

DECISION N° 45/2011/NIRP ON TENDER N° 003/F/2011-I/PMU-GLOBAL FUND/RPPA FOR THE SUPPLY, INSTALLATION AND TEST OF LABORATORY EQUIPMENT FOR THE TB UNIT AND TRAINING OF USERS

COMPLAINANT: AFRICA MEDICAL SUPPLIER (AMS)

AGAINST : SINGLE PROJECT IMPLEMENTATION UNIT (SPIU)
COMPLAINT : APPEAL AGAINST THE SPIU DECISION OF EXCLUDING IT FROM THE TENDER

1. INTRODUCTION

Pursuant to 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 June 30th, 2011, discussed the appeal introduced by **AFRICA MEDICAL SUPPLIER** contesting against the **SPIU's** decision of excluding its bid.

2. SUMMARY OF THE COMPLAINT

AMS is complaining about the decision taken by the SPIU of eliminating it from the tender on all lots it had bided on.

3. SUMMARY OF FACTS

- On 19/05/2011, SPIU issued a provisional notification to AFRICA MEDICAL SUPPLIER;
- On 23/05/2011, SPIU received initial appeal from AFRICA MEDICAL SUPPLIER;
- On 03/06/2011, SPIU responded to AFRICA MEDICAL SUPPLIER's appeal;
- On 06/06/2011, AFRICA MEDICAL SUPPLIER lodged its appeal before NIRP.

4. OBSERVATIONS MADE BY THE PANEL MEMBERS

NIRP members observed that;

- Provisional notification letter of 19 May 2011, provided that AFRICA MEDICAL SUPPLIER was eliminated because of not providing training module and its bid was in competition with that of SINOAFRICA (a foreigner Company) it had represented;

- In the letter of 03 June 2011, responding to AFRICA MEDICAL SUPPLIER's compliant, SPIU cited double competition;
- The bidders proposed to be awarded lot 2 and lot 4 did not provide the training Module as required by the tender document on IAS 11.1.11;
- AFRICA MEDICAL SUPPLIER is a local representative of the foreigner company by names of SINOAFRICA which they competed on the same tender and on the same lot (lot3);

5. COMMENTS

AMS's consent to represent SINOAFRICA is evidence based due to the following reasons:

- SINOAFRICA's letter of 29/03/2011 to SPIU introducing AFRICA MEDICAL SUPPLIER as its local representative;
- AMS provided SINOAFRICA with its documents and these include; a copy of trading licence, a copy of tax clearance certificate from Rwanda Revenue Authority (RRA) of 24/03/2011 and a copy of "*attestation de non-redevance*" from Rwanda's Social Security Fund.

Considering that AMS and SINOAFRICA bided on same lot (lot 3), both must not be evaluated on that lot due to the implied double competition. However, lots (2 & 4) where SINOAFRICA did not compete, there is no reason AFRICA MEDICAL SUPPLIER's bid should not be evaluated.

6. DECISION BY THE NIRP

Pursuant to article 71 para.1 section 5 of the law N°12/2007 of 27/03/2007 on Public Procurement, NIRP orders re-evaluation of the bids and consider AFRICA MEDICAL SUPPLIER on lot 2 and lot4.

NSENGIYUMVA Silas

Vice Chairman NIRP

KAZIMA Godfrey

Member

BUGINGO Emma-Marie

Member

BATETA Jane

Member