



**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° 77/2011/NIRP ON TENDER N° 009/5/2011-N NAEB “RELATIF AU RECRUTEMENT DU CABINET D’AUDIT POUR LES ETATS FINANCIERS DE L’ANCIEN OCIR THE”

COMPLAINANT: DP AUDITORS AND CONSULTANTS
AGAINST : NAEB
COMPLAINT : APPEAL AGAINST THE TENDER AWARD

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 October 24th and 11th November 2011, discussed about the appeal introduced by DP AUDITORS AND CONSULTANTS contesting against the NAEB’s decision of not awarding it the above tender.

2. SUMMARY OF THE COMPLAINT

DP AUDITORS AND CONSULTANTS lodged an appeal against the NAEB’s decision of awarding a tender to the firm that presented technical references got from Kenya. The complainant is basing his arguments on the grounds of articles 70 and 71 of the law N° 11/2008 of 06/05/2008 Law establishing the institute of certified Public Accountants of Rwanda and determining its powers, organization and functioning that any person who has not been licenced by the Institute is prohibited to engage in public practice of a private accountancy.

3. SUMMARY OF FACTS

- On 28/09/2011, NAEB issued a provisional notification of technical qualification to DP AUDITORS AND CONSULTANTS and inviting them to financial evaluation;
- On 29/09/2011, DP AUDITORS AND CONSULTANTS reacted on NAEB’s decision of awarding the provisional successful bidder a technical score of 84%;
- On 03/10/2011, NAEB issued a provisional notification of tender loss to DP AUDITORS AND CONSULTANTS;
- On 07/10/2011, DP AUDITORS AND CONSULTANTS lodged its appeal before NIRP;

- On 14/10/2011, NIRP wrote to NAEB suspending procurement proceedings and requesting for documents;
- On 20/10/2011, NAEB provided NIRP with the documents;
- On 24/10/2011, NIRP members discussed about the appeal and decided to request clarification from RDB/Registrar General's office;
- On 03/11/2011, RDB's Registrar responded to NIRP's request.

4. OBSERVATIONS MADE BY THE PANEL MEMBERS

NIRP members observed that the provisional successful bidder M&N associates, a registered firm did a joint venture with Wachira & Irunga Associates(a non-registered firm);

Members also observed that the second ranked bidder (International Auditors) is not registered and does not appear on the ICPAR's approved list.

5. COMMENTS

Based on the following:

- i. The content of the letter N° RDB/3/RG/0637/11/2011 of 03/11/2011 which states that "any company registered, even a foreign company, must comply with requirements of the regulatory body before starting business in Rwanda as long as its activities are regulated by that specialized institution";
- ii. The provisions of article 71 of the law N°11/2008 of 06/05/2008 establishing the Institute of Certified Public Accountants of Rwanda (ICPAR) and determining its power, organization and functioning, joint venture between M&N associates and Wachira & Irunga Associates is not acceptable because Wachira & Irunga Associates is not registered with ICPAR.

6. DECISION BY THE NIRP

Given the article 70 of the Law N° 12/2007 of 27th March 2007 on Public Procurement;

Pursuant to article 71 para.1 3° of the law N°12/2007 of 27/03/2007 on Public Procurement, NIRP decides to annul the decision taken by NAEB and order it to award the tender to DP AUDITORS AND CONSULTANTS.

NSENGIYUMVA Silas
Vice Chairman NIRP

BUGINGO Emma-Marie
Member

KAZIMA Godfrey
Member

BATETA Jane
Member