

REPUBLIC OF RWANDA



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

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**DECISION N° 029/2014/NIRP ON THE TENDER N° 30/112013-2014/T/N/RLDSF FOR
"TRAVAUX DE CONSTRUCTION DES ROUTES ASPHALTÉES: HÔPITAL DE NYANZA-
NYAMAGANA, EGLISE CHRIST ROI-MATER DEI-GATSINSINO ET BUSASAMANA-KAVUMU
DANS LE SECTEUR BUSASAMANA/DISTRICT DE NYANZA".**

**COMPLAINANT : NPD COTRACO
AGAINST : NYANZA DISTRICT
COMPLAINT : APPEAL AGAINST THE CANCELLATION OF THE TENDER**

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, 03/02/2014, NIRP members of the National Independent Review Panel (NIRP) analysed the appeal introduced by NPD COTRACO against the NYANZA DISTRICT's decision for cancellation of the above mentioned tender.

2. SUMMARY OF THE COMPLAINT

NPD COTRACO is contesting the NYANZA DISTRICT's decision cancelling the above tender. In fact NYANZA DISTRICT cancelled the tender for no responsiveness to all bidders. NPD COTRACO was disqualified for not complying with the following documents requested: (i) Copie de registre de commerce notarié ou original délivrée par RDB; (ii) L'original ou copie notifiée de l'attestation de non redevance envers le RSSB; (iii) L'original ou copie notifiée de l'attestation d'enregistrement à la TVA; (iv) L'original ou copie notifiée de l'attestation de non redevance envers, encore valable, (v) L'original de la ligne de credit de 30% du montant total de l'offre spécifique au marché délivrée par une institution financière; (vi) Une preuve (attestation de bonne fin) établissant que le soumissionnaire a bien réalisé un contrat d'un montant égale à 70% du montant de ce marché.

NPD COTRACO is claiming to be awarded the tender because it has capacity and experience to carry out this tender.

3. SUMMARY OF FACTS

- On 13/11/2013, NYANZA DISTRICT advertised the tender;
- On 13/12/2013, bids were opened;
- On 21/01/2014, NYANZA DISTRICT issued a provisional notification letter to NPD COTRACO;

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- On 28/01/2014, NPD COTRACO introduced an initial appeal before NYANZA DISTRICT;
- On 28/01/2014, NYANZA DISTRICT responded the NPD COTRACO's initial appeal;
- On 30/01/2014, NPD COTRACO lodged its appeal before the INDEPENDENT REVIEW PANEL of NYANZA DISTRICT;
- On 07/02/2014, NPD COTRACO received the decision of INDEPENDENT REVIEW PANEL of NYANZA DISTRICT on its appeal;
- On 14/02/2014, NPD COTRACO introduced the appeal to NIRP;
- On 25/02/2014, NYANZA DISTRICT submitted the documents requested.
- On 05/03/2014, NIRP invited NYANZA DISTRICT and NPD COTRACO representatives for clarifications on this tender;
- On 13/03/2014, NIRP met the NPD COTRACO and NYANZA DISTRICT representatives.

4. COMMENTS BY THE PANEL MEMBERS

Considering that the evaluation report combined administrative and technical assessment, the evaluation carried out by NYANZA DISTRICT was unfairly made.

Therefore, NIRP members recommend NYANZA DISTRICT to re-evaluate the bid of NPD COTRACO in reference to the article 25, para 2 and 3, 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 stipulates that: «A bid shall be responsive if it substantially conforms to the requirements specified in the bidding document. The procuring entity may regard a tender as responsive even if it contains minor errors that do not materially alter or depart from the characteristics, terms, conditions, and other requirements set forth in the bidding notice or if it contains errors that was due to omission that may be corrected without altering the substance of the bid. Where possible such errors shall be taken into account in the evaluation and comparison of bids».

2. DECISION BY THE PANEL MEMBERS

Basing on the above background and comment;

Given the article 41, para. 2, 5^o 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 this tender.



BAGILIZINA Emmanuel
Vice Chairperson



BUGINGO Emma Marie
Chairperson



KAYITESI Eugenia
Member



SANGANO Yves
Member



BIRANGWA Amri
Member



MUKANTABANA Crescence
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