

**DECISION N° 62/2011/NIRP ON TENDER N° 11.07.053/1882/11/PROC-DIR/Y/M/pny  
FOR “ACQUISITION DE 16 CAMIONNETTES PICK-UP 4\*4”**

---

**COMPLAINANT: AUTO TRANSPORT COMPANY s.a (ATC)**

**AGAINST : ENERGY WATER AND SANITATION AUTHORITY (EWSA)**

**COMPLAINT : APPEAL AGAINST THE EWSA’S DECISION OF REJECTING ITS  
OFFER**

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 August 22<sup>nd</sup> 2011, discussed the appeal introduced by **ATC s.a** contesting against the EWSA’s decision of disqualifying it.

## **1. SUMMARY OF THE COMPLAINT**

**ATC s.a** is contesting against the decision taken by EWSA on tender N° 11.07.053/1882/11/PROC-DIR/Y/M/pny for “acquisition de 16 camionnettes pick-up4\*4” of rejecting its offer basing on ground that the complainant included in its offer bid guarantee from Insurance Company (SORAS) instead of guarantee from the Bank.

## **2. SUMMARY OF FACTS**

- On 01/08/2011, EWSA issued a provisional notification of tender loss to ATC s.a;
- On 03/08/2011, ATC s.a made an administrative review and received by EWSA on 05/08/2011;

- On 09/08/2011, EWSA responded to ATC's concern;
- On 12/08/2011, ATC s.a lodged its protest before NIRP.

### **3. OBSERVATIONS MADE BY THE PANEL MEMBERS**

NIRP members observed that ATC s.a included in its offer, bid security from SORAS s.a yet it was clear that "the bidder should provide bid guarantee as specified in Bid Data Sheet (BDS) page 17, 19.1 of the bidding document and IAS 19.1 on page 30, it is clearly stated that the bid guarantee should be issued by the Bank.

### **4. DECISION BY THE NIRP**

Considering that Procuring Entity may determine the form and amount of the tender security;

Basing on the above background and Pursuant to the provisions of articles 31 Para. 2 and 70 of the law N° 12/2007 of 27/03/2007 on Public Procurement, NIRP decides to dismiss the appeal lodged by ATC s.a because it is baseless.

**NSENGIYUMVA Silas**

Vice Chairman NIRP

**BUGINGO Emma-Marie**

Member

**KAZIMA Godfrey**

Member

**BATETA Jane**

Member