

REPUBLIC OF RWANDA



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

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Kigali, on 19/3/2015

N° 010/2015-035/NIRP

**THE EXECUTIVE SECRETARY OF CITY OF KIGALI**

Dear Sir,

SUBJECT: TRANSMISSION OF THE DECISION

Pursuant to article 70 of the Law N° 12/2007 of 27/03/ 2007 on Public Procurement as modified and complemented to date, find herewith attached, the decision of the National Independent Review Panel "NIRP" related to the appeal introduced by ALPHA COMPUTER LTD contesting the decision taken on the tender N° 015/14/G/OCB/OB/COK of supply of LED Digital Screen.

Sincerely,

  
**BUGINGO Emma Marie**  
Chairperson

Received by KAMBARWA & CHRISTIAN  
on 19/3/2015  


CC:

- Director General of RPPA
- Manager of ALPHA COMPUTER LTD



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**DECISION N° 012/2015/NIRP ON THE TENDER N° 015/14/G/OCB/OB/COK OF SUPPLY  
OF LED DIGITAL SCREEN.**

**COMPLAINANT : ALPHA COMPUTER LTD**  
**AGAINST : CITY OF KIGALI (COK)**  
**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 complemented to date, members of the National Independent Review Panel (NIRP), on 03 and 10/03/2015 analysed the appeal introduced by ALPHA COMPUTER LTD contesting the decision for the above tender.

### 2. SUMMARY OF THE COMPLAINT

ALPHA COMPUTER LTD is contesting the COK's decision to disqualify their bid on the argument that the proposed price is higher than the one offered by the provisional successful bidder.

ALPHA COMPUTER LTD argues that the provisional successful bidder (SORIM TV LTD) should be eliminated at the administrative level because they cannot fulfil the requested criterion of "Certified account statement for the last financial year with at least a turnover equals to two times of its bid price".

### 3. SUMMARY OF FACTS

On 12/09/2014, COK advertised the tender;  
On 06/11/2014, COK made the last "Corrigendum" of the tender  
On 14/11/2014, Technical Proposals were opened;  
On 30/12/2014, ALPHA COMPUTER LTD and SORIM TV LTD received the notification letters regarding the first stage informing them that they are qualified for the second stage;

On 14/01/2015, Final bids were opened;  
On 06/02/2015, ALPHA COMPUTER LTD received the provisional notification letter;  
On 12/02/2015, ALPHA COMPUTER LTD introduced the initial appeal;  
On 18/02/2015, ALPHA COMPUTER LTD received the response of the initial appeal;  
On 20/02/2015, NIRP received the appeal from ALPHA COMPUTER LTD;  
On 23/02/2015, NIRP requested COK to suspend procurement process and submit all documents related to this tender;  
On 26/02/2015, COK submitted the requested documents;  
On 27/02/2015, COK informed NIRP that this appeal was settled and requested the continuation of the process;  
On 03/03/2014, ALPHA COMPUTER LTD wrote NIRP that they would like to remove their appeal;  
On 04/03/2015, NIRP requested COK and ALPHA COMPUTER LTD representatives to attend the panel meeting scheduled on 10/03/2015;  
On 10/03/2015, NIRP met COK representatives and COK submit to the Panel members a second evaluation on the second stage.

#### 4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- Among document comprising the bid requested by the tender document in the first stage, there is *"certified account statement for the last financial year with at least a turnover equals to two times of its bid price"*;
- The bid of SORIM TV LTD, the provisional successful bidder of this tender, presented a *"certified account statement for the last financial year with at least a turnover equals to two times of its bid price"* belonging to SORIM LTD;
- The evaluation report of the first stage consider the *"Certified account statement for the last financial year with at least a turnover equals to two times of its bid price"* as provided and conforming to the tender document requirement;
- After the initial appeal, COK had carried out another evaluation report (meeting started and ended on 24/02/2015) without administrative, technical and financial analysis;
- That said evaluation report stated that:
  - o *"The bid of SORIM TV LTD contains two (2) certificates of company registration, one for SORIM TV LTD (company code 103258468) another for SORIM LTD (company code 102129454) and there is no Joint Venture Agreement"*;
  - o *"The submission form is signed on behalf of SORIM TV LTD and stamped with SORIM LTD stamp"*;
  - o *"The certified account statement provided are for SORIM LTD not for SORIM TV LTD"*;
- The same evaluation report concluded that: *"...SORIM TV LTD would not be qualified for the second stage and recommend that their bid rejected..."*;

*[Handwritten signatures and initials]*

## 5. COMMENTS BY THE PANEL MEMBERS

As SORIM LTD and SORIM TV LTD are two different companies and they are not in a Joint Venture, SORIM TV LTD, the provisional successful bidder, should be disqualified in the first stage of this tender because they used the SORIM LTD's documents.

Considering that COK acknowledge that SORIM TV LTD has been wrongly qualified in the second stage of the tender process;

Given that the evaluation report of 24/02/2015 was poorly drafted due to the lack of administrative, technical and financial analysis;

NIRP members nullified the COK decision regarding the qualification of SORIM TV LTD in the second stage of the tender process, and recommend the re-evaluation by taking into account all step of evaluation (administrative, technical and financial analysis) and notify all concerned bidders of the provisional re-evaluation results.

## 6. DECISIONS BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to article 41, para 2, 3<sup>o</sup> 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 nullified the first evaluation on the second stage because SORIM TV LTD didn't deserve the qualification on the second stage;

Pursuant to article 41, para 2, 5<sup>o</sup> 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 COK to re-evaluate the bids on the second stage and award the tender to the responsive and lowest bidder.

  
**BUGINGO Emma Marie**  
Chairperson

  
**BAGILIZINA Emmanuel**  
Vice Chairperson

  
**MUKANTABANA Crescence**  
Member

  
**SANGANO Yves**  
Member

  
**BIRANGWA Amri**  
Member