



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

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**DECISION N° 066 /2013/NIRP REGARDING THE SUBMISSION BY EHAC OF THE
REASONABLE COST INCURRED IN PARTICIPATING IN THE BIDDING PROCESS ON THE
TENDER N° 37/T/N/12-13/RGNA FOR "KUBAKA INZU Y'URUBYIRUKO YO MU MURENGE WA
FUMBWE"**

1. INTRODUCTION

Pursuant to the article 70 of the Law N° 12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, the members of the National Independent Review Panel (NIRP), on 19/09/2013 analyzed the cost submitted by EHAC incurred in participating in the bidding process on the tender mentioned above.

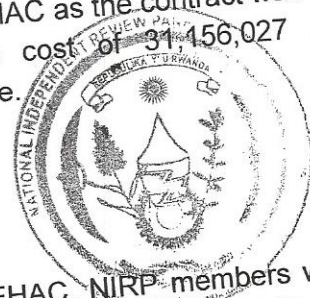
That cost was submitted following the decision N° 041/2013/NIRP of 13/05/2013 taken by NIRP on the appeal lodged by EHAC on the cited tender, where it has been requested to submit to NIRP a reasonable cost incurred in participation in the bidding process of that tender.

2. SUMMARY OF FACTS

- On 27/12/2012, RWAMAGANA DISTRICT advertised the tender;
- On 29/01/2012, Bids were opened;
- On 18/03/2013, NIRP received the appeal from EHAC;
- On 18/03/2013, NIRP requested RWAMAGANA District to suspend the process and submit all related document;
- On 19/04/2013, RWAMAGANA DISTRICT provided to NIRP the requested documents and at the same time informed NIRP that the contract was signed on 15/03/2013;
- On 13/05/2013, NIRP took decision to compensate EHAC as the contract was already signed;
- On 30/05/2013, EHAC submitted the reasonable cost of 31,456,027 Rwf incurred in participating in the bidding process of the tender above.

4. ANALYSIS OF THE COST SUBMITTED BY EHAC

Before starting the analysis of the cost submitted by EHAC, NIRP members were informed that EHAC is excluded in participating from the public procurement. The reason of its exclusion is based on a fraudulent certificate of non-bankruptcy dated 12/12/2012 presented in tendering process in RUTSIRO District in February, 2013.



- On 28/02/2013, RUTSIRO District informed RPPA about the forged document of EHAC requested to take an appropriate action;
- On 19/03/2013, EHAC received a letter of RPPA inviting it on 20/03/2013 to give clarifications about the forged documents but EHAC never responded;
- On 07/05/2013, RPPA decided to exclude EHAC for participation from the public procurement for a period of three (3) years;
- On 13/05/2013, NIRP took a decision without being informed of the RPPA decision of exclusion for participation from the public procurement;

When EHAC lodged its appeal, NIRP was not informed on the ongoing case regarding the forged document submitted by him during public tendering.

5. COMMENT BY THE PANEL MEMBERS

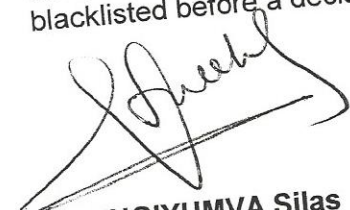
Considering that EHAC had been excluded for participation from the public procurement before NIRP took a decision to compensate it; NIRP members judge that EHAC does not deserve the right to be paid the cost it incurred by participating in the tender in question.

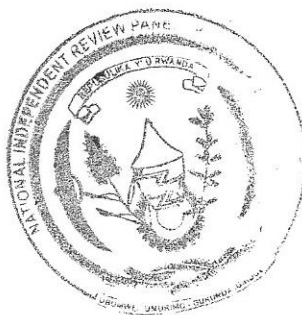
6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;


Based on the article 70 of the Law 12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, NIRP members decide to nullify their initial decision N° 041/2013/NIRP of 13/05/2013 related to the tender N°37/T/N/12-13/RGNA for "Kubaka inzu y'urubyiruko yo mu Murenge wa Fumbwe".

Pursuant to articles 70 of the Law 12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, NIRP members consider EHAC appeal no acceptable because it was blacklisted before a decision was taken on.


NSENGIYUMVA Silas
 V/Chairman of NIRP




BUGINGO Emma Marie
 Member


KAZIMA Godfrey
 Member


BATETA Jane
 Member