



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

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DECISION N° 005/2013/NIRP ON TENDER N°30/OB/2012-2013/RCS FOR "GUKORA ISUKU MU BIRO RQS IKORERAMO"

COMPLAINANT : DAMU GENERAL SERVICES
AGAINST : RWANDA CORECTIONAL SERVICES (RCS)
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 27/02/2013 analysed the appeal introduced by DAMU GENERAL SERVICES contesting the decision taken on the above tender.

2. SUMMARY OF THE COMPLAINT

DAMU GENERAL SERVICES is claiming that RCS should not disqualify its bid for not separately presenting the social security contribution from the salary of its staff. He argues that the tender document does not require for a separate calculation of social security contribution, but rather states that this contribution must be included in the salary.

3. SUMMARY OF FACTS

- On 22/12/2012, RCS advertised the tender;
- On 21/01/2012, Bids were opened;
- On 22/01/2012, DAMU GENERAL SERVICES received the provisional notification;
- On 25/01/2013, RCS received the initial appeal from DAMU GENERAL SERVICES;
- On 31/01/2013, RCS signed contract with the provisional successful bidder;
- On 31/01/2013, DAMU GENERAL SERVICES introduced the appeal to NIRP;
- On 05/02/2013, NIRP requested RCS to suspend procurement process and submit all documents related to this tender;
- On 07/02/2013, RCS responded to DAMU GENERAL SERVICES initial appeal;



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- On 25/02/2013, RCS submitted the requested documents to NIRP.

4. OBSERVATION BY THE PANEL MEMBERS

- The tender document specifies that: *"Kugaragaza umubare w'abakozi batandatu azakoresha kandi bahembwa hagati ya 30,000 frw na 40,000 frw habariwemo n'ayo kumuteganyiriza mu Isanduku y'ubwiteganyirize bw'abakozi kandi hagomba kugaragara n'uburyo "supervisor" w'imirimo ahembwa"*;
- The complainant proposes 6 general workers and a supervisor;
- The complainant proposes to pay Thirty Thousand Rwandese Francs (30,000 Rfw) per month for each general worker but he is silent about the salary of the supervisor.

5. COMMENTS BY THE PANEL MEMBERS

RCS should not disqualify the complainant for not presenting separately the social security contribution because it is included in the price proposed;


RCS should not have signed the contract with the provisional successful bidder while the process of appeal was ongoing;

Since the complainant did not propose the salary of the supervisor as required by the tender document, NIRP members do agree with RCS on the decision taken.

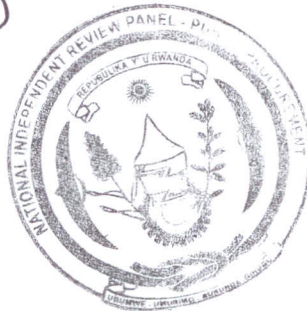
6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to articles 36 and 70 of the Law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members decide to dismiss the appeal introduced by DAMU GENERAL SERVICES because it is baseless.



NSENGIYUMVA Silas
Vice Chairman of NIRP



BUGINGO Emma Marie
Member



KAZIMA Godfrey
Member



BATETA Jane
Member