



**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@rwanda1.com

DECISION N° 12 /2014/ NIRP ON THE TENDER N° RSZ/2013-2014-F-T-MINEDUC/DISTRICT FOR "FOURNITURE ET FIXATION DES PORTES ET DE FENÊTRE DANS LES SALLES DE CLASSES CONSTRUITES DANS LE CADRE DE 9&12YBE DANS LE DISTRICT DE RUSIZI"

COMPLAINANT : ATELIER DE SOUDURE ET DE MENUISERIE DE RUSIZI (ASMR)
AGAINST : INDEPENDENT REVIEW PANEL OF RUSIZI DISTRICT (IRP-RUSIZI DISTRICT)
COMPLAINT : APPEAL AGAINST 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 completed to date, the members of the National Independent Review Panel (NIRP), on 06/01/2014 analyzed the appeal introduced by ASMR contesting the decision taken on the above tender.

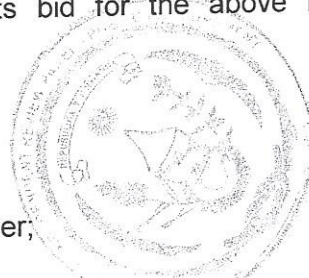
2. SUMMARY OF THE COMPLAINT

ASMR is appealing against its disqualification by the IRP-RUSIZI DISTRICT for not presenting a signed document indicating its location.

ASMR was a provisional successful bidder and following the appeal of FRUITFUL OWNED COMPANY LTD, IRP-RUSIZI DISTRICT disqualified its bid for the above mentioned reasons.

3. SUMMARY OF FACTS

- On 19/07/2013, RUSIZI DISTRICT advertised the tender;
- On 28/08/2013, bids were publically opened;
- On 16/09/2013, RUSIZI DISTRICT wrote a notification letter to ASMR as a provisional successful bidder;
- On 23/09/2013, FRUITFUL OWNED COMPANY LTD introduced the initial appeal before RUSIZI DISTRICT;
- On 24/09/2013, RUSIZI DISTRICT responded to FRUITFUL OWNED COMPANY LTD's initial appeal;



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- On 30/10/2013, IRP-RUSIZI DISTRICT issued a decision about FRUITFUL OWNED COMPANY LTD indicating that the appeal was baseless;
- On 30/10/2013, IRP-RUSIZI DISTRICT transmitted its decision to RUSIZI DISTRICT informing that both ASMR (provisional successful bidder) and SORECO should be disqualified at the stage of technical evaluation because they were not conforming to the tender document requirements;
- On 18/11/2013, ASMR introduced its initial appeal before RUSIZI DISTRICT;
- On 29/11/2013, RUSIZI DISTRICT responded to ASMR's initial appeal indicating that its disqualification was a decision of IRP-RUSIZI DISTRICT;
- On 02/12/2013, ASMR lodged its appeal before the INDEPENDENT REVIEW PANEL of IRP-RUSIZI DISTRICT;
- On 12/12/2013, IRP-RUSIZI DISTRICT issued the decision about ASMR appeal indicating that the appeal was baseless;
- On 16/12/2013, NIRP received the appeal from ASMR;
- On 16/12/2013, NIRP sent a letter to RUSIZI DISTRICT requesting the suspension of the procurement process and submission of all documents related to this tender;
- On 31/12/2013, RUSIZI DISTRICT submitted the requested documents.

4. OBSERVATIONS BY THE PANEL MEMBERS

- In its response to ASMR's appeal, the IRP-RUSIZI DISTRICT decision was based on the lack of a document indicating the location of the "Atelier";
- The Tender document requests "**Avoir un atelier (Indiquer le lieu, cellule, secteur, District)**" (See "Chapitre 1. Instructions aux soumissionnaires; 4 Contenu des documents constitutifs de la soumission"; 4.1.3);
- The Tender document requests "**Localisation de l'atelier**" (See "Chapitre 1. Instructions aux soumissionnaires; 5 Qualification des soumissionnaires"; A; Documents administratifs; 3);
- The bid of ASMR specifies the location of "atelier" as follows: "Avoir un atelier (Cellule Kamashangi, Secteur Kamembe, District Rusizi)/ Voir patente", (See "CONTENU DE LA SOUMISSION"; 3).

5. COMMENT BY THE PANEL MEMBERS

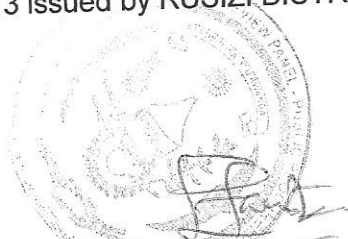
Taking into consideration, the fact that the tender document does not have a specific format on the location of the "atelier", NIRP members find out the Cell, Sector and District "Patente" provided for in the bid of the complainant, supported by a copy of "Patente" as proof, are complying with the tender document requirements.

6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comment;



Considering the article 70 para 3, of the Law N°12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, NIRP members nullify the decision taken by the IRP-RUSIZI DISTRICT and maintain the decision taken in the provisional notification ref. n° 1313/SE/0306 of 16/09/2013 issued by RUSIZI DISTRICT.



BUGINGO Emma Marie
Chairperson

BAGILIZINA Emmanuel
Vice Chairperson

MUNYURA Pierre
Member

KAYITESI Eugenia
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