

REPUBLIC OF RWANDA



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

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10th FLOOR, GRAND PENSION PLAZA
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**DECISION N° 028/2014/NIRP ON THE TENDER N° 30/112013-2014/T/N/RLDSF
"TRAVAUX DE CONSTRUCTION DES ROUTES ASPHALTÉES: HÔPITAL DE
NYANZA-NYAMAGANA, EGLISE CHRIST ROI-MATER DEI-GATSINSINO ET
BUSASAMANA-KAVUMU DANS LE SECTEUR BUSASAMANA/DISTRICT DE
NYANZA".**

**COMPLAINANT : ENTREPRISE MUKAKIMENYI MARIE ROSINE (E.M.M.R)
AGAINST : NYANZA DISTRICT
COMPLAINT : APPEAL AGAINST THE CANCELLATION OF THE TENDER**

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, on 03/03/2014 and 31/03/2014, NIRP members analysed the appeal introduced by E.M.M.R against the NYANZA DISTRICT's decision for cancellation of the above tender.

2. SUMMARY OF THE COMPLAINT

E.M.M.R is contesting the NYANZA DISTRICT's decision cancelling the above tender. NYANZA DISTRICT cancelled the tender for no responsiveness to all bidders. E.M.M.R was disqualified due to the forgery certificate for good performance related to the execution of roads referenced in Uganda (DISTRICT OF MITYANA), issued by AUDIO LOGIC UGANDA LTD as a contractor.

E.M.M.R is contesting the NYANZA DISTRICT's allegation because the members of the Internal Tender Committee of NYANZA DISTRICT visited the Enterprise and found out that it is responsive.



Website: www.rppa.gov.rw

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3. SUMMARY OF FACTS

- On 13/11/2013, NYANZA DISTRICT advertised the tender;
- On 13/12/2013, bids were opened;
- On 21/01/2014, NYANZA DISTRICT issued a provisional notification letter to E.M.M.R;
- On 28/01/2014, E.M.M.R introduced an initial appeal before NYANZA DISTRICT;
- On 31/01/2014, NYANZA DISTRICT responded the E.M.M.R's initial appeal;
- On 04/02/2014, E.M.M.R lodged its appeal before the INDEPENDENT REVIEW PANEL of NYANZA DISTRICT;
- On 06/02/2014, E.M.M.R received the decision of INDEPENDENT REVIEW PANEL of NYANZA DISTRICT on its appeal;
- On 11/02/2014, E.M.M.R introduced the appeal to NIRP;
- On 14/02/2014, NIRP requested NYANZA DISTRICT to suspend procurement process and submit all documents related to this tender;
- On 25/02/2014, NYANZA DISTRICT submitted the documents requested;
- On 05/03/2014, NIRP invited NYANZA DISTRICT and E.M.M.R representatives for clarifications on this tender;
- On 13/03/2014, NIRP met the E.M.M.R and NYANZA DISTRICT representatives.
- On 14/03/2014, NIRP requested technical assistance from RPPA for a thorough investigation about the supposed E.M.M.R's forgery certificates of good performance;
- On 26/03/2014, RPPA responded to NIRP's request.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- Among certificates of good performance presented by E.M.M.R, there are certificates of completion issued by AUDIO LOGIC UGANDA LTD on the following roads located at Mityana District (Republic of Uganda) :
 - o TARMACKING OF KINYANKALI ROAD – Mityana District;
 - o TARMACKING (Light Tarmacking of Kibibi Garage Road) – Mityana District;
 - o TARMACKING OF KIYUDAAYA-MUKWENDA ROAD LINK AND DRANAGE IMPROVEMENT – Mityana District;
- The team of NYANZA DISTRICT in collaboration with Rwanda Embassy staff visited the said roads and found out that, the two first roads are not tarmacked, while the third does not exist;
- Upon the Rwanda Embassy's request, the Mityana District's authority declare not be aware of the projects of the above roads;
- Upon the NIRP's request, RPPA confirms with Rwanda Embassy the results of due diligence done by the team of NYANZA District.



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5. COMMENT BY THE PANEL MEMBERS

Basing on the above observations, NIRP members judge that E.M.M.R does not deserve the right to be awarded this tender.

6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comment;

Pursuant to the article 70 of the Law 12/2007 of 27/03/2007 on Public Procurement as modified and complemented to date, NIRP members decide to dismiss the appeal introduced by E.M.M.R because it is not founded.



BAGILIZINA Emmanuel
Vice Chairperson



BUGINGO Emma Marie
Chairperson



KAYITESI Eugenia
Member



SANGANO Yves
Member



BIRANGWA Amri
Member



MUKANTABANA Crescence
Member