

DECISION No 14/2011/NIRP ON TENDER No 038/F/2010-IR/ORINFOR/RPPA FOR THE TRANSFORMATION OF OBK BUILDING INTO A MEDIA HOUSE OF ORINFOR.

COMPLAINANT : STUDIO HUMBURG MEDIA CONSULT INTERNATIONAL, MCI
ENTITY : RWANDA BUREAU OF INFORMATION AND BROADCAST,
ORINFOR
COMPLAINT : APPEAL AGAINST A TECHNICAL DISQUALIFICATION

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 16th February 2011, discussed the appeal introduced by MCI contesting its technical disqualification.

2. COMPLAINT

MCI claimed that it made the recommended rectifications according to RPPA request. Spite of that, MC has been technically disqualified. The tender has been illegally awarded to the Joint Venture STUDIOTECH and SONY WEST AND EAST AFRICA. Therefore, MCI is requesting for a review of the said decision to be awarded the concerned tender.

3. SUMMARY OF FACTS

- 2010, on behalf of ORINFOR, RPPA invited 5 firms to submit their offers for the tender No 038/F/2010-IR/ORINFOR/RPPA.
- After receiving the provisional notification of rejection, MCI, proceeded to the appeals.
- On 14/09/2010, NIRP received the appeal presented by MCI.
- On 11-12/October/2010, the members of the NIRP discussed the above appeal and decided to recommend ORINFOR to demand to the two bidders which had reached the technical stage, (Joint Venture of Studio Tech and Sony professional Solutions East and West Afric, and MCI) to rectify the major deviations and review their prices.

- On 05/11/2010, RPPA sent a request for their bids rectifications to each of the two bidders mentioned above.
- On 26/11/2010, RPPA opened the bids with rectifications. After the said date, the reevaluation was done.
- According to the reevaluation report, page 12, MCI was disqualified because its bid has still containing much technical major deviations.
- On 15/12/2010, the board of Directors of RPPA approved the reevaluation report and on 20/12/2010, RPPA transmitted to ORINFOR the said report.
- On 05/01/2011, MCI received the provisional notification of rejection.
- On 11/01/2011, MCI introduced its initial appeal to RPPA.
- ON 13/01/2011, RPPA rejected the above appeal considering that the person who introduced it, M.Jacques Schillings, was not the right person to represent the company.
- On 20/01/2011, M.Jacques Schillings brought the proofs for its role of representation.
- On 27/01/2011, RPPA gave to MCI the details on the major deviations.
- On 02/02/2011, MCI introduced the appeal to NIRP.

4. OBSERVATIONS BY THE MEMBERS OF THE NIRP

- MCI received the rejection of its initial appeal on 13/01/2011.
- After the said rejection, on 20/01/2011, MCI, wrote to RPPA explaining and proving that M. M.Jacques Schillings, represents the company.
- On 02/02/2011, MCI introduced the appeal to NIRP.
- According to the Law No 12/2007 of 27/03/2007 on Public Procurement, MCI, after the rejection of its initial appeal on 13/01/2011, should have appealed to NIRP within seven days (from 14/01 to 20/01). Instead of doing so, this firm presented its appeal to NIRP with a delay of thirteen days (from 21/01 to 02/02).

5. DECISION BY THE NIRP

Considering that MCI did not respect the prescribed period of 7 days to introduce its appeal to NIRP;

Given the article 71 of the Law 12/2007 of 27/03/2007 on Public Procurement;

The NIRP decides to reject the appeal introduced by MCI due to the irregularity of appeal's procedure.

BIZIMANA RUGANINTWALI Pascal

President of NIRP

KAZIMA Godfrey

Member

BATETA Jane

Member

BUGINGO Emma Marie

Member