



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

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**DECISION N° 76/2011/NIRP ON THE TENDER N° 07MF/2011-2012/NYG “RELATIF AU MARCHÉ DE FOURNITURES DES PIPUTES, CHAISES ET TABLES DES PROFESSEURS, PORTES ET FENETRES METALLIQUES DESTINEES AUX TRAVAUX DE CONSTRUCTION DES SALLES DE CLASSES DANS LE PROGRAMME DE L’EDUCATION DE BASE DE DOUZE ANS (12YBE) PHASE III”**

**COMPLAINANT : ANS  
AGAINST : NYARUGENGE DISTRICT  
COMPLAINT : APPEAL AGAINST THE DECISION OF 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 24<sup>th</sup> October 2011, discussed the appeal introduced by ANS contesting the decision taken by Nyarugenge District of not awarding it a tender.

## **2. SUMMARY OF THE COMPLAINT**

ANS is claiming that the Nyarugenge District awarded the above tender to another bidder without complying with the contents of the bidding document and yet his company met the entire requirements.

## **3. SUMMARY OF FACTS**

- On 13/09/2011, Nyarugenge District sent a provisional notification to ANS;
- On 16/09/2011, ANS introduced the initial appeal before Nyarugenge District and received by the later on 19/10/2011;
- On 21/09/2011, Nyarugenge District responded to ANS’s concern;
- On 06/10/2011, ANS appealed before inexistent Nyarugenge District Independent Review Panel;
- On 12/10/2011, ANS introduced the appeal to NIRP;

- On 14/10/2011, NIRP wrote to Nyarugenge District requesting for documents and suspending procurement proceedings;
- On 20/10/2011, Nyarugenge District provided NIRP with the requested documents.

#### **4. OBSERVATIONS MADE BY THE PANEL MEMBERS**

From 19/09/2011, the day on which Nyarugenge District received appeal from ANS to the day (12/10/2011) on which it introduced its appeal before NIRP; there is a period of twenty three (23) days. ANS was supposed to receive the response from Nyarugenge District not later than 26/09/2011. From 26/09/2011 to 12/10/2011, there is a period of 16 days. From this, ANS introduced its appeal after the required period had expired.

#### **5. DECISION BY THE NIRP**

Considering that ANS did not respect the prescribed period of 7 days for introducing its appeal as stated by the Law on public procurement;  
Given the article 69 Para. 3 of the Law 12/2007 of 27<sup>th</sup> March 2007 on Public Procurement;  
The NIRP decides to reject the appeal introduced by ANS because of the appeal procedure's irregularity.

**NSENGIYUMVA Silas**  
Vice Chairman of NIRP

**KAZIMA Godfrey**  
Member

**BUGINGO Emma-Marie**  
Member

**BATETA Jane**  
Member