



**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

Kigali, on

N° 010/2015-006/NIRP

THE DIRECTOR GENERAL OF RWANDA EDUCATION BOARD

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 UNIVENTURE INVESTMENTS LTD contesting the decision taken on the tender N° 003/F/EQS/REB/2014-2015 for supply of Iron Sheets and Ridges for construction of classrooms and latrines to all districts in the country.

Sincerely,

BUGINGO Emma Marie

Chairperson

CC:

- Director General of RPPA
- Manager of UNIVENTURE INVESTMENTS LTD

SHALITA PAIRUK
MANAGING MANAGER
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REPUBLIC OF RWANDA



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PUBLIC PROCUREMENT**

KN 3 AV, 2 KIGALI/RWANDA
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P. O .Box: 4276,
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**DECISION N° 01/2015/NIRP ON THE TENDER N° 003/F/EQS/REB/2014-2015 FOR
SUPPLY OF IRON SHEETS AND RIDGES FOR CONSTRUCTION OF CLASSROOMS
AND LATRINES TO ALL DISTRICTS IN THE COUNTRY.**

**COMPLAINANT : UNIVENTURE INVESTMENTS LTD
AGAINST : RWANDA EDUCATION BOARD (REB)
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, on 25/11/2014; 09-23/12/2014 and 06/01/2015, members of National Independent Review Panel (NIRP) analysed the appeal introduced by UNIVENTURE INVESTMENTS LTD against the decision taken on the above tender.

2. SUMMARY OF THE COMPLAINT

UNIVENTURE INVESTMENTS LTD is contesting the REB's decision disqualifying them on the argument that they provided a bid submission sheet which is different from what was proposed in the bid document, and changed the quantities of the required materials.

UNIVENTURE INVESTMENTS LTD is arguing that the Bid Submission Sheet provided to REB was the same as the one presented in the tender document, and the quantities they provided are technically equal with those required.

Finally, UNIVENTURE INVESTMENTS LTD is complaining that REB never responded to their initial appeal.

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3. SUMMARY OF FACTS

- On 06/08/2014, REB advertised the tender;
- On 08/09/2014, Bids were opened;
- On 30/09/2014, REB wrote a letter to UNIVENTURE INVESTMENTS LTD notifying the provisional outcome of this tender;
- On 06/10/2014, REB received an initial appeal letter from UNIVENTURE INVESTMENTS LTD;
- On 19/11/2014, UNIVENTURE INVESTMENTS LTD introduced the appeal to NIRP;
- On 10/12/2014, REB received a NIRP's letter requesting for information about the process of this tender;
- On 17/12/2014, UNIVENTURE INVESTMENTS LTD received the REB's response to their initial appeal;
- On 18/12/2014, NIRP informed both REB and UNIVENTURE INVESTMENTS LTD that an additional time not exceeding 30 days will be needed in order to take an appropriate decision;
- On 22/12/2014, REB responded the NIRP's request;
- On 24/12/2014, NIRP invited REB representatives for clarifications;
- On 06/01/2015, NIRP met REB representatives.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- After receiving the NIRP's letter requesting information about the process of this tender, REB responded the UNIVENTURE INVESTMENTS LTD's initial appeal on 17/12/2014, ie, 73 days after the reception of the initial appeal;
- The same tender was subject to the appeal of ECOMEM CO LTD and REB received the NIRP decision on that appeal on 12/11/2014;
- While REB responded the ECOMEM CO LTD's initial appeal on 16/10/2014, they didn't do so for UNIVENTURE INVESTMENTS LTD;
- The REB's response to the initial appeal mentions that "You provided bid submission sheet which is different from what was provided in the tender document. You created and based on your own bid submission sheet which is illegal. You also provided your quotations basing on linear meter which is quite different from what is provided in the bidding document, thereby making it practically difficult to compare your unit price with those of other bidders who complied with regulations as stipulated in the tender document";

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- The tender document provided two different Bid Submission Sheets, one from page 23 to 26; and another from page 30 to 32;
- The Bid Submission Sheet provided by UNIVENTURE INVESTMENTS LTD follow the form specified in the page 30 to 32 which is complying with the tender document requirements;
- As for the quantities, UNIVENTURE INVESTMENTS LTD states that: *"As indicated, the quantities we bid for were quoted in running meters and not per sheets. We multiplied the meters of the sheets by the number of sheets to obtain the total running meters"*.
- By multiplying the meters of the sheets by the number of sheets, we obtain the total running meters required by the tender document;
- On page 13 of the bid, UNIVENTURE INVESTMENTS LTD mentions the quantities of items to be supplied as required by the tender document;
- For the technical specifications of "Iron sheets of BG 28, length 3.10 m and width 0.9 " and "Iron sheets of BG 28, length 2.5 m and width of 0.9 m" to be provided by UNIVENTURE INVESTMENTS LTD, the REB's evaluation report judged them "conforming" to the requirements.

5. COMMENTS BY THE PANEL MEMBERS

REB's late response to the UNIVENTURE INVESTMENTS LTD's initial appeal with 73 days delay breaches the article 69, para 3, of the Law 12/2007 of 27th March 2007 on Public Procurement as modified and complemented to date.

Considering the ECOMEM CO LTD initial appeal on the same tender where REB responded to them on time, contrary to the present appeal;

NIRP members regret the useless delay of the procurement process because of the above said irregularities.

Considering that UNIVENTURE INVESTMENTS LTD's followed the bid submission sheet provided in the tender document;

As the result of multiplication of the number of items by the linear meters required correspond to the quantities of items provided by tender document;

Basing on the REB's evaluation report which judges the technical specifications of items to be provided by UNIVENTURE INVESTMENTS LTD conforming to the requirements,

NIRP members find out that the appeal introduced by the complainant is founded.

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, by considering UNIVENTURE INVESTMENTS LTD in the next step 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