

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 ; 18 JAN 2015
N° 010/2015-005/NIRP

**THE DEPUTY VICE CHANCELLOR, FINANCE AND
ADMINISTRATION OF UNIVERSITY OF RWANDA**

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 TRUSTCO RWANDA LTD contesting the decision taken on the tender N° UR-02 (FY: JL.14-JN.15) for the provision of cleaning services to UR premises and equipment (divided into lots).

Sincerely,



BUGINGO Emma Marie

Chairperson

CC:

- Director General of RPPA
- Manager of TRUSTCO RWANDA LTD

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KN 3 AV, 2 KIGALI/RWANDA
10th FLOOR, GRAND PENSION PLAZA
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Kigali, on 17th JAN 2015

N° 010/2015-005/NIRP

**THE DEPUTY VICE CHANCELLOR, FINANCE AND
ADMINISTRATION OF UNIVERSITY OF RWANDA**

Dear Sir,

SUBJECT: TRANSMISSION OF THE DECISION

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BUGINGO Emma Marie

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CC:

- Director General of RPPA
- Manager of TRUSTCO RWANDA LTD

UWAMAHORO Clementine

UMUKAZI UKURIYE ISUKU N' ISUKURA MURI
TRUSTCO Le 17/01/2015



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PUBLIC PROCUREMENT**

KN 3 AV, 2 KIGALI/RWANDA
10th FLOOR, GRAND PENSION PLAZA
P. O. Box: 4276.
E-mail: rppa@rwanda1.rw

**DECISION N° 03 /2015/NIRP ON THE TENDER N° UR-02 (FY: JL.14-JN.15) FOR THE
PROVISION OF CLEANING SERVICES TO UR PREMISES AND EQUIPMENT (DIVIDED
INTO LOTS)**

COMPLAINANT : TRUSTCO RWANDA LTD
AGAINST : UNIVERSITY OF RWANDA
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 23/12/2014 and 06/01/2015 analysed the appeal introduced by TRUSTCO RWANDA LTD contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

TRUSTCO RWANDA LTD is contesting the UNIVERSITY OF RWANDA's decision to disqualify their bid. Their bid was rejected because they provided three (3) responsive references instead of four (4) as per the tender document requirements.

TRUSTCO RWANDA LTD is arguing that:

- They offered the lowest prices in comparison with those proposed by ASK RWANDA, the provisional successful bidder, on Lots 1; 3 and 6;
- They provided more than four (4) responsive references;
- One bidder was awarded three (3) lots while the tender document prescribes that only a maximum of two lots will be awarded to the provisional successful bidder.

3. SUMMARY OF FACTS

- On 01/10/2014, UNIVERSITY OF RWANDA advertised the tender;
- On 31/10/2014, Bids were opened;
- On 20/11/2014, TRUSTCO RWANDA LTD received the provisional notification letter;

- On 25/11/2014, TRUSTCO RWANDA LTD introduced the initial appeal;
- On 28/11/2014, TRUSTCO RWANDA LTD received the response of the initial appeal;
- On 04/12/2014, NIRP received the appeal from TRUSTCO RWANDA LTD;
- On 05/12/2014, NIRP requested UNIVERSITY OF RWANDA to suspend procurement process and submit all documents related to this tender;
- On 09/12/2014, UNIVERSITY OF RWANDA submitted the requested documents;
- On 24/12/2014, NIRP invited UNIVERSITY OF RWANDA representatives for clarifications;
- On 02/01/2015, NIRP informed both TRUSTCO RWANDA LTD and UNIVERSITY OF RWANDA that an additional time not exceeding 30 days will be needed to issue an appropriate decision to the appeal;
- On 06/01/2015, NIRP met UNIVERSITY OF RWANDA representatives;
- On 07/01/2015, UNIVERSITY OF RWANDA submitted other relevant documents not transmitted before.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- Twelve (12) bidders compete to the tender, and only four (04) are the provisional successful bidders (ASK RWANDA LTD for lots 1; 3; & 6 - GENERAL BUSINESS ENTERPRISE for lots 4 & 5 - K.G Harvest for lots 2 - SHELTER INTENATIONAL for Lot 8);
- The criteria of administrative evaluation include:
"Four years of experience with at least 4 references of similar tenders executed from only public institutions in Rwanda (Certified certificates of completion + copy of contract)".

