



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

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**DECISION N° 030 /2013/NIRP ON THE TENDER N° 034/T/012-013-N/NAEB FOR
CONSTRUCTIONS WORKS OF RUSIGA COLLECTION CENTER WITH A COLD ROOM AT
KIRENGE CENTER-RULINDO.**

COMPLAINANT : RIGHT VISION CONSTRUCTION LTD
AGAINST : NAEB
COMPLAINT : APPEAL AGAINST THE DECISION ON THE TENDER AWARD

1. INTRODUCTION

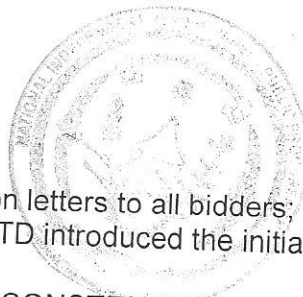
Pursuant to the article 70 of the Law N° 12/2007 of 27/03/2007 on Public Procurement, the members of the National Independent Review Panel (NIRP), on 27/03/2013 analyzed the appeal introduced by RIGHT VISION CONSTRUCTION LTD contesting the decision on the tender mentioned above.

2. SUMMARY OF THE COMPLAINT

RIGHT VISION CONSTRUCTION LTD is requesting NIRP to reinstate its right because different reasons advanced by NAEB are not founded. Reasons alleged by NAEB are: (i) Not provided the "Références techniques"; (ii) "Attestation de non créance of RRA" and (iii) the "Références techniques" presented are non responsive.

3. SUMMARY OF FACTS

- On 21/10/2012, NAEB advertised the tender;
- On 23/01/2013, Bids were opened;
- On 20/02/2013, NAEB sent the provisional notification letters to all bidders;
- On 26/02/2013, RIGHT VISION CONSTRUCTION LTD introduced the initial appeal before NAEB;
- On 01/03/2013, NAEB responded to RIGHT VISION CONSTRUCTION LTD' initial appeal;



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- On 05/03/2013, RIGHT VISION CONSTRUCTION LTD introduced the second appeal before NAEB;
- On 11/03/2013, RIGHT VISION CONSTRUCTION LTD received from NAEB the response to its second initial appeal;
- On 18/03/2013, NIRP received the appeal from RIGHT VISION CONSTRUCTION LTD;
- On 19/03/2013, NIRP requested NAEB to suspend procurement process and to submit all documents related to this tender;
- On 26/03/2013, NAEB provided to NIRP the requested documents.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

1. The clause 5.5 (b) of Instructions to Bidders specify: "experience as prime contractor in the construction of works of a nature and complexity equivalent to the Works over the period **specified in the BDS** (to comply with this requirement, works cited should be at least 70 percent complete);
2. The Bid Data Sheet on ITB 5.5 (b) lists the essential equipment to be made available for the Contract by the successful Bidder is as follows:
 - o CAMION BEN
 - o BETONIERE
 - o POWER GENERATOR
 - o NIVEAU A LUNETTES
3. The ITB 13.1 of Instructions to Bidders specify that: "The certificates of good execution of work (at least 2 projects each one with an amount that is more or less equal to that speculated in this tender document)";

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4. RIGHT VISION CONSTRUCTION LTD provided “procès-verbaux de réception provisoire des travaux et équipements”:

- Projet de construction des laboratoires aux centres de Santé de Kinyinya et Kabusunzu pour le compte de SPIU/MINISANTE;
- Travaux de constructions Pavillon d’Isolement du TB à l’Hôpital de Gisenyi en Province de l’Ouest;
- Travaux de constructions Pavillon d’Isolement du TB à l’Hôpital de Murunda en Province de l’Ouest.

5. COMMENTS BY THE PANEL MEMBERS

Concerning the “the certificates of good execution of work” and the phrase stating that “to comply with this requirement, works cited should be at least 70 percent complete” which is not modified in the Bid Data Sheet,

NIRP members find out that the “procès-verbaux de réception provisoire des travaux et équipements” presented by the complainant should be considered as proof of works executed as per the tender document requirements after verifying their authenticity.

6. DECISION BY THE NIRP

Basing on the above background and comment;

Given the article 71, para 1, 3^o of the Law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members nullify the decision taken by NAEB;

Pursuant to article 71, para 1, 5^o of the Law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members order re-evaluation and to consider the bid of RIGHT VISION CONSTRUCTION LTD in the next step of the evaluation process after checking the authenticity of the “procès-verbaux de réception provisoire des travaux et équipements” presented.

NSENGIYUMVA Silas
Member

BUGINGO Emma Marie
Member

KAZIMA Godfrey
Member



BATETA Jane
Member