

REPUBLIC OF RWANDA



**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.rw

*Apel Pour MUCOMBE Association
Assistance Administrative
078 9882611
Ce 03/07/2015*



Kigali, on 25/07/2015
N° 010/2015-067/NIRP



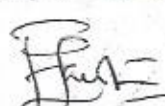
**THE CHIEF EXECUTIVE OFFICER OF
WATER & SANITATION CORPORATION**

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 ENTREPRISE DU GENIE DES INFRASTRUCTURES contesting the decision taken on the tender N° 11.07.053/020/S/001/NCB/14/PROC-WASAC-MD/JS/Im for « Services de consultant pour le contrôle et surveillance des travaux de KINIHIRA water supply projects in RULINDO District..

Sincerely,


BUGINGO Emma Marie
Chairperson

CC:

- Director General of RPPA
- Manager of ENTREPRISE DU GENIE DES INFRASTRUCTURES



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PUBLIC PROCUREMENT**

KN 3 AV, 2 KIGALI/RWANDA
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DECISION N° 003/2015/NIRP ON THE TENDER N° 11.07.053/020/S/001/NCB/14/PROC-WASAC-MD/JS/LM FOR « SERVICES DE CONSULTANT POUR LE CONTROLE ET SURVEILLANCE DES TRAVAUX DE KINIHIRA WATER SUPPLY PROJECTS IN RULINDO DISTRICT.

**COMPLAINANT : ENTREPRISE DU GENIE DES INFRASTRUCTURES (ENGIN)
AGAINST : WATER & SANITATION CORPORATION (WASAC)
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 16/06/2015 analysed the appeal introduced by ENGIN contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

ENGIN is contesting the WASAC's decision to disqualify their Proposal. WASAC rejected the Proposal due to the low technical score obtained (51%) while the requested percentage to be qualified to the next step is 70%.

ENGIN is arguing that, WASAC issued the final notification of the outcome for the technical evaluation instead of being provisional, and never responded to their initial appeal against that notification. The complainant therefore, requests the NIRP to re evaluate their proposal.

SUMMARY OF FACTS

On 08/01/2015, WASAC advertised the tender;
On 29/01/2015, Bids were opened;
On 20/04/2015, ENGIN received the initial provisional notification letter;
On 24/04/2015, ENGIN introduced the initial appeal;
On 30/04/2015, NIRP received the appeal from ENGIN;
On 04/05/2015, NIRP requested WASAC to suspend procurement process and submit all documents related to this tender;
On 29/05/2015, NIRP reminded WASAC to submit the requested document and informed both ENGIN and WASAC that an additional time not exceeding 30 days will be required for an appropriate decision to be taken;
On 08 and 09/06/2015, WASAC submitted the requested documents, "Thirty seven days (37) later".

3. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The MINECOFIN's letter N^o 996/10/15/RPPA of 27/02/2015, addressed to the Chief Executive Officer of WASAC instructed WASAC to use public procurement rules and procedures when they use public finances;
- The WASAC's notification letter dated 20 April 2015 is not provisional as per the rules and regulation in the Public Procurement;
- The technical criteria set in the Request For Proposal are the following:
 - Specific experience of the Consultant relevant to the assignment: (4 Certificates of Good Completion). **20 Points**
 - Adequacy of the proposed methodology and Work Plan in responding the ToRs. **15 Points.**
 - Key professional staff qualifications and competence for the assignment. **60 Points**
 - Participation by nationals among proposed key staff. **5 Points**
- On the "Specific experience of the Consultant relevant to the assignment", ENGIN did not present the Certificates of Good Completion. They got the score of **0/20**;
- On the "Adequacy of the proposed methodology and Work Plan in responding the ToRs", the Work Plan presented by ENGIN was not clear enough with regard to different activities to be executed during the contract. They got the score of **1,5/5**;
- On the "Key professional staff qualifications and competence for the assignment", in its component related to the "Adequacy for the assignment", the Team Leader proposed by ENGIN got 0/40, while each technicians got **40/40**;
- In the CV of the Team Leader proposed by ENGIN, there are following references:
 - o "Etude, contrôle et surveillance d'installation d'une unite de traitement des mineraïs avec apport massif d'eau de lavage constituant le captage en riviere KAKU, pompage a 1.5 km sur hauteur manometrique de 250 m avec reservoir en beton arme de 400 m³";
 - o "Etude, contrôle et surveillance d'installation d'une unite de traitement de cafe avec apport massif d'eau de lavage constituant le captage en riviere GASEBEYA, pompage sur un reseau de 4 km sur hauteur manometrique de 400 m, debut de 20 m³/heure avec reservoir en beton arme de 200 m³";
 - o "Surveillance et contrôle des travaux d'assainissement des eaux uses de l'hôpital Kibagabaga-Kigali-Rwanda.
 - o "Conception-Execution et contrôle de la station de pompage à NZOVE et construction d'un reservoir de 250 m³ en BA Kanyinya, Kigali-Rwanda".
- On the "Participation by nationals among proposed key staff", ENGIN got **5/5**.

4. COMMENTS BY THE PANEL MEMBERS

Given the MINECOFIN's letter N^o 996/10/15/RPPA of 27/02/2015, the panel members decided to analyse the appeal introduced against WASAC.

Concerning the provisional notification, WASAC should explicitly indicate that the results are provisional and provide seven days for complaint, if any, as per the rules and regulations of the public procurement. However, this was not a ground of ENGIN disqualification.

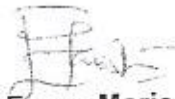
On the criteria related to "Specific experience of the Consultant relevant to the assignment" and "Adequacy of the proposed methodology and Work Plan in responding the ToRs", NIRP members do concur with the score awarded to ENGIN.

Nevertheless, the score awarded to the Team Leader of ENGIN on the sub criterion of "Adequacy for Assignment (Having 4 similar references)" is unjustifiable as the presented references show that Team Leader qualifies for the assignment in question.

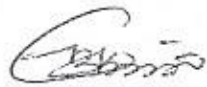
5. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to 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 recommend the re-evaluation of all proposal in the Sub criteria of "Adequacy for the Assignment (Having 4 similar references)", and award the tender to the bidder whose proposal attains the highest score as per the RFP instructions.



BUGINGO Emma Marie
Chairperson



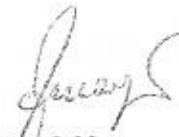
KAYITESI Eugenia
Member



MUKANTABANA Crescence
Member



BIRANGWA Amri
Member



SANGANO Yves
Member