

REPUBLIC OF RWANDA



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

KN 3 AV, 2 KIGALI/RWANDA
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Fred Nuyyari
Procurement Intern. (NCS)
07/05/2015



Kigali, on 10⁵ MAI 2015
N° 010/2015-055/NIRP

**THE EXECUTIVE SECRETARY OF NATIONAL
CAPACITY BUILDING SECRETARIAT**

Dear Madam,

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 SESMEC LTD contesting the decision taken on the tender N° 03/NCBS/2014-2015 of Consultancy services for firm to conduct an assessment of post capacity building among beneficiary institutions of National Capacity Building Secretariat (NCBS) for period of two years 2012/2013 and 2013/2014.



Sincerely,

BUGINGO Emma Marie
Chairperson

for [Signature]

Received by GAV Elodie
on 7th, May, 2015



CC:

- Director General of RPPA
- Manager of SESMEC LTD



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DECISION N° 019 /2015/NIRP ON THE TENDER N° 03/NCBS/2014-2015 OF CONSULTANCY SERVICES FOR FIRM TO CONDUCT AN ASSESSMENT OF POST CAPACITY BUILDING AMONG BENEFICIARY INSTITUTIONS OF NATIONAL CAPACITY BUILDING SECRETARIAT (NCBS) FOR PERIOD OF TWO YEARS 2012/2013 AND 2013/2014.

COMPLAINANT : SESMEC LTD
AGAINST : NATIONAL CAPACITY BUILDING SECRETARIAT (NCBS)
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 28/04/2015 analysed the appeal introduced by SESMEC LTD contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

SESMEC LTD is contesting the NCBS's decision on the tender award to the Consultant (BAC) who didn't present the Bid Security, because it was not included in the Financial Proposal as per the instructions to Consultants, Data Sheet 1.2.

3. SUMMARY OF FACTS

On 05/02/2015, NCBS advertised the tender;
On 06/03/2015, Technical Proposals were opened;
On 26/03/2015, SESMEC LTD received the provisional notification letter related to the evaluation outcome for Technical Proposals;
On 27/03/2015, Financial Proposals were opened;
On 09/04/2015, SESMEC LTD received the notification letter related to the evaluation outcome for combined both Technical and Financial Proposals;
On 14/04/2015, SESMEC LTD introduced the initial appeal;
On 16/04/2015, SESMEC LTD received the response of the initial appeal;
On 17/04/2015, NIRP received the appeal from SESMEC LTD;
On 20/04/2015, NIRP requested NCBS to suspend procurement process and submit all documents related to this tender;
On 21/04/2015, NCBS submitted the requested documents.



4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The Request For Proposal specifies that: "...The financial proposal must include a bid security equivalent to 2% of the financial proposal". (instructions to Consultants, Data Sheet 1.2);
- The Bid Security of the Consultant (BAC) is included in the technical proposal;
- During the technical evaluation, the NCBS observed that the bid security was included in the technical proposal, but considered it as minor deviation.

5. COMMENTS BY THE PANEL MEMBERS

Given that the error to include the bid security in the technical proposal instead of including it in the financial proposal which has been considered as minor deviation;


Considering 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, which confers to the procuring entity the discretionary authority to determine minor or major errors contained in the bid, NIRP members note the decision taken by NCBS on this issue.

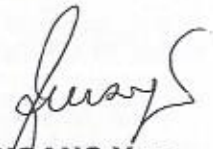
6. DECISIONS BY THE PANEL MEMBERS

Basing on the above background and comments;

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



BAGILIZINA Emmanuel
Chairperson


KAYITESI Eugenia
Member


SANGANO Yves
Member




MUKANTABANA Crescence
Member


BIRANGWA Amri
Member