



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

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**DECISION N° 043/2013/NIRP ON THE TENDER N° 013/F/B.O/SPM-NO/2012-2013 FOR
CLEANING AND GARDENING**

COMPLAINANT : COGACTEX LTD
AGAINST : OFFICE OF PRIME MINISTER
COMPLAINT : APPEAL AGAINST THE DECISION ON THE TENDER AWARD

1. INTRODUCTION

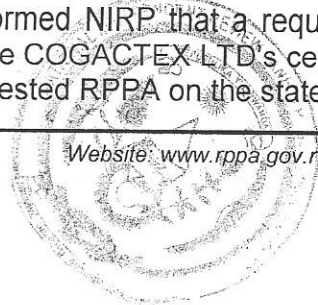
Pursuant to the article 70 of the Law N° 12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, the members of the National Independent Review Panel (NIRP), on 03/06/2013 analyzed the appeal introduced by COGACTEX LTD contesting the decision on the tender mentioned above.

2. SUMMARY OF THE COMPLAINT

COGACTEX LTD is contesting the OFFICE OF PRIME MINISTER's report about field visit that lead to its disqualification. The said report concluded the lack of proper workplace in COGACTEX LTD.

3. SUMMARY OF FACTS

- On 20/02/2012, OFFICE OF PRIME MINISTER advertised the tender;
- On 23/03/2013, Bids were opened;
- On 04/04/2013, COGACTEX LTD received the provisional notification letter;
- On 05/04/2013, COGACTEX LTD introduced the initial appeal before OFFICE OF PRIME MINISTER;
- On 10/04/2013, COGACTEX LTD received the OFFICE OF PRIME MINISTER response to its initial appeal;
- On 11/04/2013, NIRP received the appeal from COGACTEX LTD ;
- On 15/04/2013, NIRP requested OFFICE OF PRIME MINISTER to suspend procurement process and submit all documents related to this tender;
- On 17/04/2012, OFFICE OF PRIME MINISTER submitted the documents requested and at the same time informed NIRP that a request was made to RPPA in order to check the authenticity of the COGACTEX LTD's certificates of similar tenders executed;
- On 09/05/2013, NIRP requested RPPA on the state of progress on this tender;



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- On 09/04/2013, NIRP informed both OFFICE OF PRIME MINISTER and COGACTEX LTD that an additional time not exceeding 30 days will be needed in order to take an appropriate decision;
- On 29/05/2013, NIRP received a letter from COGACTEX LTD stating that it withdraws its appeal.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The tender document requested for providing three certificates of similar tenders executed,
- COGACTEX LTD provided three certificates of similar tenders executed among which one from the NATIONAL INSTITUTE OF STATISTICS OF RWANDA;
- On 29/05/2013, NATIONAL INSTITUTE OF STATISTICS OF RWANDA sent a letter to RPPA stating that COGACTEX LTD never dealt with it;
- The letter of COGACTEX LTD withdrawing its appeal dated on 29/05/2013 has not the heading and the name of the signatory as it was the habit for the previous COGACTEX LTD's letters.

2. COMMENTS BY THE PANEL MEMBERS

Since one of the three certificates of similar tenders executed is a result of forgery, the bid of the complainant misses the tender document requirement;

NIRP members do not accept the COGACTEX LTD's withdrawal of the appeal because of the lack of the heading and the name of the signatory in the letter.

NIRP members find not relevant to examine the issue related to the workplace since there is evidence for forging of the certificate of similar tenders executed.

3. DECISION BY THE NIRP

Basing on the above background and comments;

Pursuant to 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 dismiss the appeal introduced by COGACTEX LTD because it is not founded.


NSENGIYUMVA Silas
 Member




BUGINGO Emma Marie
 Member


KAZIMA Godfrey
 Member


BATETA Jane
 Member