

REPUBLIC OF RWANDA



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

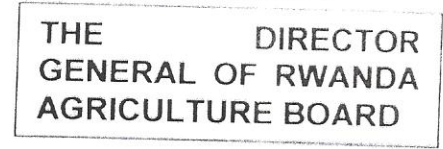
AVENUE DE LA PAIX, KIGALI-RWANDA  
P. O .Box: 4276, Tel.: (250) 501403, 501404, 501405,  
Fax: (250) 501402  
E-mail: [rppa@rwanda1.com](mailto:rppa@rwanda1.com)

by ETN  
Received on 10/08/2012

Kigali, on

10 AUG 2012

N° 010/2012- 182/NIRP



Dear Sir,

SUBJECT: TRANSMISSION OF THE DECISION

Pursuant to article 70 of the Law N° 12/2007 of 27/03/ 2007 on public procurement, find the decision of the National Independent Review Panel "NIRP" related to the appeal introduced by ETN on tender 01.11/994/012/JJMM/H.Q of Supply and installation of electrical materials at Musanze laboratory.

Sincerely,



**NSENGIYUMVA Silas**  
Vice Chairman of the NIRP



**CC:**

- Director General of RPPA
- Manager of ETN



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**DECISION N° 59 /2012/ NIRP ON THE TENDER N° 01.11/994/012/JJMM/H.Q OF  
SUPPLY AND INSTALLATION OF ELECTRICAL MATERIALS AT MUSANZE  
LABORATORY.**

**COMPLAINANT : ETN  
AGAINST : RWANDA AGRICULTURE BOARD (RAB)  
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, the members of the National Independent Review Panel (NIRP), on 25/07/2012 discussed the appeal introduced by ETN contesting the decision taken on the above tender.

**2. SUMMARY OF THE COMPLAINT**

ETN is not convinced with the RAB clarifications on its claim and requested justice from NIRP. The Tender Committee of RAB did not allow the ETN's Bid to be admitted at the stage of financial analysis because it did not provide the unit price or brand of generator or catalogues. The Tender Committee continues to argue that, it cannot receive material from the bidder who did not provide/show technical specification.

**3. SUMMARY OF FACTS**

On 16/05/2012, RWANDA AGRICULTURE BOARD advertised the tender;  
On 18/06/2012, bids were publically opened;  
On 29/06/2012, RWANDA AGRICULTURE BOARD issued provisional notification letter to ETN;  
On 03/07/2012, ETN lodged its initial appeal before the RWANDA AGRICULTURE BOARD;

- On 10/07/2012, RWANDA AGRICULTURE BOARD responded to ETN's appeal;
- On 13/07/2012, NIRP received the appeal from ETN;
- On 13/07/2012, NIRP requested RWANDA AGRICULTURE BOARD to suspend procurement process and to submit all documents related to this tender;
- On 20/07/2012, RWANDA AGRICULTURE BOARD provided to NIRP the requested documents.

#### 4. OBSERVATIONS BY THE PANEL MEMBERS

After analyzing all documents presented, the NIRP members observed the following:

- According to the RAB Tender committee evaluation report; ETN was disqualified because it did not give either the unit price or brand of generator or catalogues;
- The «Recommendation» included in the Tender document concerns three aspects: (1) a generator of 150 KVA, (2) Contacting Ewsa (by the future successful bidder) and (3) Refurbishment of the house supposed to take in the generator in question;
- Referring to the "Ibisobanuro ku isoko" the Generator needed does not mention technical specifications, but talk about 150 KVA only;
- In the ETN Bid Submission Form, there is an option of price including the items which are in recommendation; the total amount offered is 133,523,190 Rwf;
- The Successful bidder has an adjusted tender amount of 132,100, 000 Rwf0, after arithmetic verification.

#### 5. COMMENT BY THE PANEL MEMBERS

Considering that ETN submitted a total price including the items described in the recommendation, its offer should not be disqualified, but after arithmetic verification it is not the lowest bidder.


#### 6. DECISION BY THE NIRP


Basing on the above background and comment;

Pursuant to the articles 39, para 3 and 70 of the law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members decide to dismiss ETN's appeal because it is baseless.

  
**NSENGIYUMVA Silas**  
 Vice Chairman of NIRP



  
**KAZIMA Godfrey**  
 Member

  
**BATETA Jane**  
 Member