

REPUBLIC OF RWANDA



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

KN 3 AV, 2 KIGALI/RWANDA
10th FLOOR, GRAND PENSION PLAZA
P. O. Box: 4276,
E-mail: rppa@rwanda.rw



Kigali, on 08 SEPT 2015

N° 010/2015-112/NIRP

**THE EXECUTIVE SECRETARY OF GATSIBO
DISTRICT**

Dear Sir,

SUBJECT: TRANSMISSION OF THE DECISION

Pursuant to article 70 of the Law N° 12/2007 of 27/03/ 2007 on Public Procurement as modified and complemented to date, find herewith attached, the decision of the National Independent Review Panel "NIRP" related to the appeal introduced by ECOBASA LTD contesting the decision taken on the tender N° 043/GAT/INFRA/14-15 "ryo Kubaka centre sportif kuri Guest House ya Kabarore.

Sincerely,

BUGINGO Emma Marie
Chairperson

CC:

- Director General of RPPA
- Manager of ECOBASA LTD

Received by
NSEANGYUMVA silas
on 11.05.2015
ilg
ECOBASA LTD
Accountant

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**DECISION N° 031 /2015/NIRP ON THE TENDER N° 043/GAT/INFRA/14-15 "RYO
KUBAKA CENTRE SPORTIF KURI GUEST HOUSE YA KABARORE".**

COMPLAINANT : ECOBASA LTD
AGAINST : GATSIBO DISTRICT
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 as modified and complemented to date, members of the National Independent Review Panel (NIRP), on 25/08/2015 analysed the appeal introduced by ECOBASA LTD contesting the decision on the above tender.

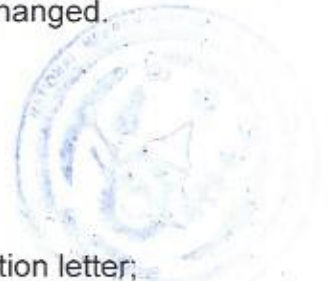
2. SUMMARY OF THE COMPLAINT

ECOBASA LTD is contesting the GATSIBO DISTRICT's decision to disqualify their bid, on the argument that the provided Certificates of good completion accompanied by the contract is wrong as the contract was signed on May 2014 on behalf of ECOBASA LTD while the company was registered on July 2014.

ECOBASA LTD is arguing that ECOBASA, as an Enterprise, was transformed to ECOBASA LTD as per the Ministerial Order N° 02/09/MINICOM of 08/05/2009 relating to Business of Low Income provisions, therefore the bidder does not changed.

3. SUMMARY OF FACTS

- On 31/03/2015, GATSIBO DISTRICT advertised the tender;
- On 12/05/2015, Bids were opened;
- On 08/06/2015, ECOBASA LTD received the provisional notification letter;
- On 10/06/2015, ECOBASA LTD lodged the initial appeal before GATSIBO DISTRICT;
- On 17/06/2015, GATSIBO DISTRICT responded to ECOBASA LTD's initial appeal;



- On 23/06/2015, ECOBASA LTD introduced the appeal before the INDEPENDENT REVIEW PANEL OF GATSIBO DISTRICT;
- On 16/07/2015, ECOBASA LTD received the decision of the INDEPENDENT REVIEW PANEL OF GATSIBO DISTRICT;
- On 22/07/2015, NIRP received the appeal from ECOBASA LTD;
- On 23/07/2015, NIRP requested GATSIBO DISTRICT to suspend procurement process and submit all documents related to this tender;
- On 12/08/2015, GATSIBO DISTRICT submitted the requested documents;
- On 21/08/2015, NIRP informed both ECOBASA LTD and GATSIBO DISTRICT that an additional time not exceeding 30 days will be needed to issue an appropriate decision to the appeal.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The tender document requested a *"List of three (3) projects of building construction accompanied with contract and their certificates of good completion"*;
- ECOBASA LTD presents:
 - o A contract from Rwanda Biomedical Center (RBC), entitled "Execution of renovation works of medical research center (MRC) offices" signed between RBC and ECOBASA LTD on 05/05/2014;
 - o This contract corresponds to the "Minutes of the provisional acceptance of renovation works of medical research center (MRC) office" of 25/08/2014.
- The Certificate of Domestic Company registration issued by RDB presented by ECOBASA LTD was issued on 14/07/2015;
- The RDB letter of "To Whom it may concern", provided by ECOBASA LTD during appeal process, states that: *"We hereby certified that the individual enterprise belong to Mr SAFARI Jean Felix which was registered under enterprise code 101653623 on November 2008 with the Business name of ECOBASA has been operating as a company from July 2014"*;
- The article 33, para 2, of the Law N°12/2007 of 27/03/2007 on Public Procurement as modified and complemented to date stipulating that: *"After the deadline for submitting bid, the bidder shall not change it, or make any addendum thereon."*

5. COMMENTS BY THE PANEL MEMBERS

Based on the article 33, para 2, of the Law N°12/2007 of 27/03/2007 on Public Procurement as modified and complemented to date; the RDB letter Ref. RDB/3/RG/0855/0710 of 17/07/2014 cannot be considered as it was provided by the complainant after the deadline of bid submission.

Since the contract signed by ECOBASA LTD on 05/05/2014 yet ECOBASA was still an individual enterprise by that time, and not a Company, NIRP members maintain the decision taken by GATSIBO District on this issue.

6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to article 70 of the Law N°12/2007 of 27/03/2007 on Public Procurement as modified and complemented to date, NIRP members decide to dismiss the appeal introduced by ECOBASA LTD because it is unfounded.



BUGINGO Emma Marie
Chairperson



KAYITESI Eugenia
Member



MUNYURA Pierre
Member



BIRANGWA Amri
Member



SANGANO Yves
Member