



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

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**DECISION N° 06/2013/NIRP ON THE TENDER N° 039/F/2012-2013/ICB/SPIU/SSF-HIV FOR
SUPPLY OF MEDICINES QUALITY CONTROL LABORATORY EQUIPMENTS.**

COMPLAINANT : F&S SCIENTIFIC LTD
**AGAINST : SINGLE PROJECT IMPLEMENTATION UNIT/MINISTRY OF HEALTH
(SPIU/MOH)**
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 completed to date, the members of the National Independent Review Panel (NIRP), on 23/12/2013 analysed the appeal introduced by F&S SCIENTIFIC LTD contesting the decision on the tender mentioned above.

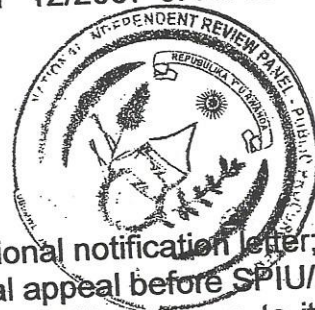
2. SUMMARY OF THE COMPLAINT

F&S SCIENTIFIC LTD is contesting the SPIU/MOH's decision. It was disqualified at the stage of administrative evaluation due to "...absence of signature and stamp on the price schedule....".

F&S SCIENTIFIC LTD is arguing that: "We had signed the summary and Tender form and we believe this should not materially change or alter the Bid as per Article 25 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 Gazette Notice n°16 of 22/04/2013.

3. SUMMARY OF FACTS

- On 31/01/2013, SPIU/MOH advertised the tender;
- On 31/05/2013, Bids were opened;
- On 15/11/2013, F&S SCIENTIFIC LTD received the provisional notification letter;
- On 19/11/2013, F&S SCIENTIFIC LTD introduced the initial appeal before SPIU/MOH;
- On 26/11/2013, F&S SCIENTIFIC LTD received the SPIU/MOH response to its initial appeal;
- On 29/11/2013, NIRP received the appeal from F&S SCIENTIFIC LTD;
- On 02/12/2013, NIRP requested SPIU/MOH to suspend procurement process and submit all documents related to this tender;
- On 11/12/2013, SPIU/MOH submitted the requested documents.



[Handwritten signatures and initials]

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- Section II, instructions to bidders, BDS, ITB 11.1 (h) requires different documents, among them are: "Bid submission form and Price schedule well printed, dated, duly signed (by the person indicated in the trade license or statutes of the company to commit the bidder) and properly organized in conformity with the 12, 14 and 15 clauses of the ITB";
- The bid of F&S SCIENTIFIC LTD presented a Price schedule paper that is neither signed, initialled nor stamped;
- F&S SCIENTIFIC LTD recognizes the absence of signature on the Price schedule;
- The Price schedule presented by F&S SCIENTIFIC LTD doesn't comply with the basic requirements of the tender document;
- In the SPIU/MOH's letter Ref. 1872/SPIU/2013 addressed to NIRP, the no signature on the Price schedule constitute for SPIU/MOH "...a major deviation by SPIU-Minisanté's ITC...".

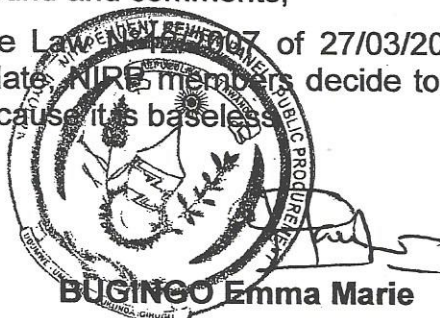
5. COMMENTS BY THE PANEL MEMBERS

Since the price schedule presented by F&S SCIENTIFIC LTD is neither signed, nor complying to the form of prices schedule as specified in the tender document; and pursuant to the article 25 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, which confers to the procuring entity the discretionary authority to determine minor or major errors contained in the bid; NIRP members do agree with the decision taken by SPIU/MOH.

6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to article 70 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 as modified and completed to date, NIRP members decide to dismiss the appeal introduced by F&S SCIENTIFIC LTD because it is baseless.



BUGINGO Emma Marie
Chairperson of NIRP

BAGILIZINA Emmanuel
Vice Chairperson of NIRP

MUNYURA Pierre
Member

KAYITESI Eugenia
Member

SANGANO Yves
Member

BIRANGWA Amri
Member

MUKANTABANA Crescence
Member