



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

AVENUE DE LA PAIX, KIGALI-RWANDA
P. O. Box: 4276, Tel.: (250) 501403, 501404, 501405,
Fax: (250) 501402
E-mail: rppa@rwanda1.com

**DECISION N° 029 /2013/NIRP ON TENDER N°005/PU/MOD/012-013 FOR SUPPLY IT &
ELECTRONIC EQUIPMENTS TO THE MINISTRY OF DEFENSE.**

COMPLAINANT : ATRICO LTD
AGAINST : MINISTRY OF DEFENSE
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 20/03/2013 analysed the appeal introduced by ATRICO LTD contesting the decision taken on the above tender.

2. SUMMARY OF THE COMPLAINT

ATRICO LTD is claiming that MINISTRY OF DEFENSE should not disqualify its bid on lot 1 of the tender because: ".... the bid security mistake, subject to its disqualification, was conducted by the Insurance Company (Phoenix of Rwanda Assurance Company Ltd) and not ATRICO LTD. The Insurance Company has since accepted the unforeseeable mistake and agreed to change and provide us with the correct Insurance document which we had requested in the first place"

3. SUMMARY OF FACTS

- On 31/12/2012, MINISTRY OF DEFENSE advertised the tender;
- On 25/01/2013, Bids were opened;
- On 04/03/2013, ATRICO LTD received the provisional notification;
- On 05/03/2013, ATRICO LTD presented at the same time a new Bid Security and the initial appeal to the MINISTRY OF DEFENSE;
- On 11/03/2013, MINISTRY OF DEFENSE responded to ATRICO LTD initial appeal;
- On 13/03/2013, ATRICO LTD introduced the appeal to NIRP;



mm

sd

ff

- On 15/03/2013, NIRP requested MINISTRY OF DEFENSE to suspend procurement process and submit all documents related to this tender;
- On 19/03/2013, MINISTRY OF DEFENSE submitted the requested documents to NIRP.

4. OBSERVATIONS BY THE PANEL MEMBERS

- MINISTRY OF DEFENSE notified ATRICO LTD that it was not awarded the Lot 1 of the tender because it provided a Bid Security of amount of **3,346,600 Rwf** instead of **3,436,600 Rwf** as required;
- The Instructions to bidders , bid Data Sheet (BDS) 11.1 (h), f. of the tender document requires the Bid Security of amount of **3,436,600 Rwf** for Lot1;
- ATRICO LTD provided a Bid Security of amount of **3,346,600 Rwf** for Lot1;
- After the provisional notification of the results of evaluation, ATRICO LTD issued a new Bid Security of **3,436,600 Rwf**.

5. COMMENTS BY THE PANEL MEMBERS

Correcting the mistake made on the Bid Security by the complainant after evaluation and provisional notification is equivalent to the Bid changing which is contrary to the article 33 of the Law N° 12/2007 of 27/03/2007 on Public Procurement;

NIRP members do agree with the decision taken by the MINISTRY OF DEFENSE to disqualify the bid of ATRICO LTD for the non conformity of its Bid Security presented before the deadline of bid submission.

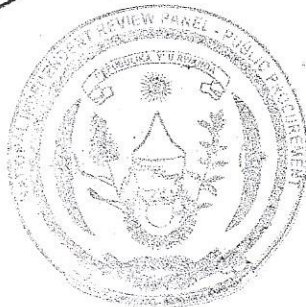
6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to article 70 of the Law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members decide to dismiss the appeal introduced by ATRICO LTD because it is baseless.

NSENGIYUMVA Silas
Vice Chairman of NIRP

KAZIMA Godfrey
Member



BUGINGO Emma Marie
Member

BATETA Jane
Member