



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

KN 3 AV, 2 KIGALI/RWANDA  
10<sup>th</sup> FLOOR, GRAND PENSION PLAZA  
P. O. Box: 4276,  
E-mail: [rppa@rwanda1.rw](mailto:rppa@rwanda1.rw)



Kigali, on 17 3 MARS 2015

N° 010/2015-034/NIRP

**THE DIRECTOR GENERAL OF THE UNIVERSITY  
TEACHING HOSPITAL BUTARE (BUTH)**

Dear Sir,

*pose reception: NYIRANTEZIMANA Egidie*

SUBJECT: TRANSMISSION OF THE DECISION

*de 19/03/2015*

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 ETEMO LTD contesting the decision taken on the tender N° 39/CHUB/ITC/TECHN/F/05/2014, Lot 2 for "Fourniture, Installation, réparation et entretien des équipements médicaux et non médicaux pour le compte du CHUB".

Sincerely,



**BUONG Emma Marie**

Chairperson

**CC:**

- Director General of RPPA
- Manager of ETEMO LTD



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

KN 3 AV, 2 KIGALI/RWANDA  
10<sup>th</sup> FLOOR, GRAND PENSION PLAZA  
P. O. Box: 4276,  
E-mail: [rppa@rwanda1.rw](mailto:rppa@rwanda1.rw)

**DECISION N° 011/2015/NIRP ON THE TENDER N° 39/CHUB/ITC/TECHN/F/05/2014, FOR  
"FOURNITURE, INSTALLATION, RÉPARATION ET ENTRETIEN DES ÉQUIPEMENTS  
MÉDICAUX ET NON MÉDICAUX POUR LE COMPTE DU CHUB" (LOT 2)**

**COMPLAINANT : ETEMO LTD**  
**AGAINST : UNIVERSITY TEACHING HOSPITAL BUTARE (BUTH)**  
**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 10/03/2015 analysed the appeal introduced by ETEMO LTD contesting the decision on the above tender.

## 2. SUMMARY OF THE COMPLAINT

ETEMO LTD is contesting the BUTH's decision to disqualify their bid on the Lot 2. Their bid was rejected because they offered a high price in comparison to the one proposed by the provisional successful bidder.

ETEMO LTD argues that they offered a lowest price and therefore deserve the tender award according the laws governing the public procurement.

## 3. SUMMARY OF FACTS

- On 20/05/2014, BUTH advertised the tender;
- On 23/06/2014, Bids were opened;
- On 29/07/2014, ETEMO LTD received the provisional notification letter;
- On 30/07/2014, ETEMO LTD requested for information the regarding the tender award on the Lot 2 and the reason of their disqualification;



*[Handwritten signatures and initials]*

- On 14/08/2014, ETEMO LTD introduced the appeal to IRP HUYE;
- On 20/08/2014, ETEMO LTD introduced the appeal to IRP HUYE;
- On 02/10/2014, IRP HUYE informed both ETEMO LTD and BUTH that an additional time not exceeding 30 days will be needed to issue an appropriate decision to the appeal and at the same time invited the BUTH's representative for clarifications;
- On 06/11/2014, IRP HUYE took a decision on the ETEMO LTD' appeal;
- On 25/11/2014, Internal Tender Committee of BUTH cancelled the Lot 2 and recommended to maintain Lot 1 awarded to ETEMO LTD;
- On 08/12/2014, BUTH informed the IRP HUYE the cancellation of the Lot 2;
- On 22/12/2014, BUTH received the ETEMO LTD's letter requesting the follow up from the decision of the Independent Review Panel of HUYE DISTRICT (IRP HUYE);
- On 13/02/2015, NIRP received the appeal from ETEMO LTD;
- On 18/02/2015, NIRP requested BUTH for clarification on the progress of the tender
- On 25/02/2015, NIRP requested BUTH representatives to attend the panel meeting scheduled on 10/03/2015 and at the same time requested the submission of relevant document to analyse this issue;
- On 10/03/2015, NIRP met BUTH representatives.

#### 4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- ETEMO LTD was awarded the Lot 1 but disqualified on the Lot 2;
- Failing to have enough information about the reasons for their disqualification, ETEMO LTD appealed to IRP HUYE which recommended to award the Lot 2 to ETEMO LTD,
- BUTH cancelled the Lot 2 due to the weakness of the technical specifications included in the tender document on the Lot 2 but maintained the tender award on the Lot 1;
- During the clarifications to the Panel, BUTH representatives informed NIRP members that all Lots were re advertised including the Lot 1;
- The Items N° 7 "Dépannage de l'inverseur" and 8; "Finissage de l'abri du groupe" comprising the Lot 2 do not have any reference like others items.

#### 5. COMMENTS BY THE PANEL MEMBERS

Concerning the cancellation decision taken, NIRP members advise BUTH that they would have requested the IRP HUYE to reconsider its decision instead of taking another decision without consulting them.

However the lack of the technical specifications observed in the items N° 7 and 8 of the Lot 2 does not give fairness in the tendering process. Therefore the cancellation of Lot 2 is recommendable, in accordance to the article 40 bis, para 1, 2° 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.

*Handwritten signature*  
*Handwritten signature*

2  
*Handwritten signature* *Handwritten signature*  
*Handwritten signature*



Concerning the Lot 1, NIRP members recommend the following:

- (i) Award this Lot to ETEMO LTD;
- (ii) Withdraw that Lot in the notice of the re advertised tender by issuing an Addendum in conformity to the article 20 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.

**6. DECISION BY THE PANEL MEMBERS**

Basing on the above background and comments;

Pursuant to the article 41, para 2, 7<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 maintain the cancellation of the Lot 2 of the above tender;

Pursuant to the article 41, para 2, 2<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 the tender award of Lot 1 to ETEMO LTD as decided earlier.



*[Handwritten signature]*

**RUGINGO** *[Handwritten]* Marie  
Chairperson

*[Handwritten signature]*

**BAGILIZINA Emmanuel**  
Vice Chairperson

*[Handwritten signature]*

**MUNYURA Pierre**  
Member

*[Handwritten signature]*

**BIRANGWA Amri**  
Member

*[Handwritten signature]*

**MUKANTABANA Crescence**  
Member

*[Handwritten signature]*

**SANGANO Yves**  
Member