

REPUBLIC OF RWANDA



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

KN 3 AV, 2 KIGALI/RWANDA
10th FLOOR, GRAND PENSION PLAZA
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Kigali, on 26 FEB 2015
N° 010/2015-022/NIRP

**THE COMMISSIONER FOR FINANCE & CHIEF
BUDGET MANAGER OF RWANDA NATIONAL POLICE**

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 LA GENERALE DES CONSTRUCTIONS HYDRAULIQUE ET GENIE (EGC) contesting the decision taken on the tender N° 02/T/2014-2015/IO/RNP/TRAFFIC FUNDS for Construction of police region headquarters at Rubavu, Huye and Rwamagana.

Sincerely,



BUGINGO Emma Marie

Chairperson

CC:

- Director General of RPPA
- Manager of EGC

Received by *Imyamba*
SSP Eugene KABASHA 27/2/15
Att Procurement RNP



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DECISION N° 18 /2015/NIRP ON THE TENDER N° 02/T/2014-2015/IO/RNP/TRAFFIC FUNDS FOR "CONSTRUCTION OF POLICE REGION HEADQUARTERS AT RUBAVU, HUYE AND RWAMAGANA".

COMPLAINANT : LA GENERALE DES CONSTRUCTIONS HYDRAULIQUE ET GENIE (EGC)
AGAINST : RWANDA NATIONAL POLICE (RNP)
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 17 and 24/02/2015 analysed the appeal introduced by EGC contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

EGC is contesting the RNP's decision to disqualify its bid on the argument that the company "...failed to provide a technical proposal and works programme outlining the procurement of materials and labour for the works, plus the cash flow projection in relation to the bid price and contract period. The methodology of works provided did not indicate the related cash flow".

In addition, RNP states that EGC does not indicate other technicians as well as man power for completion of works in the list of key personnel.

EGC argues that the above requirements were provided by their technical bid and request to NIRP the analysis of their financial bid.

3. SUMMARY OF FACTS

- On 05/10/2014, RNP advertised the tender;
- On 13/11/2014, Bids were opened;
- On 20/01/2015, EGC received the initial provisional notification letter;
- On 26/01/2015, EGC introduced the initial appeal;
- On 30/01/2015, EGC received the response of the initial appeal;
- On 05/02/2015, NIRP received the appeal from EGC;
- On 06/02/2015, NIRP requested RNP to suspend procurement process and submit all documents related to this tender;
- On 11/02/2015, RNP submitted the requested documents.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- Among administrative requirements set in the tender document, there is *"a technical proposal and works programme outlining the procurement of materials and labour for the works plus the cash flow projection in relation to the bid price and contract period"* (Section II, BDS; ITB 5.5; 12);
- The evaluation report indicates that *"EGC provided a technical proposal without indicating the **cash flow** projection in relation to the bid price and contract period as required"*;
- In the letter addressed to RNP, EGC states: *"The point 1.15.5 of that document explains our cash flow position by informing you that we shall have a credit line of 600,000,000 Frs for each lot..."*;
- In the letter addressed to NIRP, EGC argues that the cash flow by definition is *"..la capacité de autofinancement"*;
- The cash flow presented by EGC does not indicate the **cash flow** projection in relation to the bid price and contract period;
- The tender document show that the criteria of technicians are requested in the part of technical offer;
- Cash Flow is defined as incomings and outgoings of cash, representing the operating activities of an organization.

5. COMMENT BY THE PANEL MEMBERS

As EGC does not show how much money will be moving in from different sources (cash inflows) and moving out (cash outflows), it is clear that it did not present the cash flow as required in the bidding document.

Concerning the issue of technicians, NIRP members find it irrelevant to examine this matter since this criterion is situated at technical evaluation stage while the bid was eliminated at administrative evaluation.

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 EGC because it is unfounded.

BUGINGO Emma Marie
Chairperson

BAGILIZINA Emmanuel
Vice Chairperson



MUNYURA Pierre
Member

KAYITESI Eugenia
Member

SANGANO Yves
Member

BIRANGWA Amri
Member

MUKANTABANA Crescence
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