



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

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DECISION N° 014/2013/NIRP ON TENDER N°003/MUHOP/09/2012 FOR CLEANING SERVICES

COMPLAINANT : KG HARVEST
AGAINST : MUHIMA HOSPITAL
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 23/01/2013 analysed the appeal introduced by KG HARVEST contesting the decision taken on the above tender.

2. SUMMARY OF THE COMPLAINT

KG HARVEST is contesting the (i) tendering process because Muhima Hospital published this tender on 1st September 2012, firstly opened bids on 1st October and wrote a letter to him on 20th December 2012 requesting him to submit again on 24th December 2012 and opened again bids on the same date; (ii) the format of the tender document used is not in the line of RPPA circular because the method used is Quality Cost Based Selection while RPPA recommends to use the evaluation like the one use in the tender of supply for cleaning services tender; (iii) the tender document was modified after the deadline of bid submission; (iv) the period of evaluation of bids exceeded 21 days; (v) the technical and financial bid were opened at the same time. Based on that, the complainant requests NIRP to review the decision of MUHIMA HOSPITAL.

3. SUMMARY OF FACTS

- On 01/09/2012, MUHIMA HOSPITAL advertised the tender;
- On 01/10/2012, Bids were opened;
- On 24/10/2012, Bids were opened again
- On 20/12/2012, KG HARVEST received a letter from MUHIMA HOSPITAL requesting him to visit the field and at same time to re-submit its bid following the modification made on the tender documents.



- On 27/12/2012, KG HARVEST received the provisional notification letter from MUHIMA HOSPITAL;
- On 27/12/2012, KG HARVEST introduced the initial appeal before MUHIMA HOSPITAL;
- On 02/01/2012, KG HARVEST received the MUHIMA HOSPITAL response on its initial appeal;
- On 04/01/2013, KG HARVEST introduced the appeal to NIRP;
- On 08/01/2013, NIRP requested MUHIMA HOSPITAL to suspend procurement process and to submit all documents related to this tender;
- On 10/01/2013, MUHIMA HOSPITAL submitted the requested documents to NIRP.

4. OBSERVATION BY THE PANEL MEMBERS

- The method of selection indicated in the tender document is: "Quality Cost Based Selection";
- On 01/10/2012, the tender committee of MUHIMA HOSPITAL opened at the same time technical and financial offers received;
- On 20/12/2012, MUHIMA HOSPITAL wrote to all bidders who submitted their bids to withdraw the bids. At the same time invited them to re submit the bids on 24/12/2012 basing on the modification made on the tender document.


5. COMMENTS BY THE PANEL MEMBERS

NIRP members noted that MUHIMA HOSPITAL breached Public Procurement Procedures when (i) he requested to the bidders to withdraw their bids after opening session (ii) the time of evaluation used after the opening session of 01/10/2012 exceeded 21 days; (iii) he modified the tender document and sent it only to the bidders which were bided for, while it was an open tender; (iv) he gave four days only for preparation of new bids.

6. DECISION BY THE NIRP


Basing on the above background and comments;

Pursuant to article 71, para 7^o of the Law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members order that the procurement proceedings be terminated.


NSENGIYUMVA Silas
 Vice Chairman of NIRP




BUGINGO Emma Marie
 Member


KAZIMA Godfrey
 Member