



**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.com

DECISION N° 025/2014/NIRP ON THE TENDER N° 80/T/RLDSF/NYAB-N/12-13 FOR CONSTRUCTION OF A GUEST HOUSE OF THE DISTRICT OF NYABIHU.

COMPLAINANT : ENTREPRISE DE CONSTRUCTION, BATIMENT, ROUTES ET HYDRAULIQUE (E.C.B.R.H. LTD)
AGAINST : NYABIHU DISTRICT
COMPLAINT : APPEAL AGAINST 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 completed to date, on 24/02/2014 and 17/03/2014, NIRP members of the National Independent Review Panel (NIRP) analysed the appeal introduced by E.C.B.R.H. LTD against the NYABIHU DISTRICT's decision for cancellation of the above mentioned tender.

2. SUMMARY OF THE COMPLAINT

E.C.B.R.H. LTD is contesting the NYABIHU DISTRICT's decision cancelling the above tender.

3. SUMMARY OF FACTS

- On 25/07/2013, NYABIHU DISTRICT advertised the tender;
- On 27/08/2013, bids were opened;
- On 10/09/2013, NYABIHU DISTRICT issued a provisional notification letter to E.C.B.R.H. LTD;
- On 23/09/2013, NYABIHU DISTRICT issued a final notification letter to E.C.B.R.H. LTD;
- On 31/12/2013, NYABIHU DISTRICT issued a cancellation letter to E.C.B.R.H. LTD;
- On 03/01/2014, E.C.B.R.H. LTD lodged the initial appeal before NYABIHU DISTRICT;
- On 14/01/2014, E.C.B.R.H. LTD lodged its appeal before the INDEPENDENT REVIEW PANEL of NYABIHU DISTRICT;
- On 10/02/2014, E.C.B.R.H. LTD received the decision of INDEPENDENT REVIEW PANEL of NYABIHU DISTRICT on its appeal;
- On 18/02/2014, E.C.B.R.H. LTD introduced the appeal to NIRP;
- On 25/02/2014, NIRP wrote to INDEPENDENT REVIEW PANEL of NYABIHU DISTRICT requesting clarifications on their decision sent to the complainant not signed by the members;
- On 11/03/2014, INDEPENDENT REVIEW PANEL of NYABIHU DISTRICT responded to NIRP's request.



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4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The complainant lodged the appeal before NIRP on 18/02/2014; i.e, nine (09) days after having received the feedback from the INDEPENDENT REVIEW PANEL of NYABIHU DISTRICT;
- Upon the NIRP's request for clarifications, the INDEPENDENT REVIEW PANEL of NYABIHU DISTRICT explained that all members initialled on each page and the last page was signed after analysing the appeal.

5. COMMENT BY THE PANEL MEMBERS

Given that NIRP members found out that E.C.B.R.H. LTD lodged its appeal before NIRP nine (09) days, while the article 70 of the Law N° 12/2007 of 27/03/2007 on Public Procurement as modified and complemented to date, prescribes to undertake the appeal process before NIRP within seven (7) days following the time the complainant became aware of the circumstances giving rise to the complaint or should have become aware of those circumstances.

6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comment;

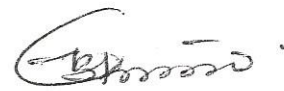
Pursuant to article 70 of the Law 12/2007 of 27/03/2007 on Public Procurement as modified and complemented to date, NIRP members dismiss the E.C.B.R.H. LTD appeal due to the procedure irregularity for not lodging the appeal before NIRP in prescribed time.



BAGILIZINA Emmanuel
Vice Chairperson



BUGINGO Emma Marie
Chairperson



KAYITESI Eugenia
Member Member



SANGANO Yves
Member



BIRANGWA Amri
Member