

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,
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Kigali, on 26 JAN 2015

N° 010/2015-012/NIRP

**THE COMMISSIONER GENERAL OF
RWANDA REVENUE AUTHORITY**

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 HYDROBATEL MAINTENANCE SERVICE contesting the decision taken on the tender N° 15/S/RRR/2014-15 for Annual maintenance of electrical and IT equipment and replacement of spoilt parts.



BUGINGO Emma Marie

Chairperson

CC:

- Director General of RPPA
- Manager of HYDROBATEL MAINTENANCE SERVICE



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DECISION N° 07 /2015/NIRP ON THE TENDER N° 15/S/RRA/2014-15 FOR ANNUAL MAINTENANCE OF ELECTRICAL AND IT EQUIPMENT AND REPLACEMENT OF SPOILT PARTS (Lot 5: ANNUAL MAINTENANCE OF RRA GENERATORS).

**COMPLAINANT : HYDROBATEL MAINTENANCE SERVICE
AGAINST : RWANDA REVENUE AUTHORITY (RRA)
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 20/01/2015 analysed the appeal introduced by HYDROBATEL MAINTENANCE SERVICE contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

HYDROBATEL MAINTENANCE SERVICE is contesting the RRA's decision to disqualify its bid on the argument that their price quotation is higher than the one offered by the provisional successful bidder.

HYDROBATEL MAINTENANCE SERVICE argues that no other bidders apart from them who possess the authentic required Manufacturer's authorisation, thus the provisional successful bidder does not deserve the tender.

3. SUMMARY OF FACTS

- On 04/09/2014, RRA advertised the tender;
- On 10/10/2014, Bids were opened;
- On 09/12/2014, HYDROBATEL MAINTENANCE SERVICE received the provisional notification letter;
- On 15/12/2014, HYDROBATEL MAINTENANCE SERVICE introduced the initial appeal;
- On 29/12/2014, HYDROBATEL MAINTENANCE SERVICE received the response of the initial appeal;
- On 30/12/2014, NIRP received the appeal from HYDROBATEL MAINTENANCE SERVICE;
- On 02/01/2015, NIRP requested RRA to suspend procurement process and submit all documents related to this tender;
- On 09/01/2015, RRA submitted the requested documents.



[Handwritten signatures and initials]

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The tender document requested for a Manufacturer's authorisation (ITB 17 (a), page 26);
- The RRA's response to the initial appeal indicates that: *"The Manufacturer's authorisation that you are protesting for was a requirement on spare parts only and during evaluation it was tolerated to all bidders after considering the fact that spare parts can take some time without being repaired or replaced"*;
- The RRA's letter to NIRP indicates that there are two types of Generators subject to the maintenance service, namely SDMO and MASON;
- The bid of HYDROBATEL MAINTENANCE SERVICE presented a Manufacturer's authorisation for Generators related to SDMO;
- The bid of HYDROBATEL MAINTENANCE SERVICE did not present a Manufacturer's authorisation for Generator related to MASON;
- In their complaint letters, HYDROBATEL MAINTENANCE SERVICE claims that they are the unique holder of a Manufacturer's authorisation related to the Generators of SDMO only.

5. COMMENT BY THE PANEL MEMBERS

Since the requirement of Manufacturer's authorisation was not responsive to all bidders, NIRP members do concur on the decision taken by RRA, in accordance to the article 25 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 comment;

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



BAGILIZINA Emmanuel
Vice Chairperson



KAYITESI Eugenia
Member



BIRANGWA Amri
Member



MUKANTABANA Crescence
Member



SANGANO Yves
Member