by Karongi District of disqualifying it. This comes after the tender committee did not consider the ERJ's "*attestation de non jugement de faillite*" issued by the intermediate commercial court of Nyarugenge.

3. SUMMARY OF FACTS

- On 30/05/2011, Karongi District issued a provisional notification of tender loss;
- On 04/06/2011, ERJ wrote to Karongi's Executive Secretary introducing its initial appeal ;
- On 08/06/2011, the Executive Secretary of Karongi District responded to ERJ's complaint;
- On 09/06/2011, ERJ lodged its appeal before Karongi's Independent Review Panel;
- On 21/06/2011, ERJ received the response from the District's review panel;
- On 22/06/2011, ERJ lodged its appeal before NIRP.

4. OBSERVATIONS MADE BY THE PANEL MEMBERS

NIRP members observed that:

- During submission of bids, ERJ provided "*attestation de non jugement de faillite*" issued by the Intermediate commercial court of Nyarugenge instead of certificate of none bankruptcy issued by Rwanda Development Board;
- China Jiangxi Corporation for International Economical and Technical cooperation (CJIC) (the proposed successful bidder) submitted a translated version of certificate of non-bankruptcy which is neither stamped nor signed by any competent authority;

- All the three bidders who reached the last phase of evaluation did not fulfill all requirements provided for by the bidding document as indicated in the evaluation report (see pages 16, 18, 21 of the evaluation report).

5. COMMENT

As there are deviations considered as minor by the tender committee, the “*attestation de non jugement de faillite*” provided by the ERJ instead of non bankruptcy certificate from Rwanda Development Board should also be considered as minor deviation for fairness.

6. DECISION BY THE NIRP

NIRP is hereby nullifying the decision taken by the District Independent Review Panel.

Pursuant to article 71 para.1 section 5 of the law N°12/2007 of 27/03/2007 on Public Procurement, NIRP orders re-evaluation of the bids and consider ERJ’s bid in the process.

NSENGIYUMVA Silas

Vice Chairman NIRP

KAZIMA Godfrey

Member

BUGINGO Emma-Marie

Member

BATETA Jane

Member