



K. Inshuza J. Claude
[Signature] 08/09/2015

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

KN 3 AV, 2 KIGALI/RWANDA
10th FLOOR, GRAND PENSION PLAZA
P. O. Box: 4276,
E-mail: rppa@rwanda1.rw



Kigali, on 31 AOUT 2015

N° 010/2015-109/NIRP



**THE DIRECTOR GENERAL OF RWANDA
AGRICULTURE BOARD**

Dear Sir,

SUBJECT: TRANSMISSION OF THE DECISION

Pursuant to article 70 of the Law N° 12/2007 of 27/03/ 2007 on Public Procurement as modified and complemented to date, find herewith attached, the decision of the National Independent Review Panel "NIRP" related to the appeal introduced by BONUS ENTERPRISE LTD contesting the decision taken on the tender N° 1.11/765/015/JJMM/HQ for Supply of asserted ICT Equipment, Projector, and Weighing Scales & Envelopes.

Sincerely,



BUGINGO Emma Marie
Chairperson

CC:

- Director General of RPPA
- Manager of BONUS ENTERPRISE LTD



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DECISION N° 030/2015/NIRP ON THE TENDER N° 1.11/765/015/JJMM/HQ FOR SUPPLY OF ASSERTED ICT EQUIPMENT, PROJECTOR, AND WEIGHING SCALES & ENVELOPES (LOT 3)

COMPLAINANT : BONUS ENTERPRISE LTD
AGAINST : RWANDA AGRICULTURE BOARD (RAB)
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 complemented to date, the National Independent Review Panel (NIRP), on 18/08/2015 analysed the appeal introduced by BONUS ENTERPRISE LTD contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

BONUS ENTERPRISE LTD is contesting the RAB's decision to disqualify their bid on the argument that the presented "*Online document of Tax Clearance Certificate*" is not responsive.

BONUS ENTERPRISE LTD states that the presented "*Online document for the Tax Clearance Certificate*" is responsive.

3. SUMMARY OF FACTS

- On 29/04/2015, RAB advertised the tender;
- On 29/05/2015, Bids were opened;
- On 12/06/2015, RAB wrote the provisional notification letter that BONUS ENTERPRISE LTD stated never received;
- On 03/07/2015, BONUS ENTERPRISE LTD introduced the initial appeal;
- On 10/07/2015, BONUS ENTERPRISE LTD received the response to the initial appeal;



- On 15/07/2015, NIRP received the appeal from BONUS ENTERPRISE LTD ;
- On 16/07/2015, NIRP requested RAB to suspend the procurement process and submit all documents related to this tender;
- On 21/07/2015, RAB submitted the requested documents;
- On 11/08/2015, NIRP informed both BONUS ENTERPRISE LTD and RAB that an additional time not exceeding 30 days will be required for an appropriate decision to be taken.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The documents comprising the bid as requested by the tender document include the following criterion: *"Original or a certified copy of the Tax Clearance Certificate"* (ITB 11.1. e);
- Among administrative criteria set in the evaluation report is the *"Certified or Original online certificate of Tax Clearance from RRA"*;
- The bid of BONUS ENTERPRISE LTD presented an *"Online document of Tax Clearance Certificate"*;
- The Evaluation report judged "provided and comply with requirement" the *"Online document of Tax Clearance Certificates"* presented by (i) VISION TECHNOLOGIES COMPANY; (ii) MAEVA BUSINESS GROUP; (iii) SEHIRE HOLDINGS and (iv) DIVERSITY SUPPLY & SERVICE COMPANY LTD;
- The same report judged "provided and comply with requirement" the *"Online document of Statement of Arrears"* not destined for public tendering, belonging to the provisional successful bidder on Lot 1, namely SUPER-NET LTD;
- The *"Online documents of Tax Clearance Certificate"* are issued from Rwanda Revenue Authority Headquarter, while the *"Documents of Tax Clearance Certificate"* are issued by Rwanda Revenue Authority located out of City of Kigali.

5. COMMENTS BY THE PANEL MEMBERS

On the issue of whether BONUS ENTERPRISE LTD received or not received provisional notification letter, NIRP members don't have evidence. Therefore NIRP decided not to analyse this matter.

NIRP members consider that the *"Online document of Tax Clearance Certificates"* issued by the Rwanda Revenue Authority Headquarter is equivalent to the *"Original of the Tax Clearance Certificate"*;

Given that the Evaluation report judged responsive the *"Online document of Tax Clearance Certificates"* presented by other bidders, NIRP members found out unjustifiable the RAB's decision to disqualify BONUS ENTERPRISE LTD on their presented certificate.

Furthermore, NIRP members judged the presented *"Online document of Statement of Arrears"* by SUPER-NET LTD not responsive since it is not for Public tendering.

6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to the article 41, para 2, 5⁰ of the Law N°05/2013 of 13/02/2013 modifying and completing the Law N° 12/2007 of 27/03/2007 on Public Procurement, NIRP members order a re-evaluation of all bids, by considering BONUS ENTERPRISE LTD in the next step and award the tender to the responsive and lowest evaluated bidder.




BUGINGO Emma Marie
Chairperson


MUKANTABANA Crescence
Member


KAYITESI Eugenia
Member


SANGANO Yves
Member


BIRANGWA Amri
Member