



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

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DECISION N° 012/2013/NIRP ON TENDER N°2148/PO/2012 FOR SUPPLY AND INSTALLATION OF SOUND AND VIDEO

COMPLAINANT : ALPHA MEDIA
AGAINST : MINISTRY OF INFRASTRUCTURE (MININFRA)
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, the members of the National Independent Review Panel (NIRP), on 16/01/2013 and 23/01/2013 analysed the appeal introduced by ALPHA MEDIA contesting the decision taken on the above tender.

2. SUMMARY OF THE COMPLAINT

ALPHA MEDIA is contesting the tendering process and evaluation made by MININFRA because (i) MININFRA did not explain to him the reason for rejection of its bid; (ii) He was the lowest bidder and (iii) MININFRA did not reply to its initial appeal.



3. SUMMARY OF FACTS

- On 15/10/2012, MININFRA advertised the tender;
- On 12/11/2012, Bids were opened;
- On 21/12/2012, ALPHA MEDIA received the provisional notification letter from MININFRA;
- On 27/12/2012, ALPHA MEDIA introduced the initial appeal before MININFRA;
- On 28/12/2012, MININFRA responded to ALPHA MEDIA's initial appeal but there is no indication of ALPHA MEDIA reception;
- On 08/01/2013, ALPHA MEDIA introduced the appeal to NIRP;
- On 09/01/2013, NIRP requested MININFRA to suspend procurement process and to submit all documents related to this tender;
- On 11/01/2013 MININFRA submitted the requested documents to NIRP;

- On 16/01/2013, NIRP invited the MININFRA representative for clarification on this issue;
- On 23/01/2013, NIRP members met the MININFRA representative.

4. OBSERVATIONS BY THE PANEL MEMBERS

- MININFRA disqualified ALPHA MEDIA because he did not provide detailed description of the essential technical evaluation and therefore was not considered for financial evaluation;
- Most of the technical specifications of MININFRA were copied by ALPHA MEDIA in its technical bid (e.g. In the Speaker System);
- The bid submission form provided by the provisional successful bidder does not conform to the one proposed by the tender document;
- The provisional successful bidder does not present the certificates of completion as per the tender document requirements;
- The evaluation report indicates that Tender committee of MININFRA did due diligence regarding the technical references provided by the provisional successful bidder and found out that the references presented were not owned by the Company but by the individual who manage the Company.

5. COMMENTS BY THE PANEL MEMBERS

NIRP members do agree with the MININFRA decision to eliminate ALPHA MEDIA because he copied and pasted the technical specifications of the tender document.


However NIRP members judge as material deviation the non-conformity to the bid submission form and not providing the Company's technical reference by the provisional successful bidder;



and conclude that neither the complainant nor the provisional successful bidder deserve the tender.

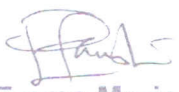
6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to article 71 para 7^o of the Law N°12/2007 of 27/03/2007 on Public Procurement, NIRP members order that the procurement proceedings be terminated.


KAZIMA Godfrey
Member


NSENGIYUMVA Silas
Vice Chairman of NIRP



BUGINGO Emma Marie
Member