NB: *The similar tenders executed shall be judged based on a certificate of completion + copy of related contract (Both documents are required, one document cannot replace another) similar tenders means cleaning tender whose value is at least 3,000,000 Rwf per month (Section I, Instructions to Bidders, 11.1, h). Page 14);*

- The bid of TRUSTCO RWANDA LTD presented certificates of good completion accompanied by their contracts as indicated below:
 - o A certificate of good completion from Rwanda Civil Aviation Authority entitled "cleaning services in RCAA's premises at Kigali International Airport". Amount: 4,095,881 Rwf per month / Year: June 2008 – September 2009;
 - o A certificate of good completion from MINECOFIN entitled "Provision of cleaning services for the Ministry of Finance and Economic Planning. Amount: 31,188,360 Rwf for one Year (2,599,030 Rwf per month) / Year: April 2009 – April 2010;
 - o A certificate of good completion from Rwanda National Police entitled "cleaning services at the Rwanda National Police Headquarter Kacyiru for a period of one year". Amount: 4,043,849 Rwf per month / Year: October 2006 – October 2007;
 - o A certificate of good completion from Rwanda Revenue Authority entitled "cleaning services in and around RRA's Headquarter building at Kimihurura". Amount: 9,943,943 Rwf per month / Year: 2008;
- The certificate of good completion from MINECOFIN does not comply with the criteria because 2,599,030 Rwf per month is lower than the one requested (at least 3,000,000 Rwf) by the tender document;

- During the clarifications' meeting, the UNIVERSITY OF RWANDA representatives brought original bid of ASK RWANDA LTD including documents that were not in the bid submitted to NIRP:
 - o Contracts of the presented certificates of good completion;
 - o A certificate of completion from Tumba College of Technology without the related contract.

- The bid of ASK RWANDA LTD presented certificates accompanied by their contracts as indicated below:
 - o A certificate of good completion from Ministry of Defence entitled "Provision of Garden Maintenance". Amount: 3,002,240 Rwf per month / Year: 2012;
 - o A certificate of ongoing service for cleaning from CHUB. Year: Since Febr. 2012;
 - o A certificate of good completion from Rwanda Civil Aviation Authority, entitled "Service for the Vegetation Management at Kigali International Airport (KIA)". Amount: 3,658,608 Rwf per month / Year: Sept. 2010 – Sept. 2011;
 - o A certificate of good completion from Ministry of Defence entitled "Cleaning services to the Ministry of Defence & Kanombe Military Hospital". Amount: 56,156,280 Rwf / Year: 2011 & Amount: 30,065,520 Rwf, respectively;

- The bid of GENERAL BUSINESS ENTERPRISE presented certificates of good completion accompanied by their contracts as indicated below:
 - o A certificate of good completion from Rwanda Revenue Authority entitled "Annual provision of cleaning service of RRA Huye training Institute". Amount: 4,449,260 Rwf per month / Year: Oct. 2013 – Oct. 2014.
 - o A certificate of good completion from Rwanda Revenue Authority entitled "Provision of cleaning services for DTD offices in Eastern and Southern provinces". Amount: 3,578,844 Rwf for two lots. Year: 2012-2013.
 - o A certificate of good completion from MINICOM, entitled "Provision of cleaning services for Bigogwe and Rwabuye Petroleum depots". Amount: 1,167,240 Rwf per month / Year: 2013 – 2014.
 - o A certificate of good completion from HOPITAL DE CHIRURGIE ORTHOPEDIQUE INKURUNZIZA entitled "Jardinage et nettoyage de l'Hopital". Year: 2012-2013.

- At the administrative level, the evaluation report has indicated that "Document provided and fully conforming to tender document requirements", in the above mentioned criterion for the bids of ASK RWANDA LTD and GENERAL BUSINESS ENTERPRISE.

5. COMMENTS BY THE PANEL MEMBERS

Since TRUSTCO RWANDA LTD presented only three (03) certificates of good completion which are conforming to the requirements instead of four (4), NIRP members do concur with the decision taken by the UNIVERSITY OF RWANDA.

However, NIRP members denounce the fact that UR wrongly judged the bids of ASK RWANDA and GENERAL BUSINESS ENTERPRISE conform to the criterion of experience and reference:

ASK RWANDA: In addition to the lack of the required four (4) years of experience, two (2) presented certificates of completion are tenders executed for Garden Maintenance &

Vegetation Management which are not similar to the cleaning service as required by the tender document, while the other is related to the ongoing contract.

GENERAL BUSINESS ENTERPRISE: Besides the lack of the required four (4) years of experience, one certificate has a lower value (1,167,240 Rwf per month) in comparison to the minimum requested (at least 3,000,000 Rwf). Another certificate come from a private institution instead of a public institution as required by the tender document.

NIRP members consider that evaluation carried out by UNIVERSITY OF RWANDA was not fair to all bidders.

6. 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 order a re-evaluation of all bids in a fair manner as per the tender document requirements and award the tender to the responsive and lowest bidder

BUGINGO Emma Marie
Chairperson



BAGILIZINA Emmanuel
Vice Chairperson

MUNYURA Pierre
Member

BIRANGWA Amri
Member

MUKANTABANA Crescence
Member

SANGANO Yves
Member

