



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

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**DECISION N° 79/2011/NIRP ON THE TENDER N° 11.07.053/1240/11PROC-
DIR/YM/nge FOR SUPPLY OF THREE MOBILE GENERATORS**

COMPLAINANT : HYDROBATEL
AGAINST : EWSA
COMPLAINT : APPEAL AGAINST THE DECISION OF 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 27th October 2011, discussed the appeal introduced by HYDROBATEL contesting the decision taken by EWSA of not awarding it a tender yet it met all requirements.

2. SUMMARY OF THE COMPLAINT

HYDROBATEL is claiming that EWSA did not award it a tender it instead awarded it to the company that is not meeting the delivery period as stipulated in the bidding document.

3. SUMMARY OF FACTS

- On 17/08/2011, EWSA sent a provisional notification to HYDROBATEL;
- On 22/08/2011, EWSA received the initial appeal introduced by HYDROBATEL;
- On 29/08/2011, EWSA responded to HYDROBATEL's concern;
- On 02/10/2011, HYDROBATEL reacted on EWSA's response;

- On 14/10/2011, HYDROBATEL introduced the appeal to NIRP;
- On 14/10/2011, NIRP wrote to EWSA requesting for documents and suspending procurement proceedings;
- On 26/10/2011, EWSA provided NIRP with the requested documents.

4. OBSERVATIONS MADE BY THE PANEL MEMBERS

From 29/08/2011, the day on which EWSA responded to HYDROBATEL's concern to the day (14/10/2011) on which it introduced its appeal before NIRP; there is a period of forty six (46) days. From this, HYDROBATEL introduced its appeal after the required period had expired.

5. DECISION BY THE NIRP

Considering that HYDROBATEL did not respect the prescribed period of 7 days for introducing its appeal as stated by the Law on public procurement;

Given the article 69 Para. 3 of the Law 12/2007 of 27th March 2007 on Public Procurement;

The NIRP decides to reject the appeal introduced by HYDROBATEL because of the appeal procedure's irregularity.

NSENGIYUMVA Silas
Vice Chairman of NIRP

KAZIMA Godfrey
Member

BUGINGO Emma-Marie
Member

BATETA Jane
Member

