



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

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**DECISION N° 059/2013/NIRP ON THE TENDER N° 019/2013/S/NCB/OB/RMH FOR THE PROVISION
OF CATERING SERVICES FOR RMHSTAFF AND PATIENTS.**

COMPLAINANT : INEMA CATERING SERVICE
AGAINST : RWANDA MILITARY HOSPITAL (RMH)
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, on 29/07/2013 members of the National Independent Review Panel (NIRP) analysed the appeal introduced by INEMA CATERING SERVICE against the decision on the award of the tender mentioned above.

2. SUMMARY OF THE COMPLAINT

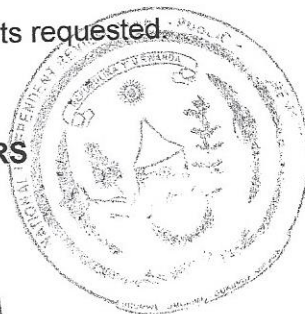
INEMA CATERING SERVICE is contesting the RMH decision disqualifying its bid. The reason for its disqualification and based on the following: (i) it quoted low prices as per food prices on market today; (ii) it quoted two different prices which are not requested in the tender document and (iii) it provided poor services to RMH staff and patients on the outgoing contract.

3. SUMMARY OF FACTS

- On 11/05/2013, RMH advertised the tender;
- On 18/06/2013, RMH opened Bids;
- On 05/07/2013, RMH issued a provisional notification to INEMA CATERING SERVICE;
- On 10/07/2013, INEMA CATERING SERVICE appealed to RWANDA MILITARY HOSPITAL;
- On 17/07/2013, RMH responded to INEMA CATERING SERVICE's initial appeal;
- On 18/07/2013, INEMA CATERING SERVICE appealed to NIRP;
- On 22/07/2013, NIRP requested RMH to suspend procurement process and submit all documents regarding the tender;
- On 23/07/2015, RMH submitted the documents requested.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:



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- The RMH response to the INEMA CATERING SERVICE's initial appeal specify its disqualification in two ways: (i) it quoted two different prices and (ii) provided poor services to RMH staff and patients on the outgoing contract;
- The tender document does not foresee an alternative price;
- The bid of INEMA CATERING SERVICE proposed two options of price for the weekly menu for the staff lunch (1,200 Rwf for Option 1 and 1,500 for Option 2);
- On 24/05/2013 a supervision committee of RMH met for discussion related to poor services that INEMA CATERING SERVICE provided on the contract execution;
- Referring to the content of the evaluation report, RMH did not officially warn INEMA CATERING SERVICE about the poor service on the outgoing contract;
- On page 15 of the tender document it is specified that "Menu y'abarwayi n'abakozi izaba iteye nk'uko ziboneka mu mbonerahamwe zivuzwe hepfo";
- On the page, there is a table indicating the daily menu for patient for each day of the week;
- The table for staff does not indicate the daily menu of the week.

5. COMMENTS BY THE PANEL MEMBERS

Since INEMA CATERING SERVICE offered an alternative price yet the tender document does not plan it, NIRP members do agree on the decision taken by RMH on this issue.

However, the poor services delivery stated by RMH is not founded due to lack of warning towards the complainant or the cancellation of contract.

As the tender document does not indicate the daily menu of the week for RMH's staff, yet this being the main concern for this appeal, NIRP members noted that the basis for the submission is not the same to all bidders, thus the comparison of the bids cannot be done fairly.


6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

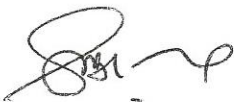
Pursuant to article 70 of the Law N°12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, NIRP members decide to dismiss the appeal introduced by INEMA CATERING SERVICE because it is baseless.

Pursuant to article 71, para 1, 7° of the Law N° 12/2007 of 27/03/2007 on Public Procurement as modified and completed to date, NIRP members order that the procurement proceedings be terminated and recommend RMH to re-advertise the tender after the review of the tender document.

NSENGIYUMVA Silas
Vice Chairman of NIRP



KAZIMA Godfrey
Member




BUGINGO Emma Marie
Member



BATETA Jane
Member

