

REPUBLIC OF RWANDA



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

KN 3 AV, 2 KIGALI/RWANDA  
10<sup>th</sup> FLOOR, GRAND PENSION PLAZA  
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*Received  
21/01/2015  
Emanuel*



19 JAN 2015

Kigali, on

N° 010/2015-008/NIRP

**THE EXECUTIVE SECRETARY OF GAKENKE DISTRICT**

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 DGSC EAC LTD contesting the decision taken on the tender N° 33/F/N/2014-2015 for "Kubonera Akarere ka Gakenke amashashi (Heifers) 125 yo mu bwoko bw'imvange".

Sincerely,

  
**BUGINGO Emma Marie**  
Chairperson

CC:

- Director General of RPPA
- Manager of DGSC EAC LTD



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**DECISION N° 04/2015/NIRP ON THE TENDER N° 33/F/N/2014-2015 FOR "KUBONERA AKARERE KA GAKENKE AMASHASHI (HEIFERS) 125 YO MU BWOKO BW'IMVANGE".**

**COMPLAINANT : GENERAL DEVELOPMENT AND SUPPLY COMPANY IN EAC LTD  
(GDSC EAC LTD)**  
**AGAINST : GAKENKE DISTRICT**  
**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 analysed the appeal introduced by GDSC EAC LTD contesting the decision on the above tender.

### 2. SUMMARY OF THE COMPLAINT

GDSC EAC LTD are contesting the GAKENKE DISTRICT's decision to disqualify their bid, on the argument that the bid was signed by NDABARINZE Emmanuel instead of Emmanuel BUKAMBIZI NDABARINZA mentioned in the Certificate of Domestic Company Registration.

GDSC EAC LTD do not agree with the cause of their disqualification because it is GDSC EAC LTD which bided to this tender and not Mr Emmanuel BUKAMBIZI NDABARINZA. They claim as well that they were the most responsive and lowest bidder.

### 3. SUMMARY OF FACTS

- On 08/09/2014, GAKENKE DISTRICT advertised the tender;
- On 15/10/2014, Bids were opened;
- On 07/11/2014, GDSC EAC LTD lodged the initial appeal before GAKENKE DISTRICT;
- On 07/11/2014, GDSC EAC LTD received the provisional notification letter;

- On 11/11/2014, GAKENKE DISTRICT responded to GDSC EAC LTD's initial appeal;
- On 18/11/2014, GDSC EAC LTD introduced the appeal before the INDEPENDENT REVIEW PANEL OF GAKENKE DISTRICT;
- On 24/11/2014, GDSC EAC LTD received the decision of the INDEPENDENT REVIEW PANEL OF GAKENKE DISTRICT;
- On 27/11/2014, NIRP received the appeal from GDSC EAC LTD;
- On 27/11/2014, NIRP requested GAKENKE DISTRICT to suspend procurement process and submit all documents related to this tender;
- On 05/12/2014, GAKENKE DISTRICT submitted the requested documents;
- On 24/12/2014, NIRP informed both GDSC EAC LTD and GAKENKE DISTRICT that an additional time not exceeding 30 days will be needed to issue an appropriate decision to the appeal;
- On 02/01/2015, NIRP invited GAKENKE DISTRICT representative for clarifications;
- On 06/01/2015, NIRP met GAKENKE DISTRICT representative.

#### 4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The evaluation report of GAKENKE DISTRICT states that GDSC EAC LTD was disqualified for the following reason: "*Yatanze igitabo cy'ipiganwa (bid) gisinyweho na bwana NDABARINZE Emmanuel (Person non habilite) aho kuba iriho umukono wa Bwana Emmanuel BUKAMBIZI NDABARINZA ari nawe muyobozi mukuru wa General Development and Supply company in EAC LTD*";
- The Certificate of Domestic Company registration issued by RDB presented by GDSC EAC LTD mentions the name of Emmanuel BUKAMBIZI NDABARINZA as Managing Director of the company;
- The same Certificate mentions the National Identity Card (ID N<sup>o</sup> 1196980032030070) of the Managing Director of GDSC EAC LTD;
- The name mentioned in the National Identity Card (ID N<sup>o</sup> 1196980032030070) is NDABARINZE BUKAMBIZA Emmanuel;
- The INDEPENDENT REVIEW PANEL OF GAKENKE DISTRICT dismissed the GDSC EAC LTD's appeal for the main two reasons:
  - o The name of GDSC EAC LTD's representative included in the Certificate issued by RDB is different from the name of the person who signed the offer;
  - o GDSC EAC LTD is not the lowest bidder.
- The form of "Ibaruwa y'ipiganwa (Lettre de soumission)" includes:
  - c) "*Igiciro twatangiraho ibikenewe, hatabariyemo ibivugwa mu ngingo d), ni.....*
  - d) "*Dushobora kugabanya kuri iki giciro kivugwa muri c) amafaranga.....*  
*Iri gabanya rikaba ryakorwa mu buryo bukurikira.....*

(See in the Tender document, Umugereka wa 2, page 8);
- The complainant and the provisional successful bidder offered the discount as required.

## 5. COMMENTS BY THE PANEL MEMBERS

The name mentioned in the Certificate of Domestic Company registration issued by RDB is different from the name mentioned in the National Identity Card (ID), yet the latter is cited in that Certificate.

GAKENKE DISTRICT should undertake the due diligence before RDB in order to verify if the difference of names wouldn't result of RDB's error.

Concerning the price, NIRP members recommend GAKENKE DISTRICT to consider the discounts offered by bidders during the financial evaluation.

## 6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;


Pursuant to the article 41, para 2, 5<sup>o</sup> 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 GAKENKE DISTRICT to continue to evaluate the GDSC EAC LTD's bid after verifying the authenticity of the name of the Managing Director of the company and award the tender to the responsive and lowest bidder by considering the discounts offered by bidders.

  
**BUGINGO Emma Marie**  
Chairperson



  
**BAGILIZINA Emmanuel**  
Vice Chairperson

**MUNYURA Pierre Claver**  
Member

  
**BIRANGWA Amri**  
Member

  
**SANGANO Yves**  
Member

  
**MUKANTABANA Crescence**  
Member