



**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° 010/2015-060/NIRP

**THE CHIEF FINANCIAL OFFICER OF
RWANDA DEVELOPMENT 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 LUDWIN GROUP SAS contesting the decision taken on the tender N°1897/S/RT/SD/RDB/GoR/2014 regarding the Services to manage the National Lottery Program.

Sincerely,

for Bugingo
BUGINGO Emma Marie

Chairperson

CC:

- Director General of RPPA
- Manager of LUDWIN GROUP SAS



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**DECISION N° 021/2015/NIRP ON THE TENDER N° 1897/S/RT/SD/RDB/GOR/2014 REGARDING
THE SERVICES TO MANAGE THE NATIONAL LOTTERY PROGRAM.**

COMPLAINANT : LUDWIN GROUP SAS
AGAINST : RWANDA DEVELOPMENT BOARD (RDB)
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, the National Independent Review Panel (NIRP), on 05/05/2015 analysed the appeal introduced by LUDWIN GROUP SAS contesting the decision for the above tender.

2. SUMMARY OF THE COMPLAINT

LUDWIN GROUP SAS is contesting RDB's decision to disqualify their proposal because of obtaining 42% score which does not allow them to negotiation the contract.

LUDWIN GROUP SAS argue that JV EDITEC - PREMIER BETTING RWANDA, which got the highest score, does not qualified for the tender award because:

- (i) Their financial proposal was submitted together with the technical proposal;
- (ii) EDITEC is supposedly involve in many cases of corruption in some African countries including Rwanda;
- (iii) Mr Georges El Gharib, who assisted RDB on the tender analysis, has relationship with EDITEC;

In addition, LUDWIN GROUP SAS argue that they are fully compliant on the requirements related to "Specific experience of the company related to the assignment" and "Qualifications and competence of the key staff for the Assignment".

3. SUMMARY OF FACTS

- On 10/09/2014, RDB advertised the tender;
- On 23/10/2014, Technical Proposals were opened;
- On 26/03/2015, LUDWIN GROUP SAS received the provisional notification letter;
- On 16/03/2015, LUDWIN GROUP SAS introduced the initial appeal;
- On 02/04/2015, LUDWIN GROUP SAS received the response of the initial appeal;

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On 06/04/2015; LUDWIN GROUP SAS contested the RDB's response of their initial appeal;
On 08/04/2015, NIRP received the appeal from LUDWIN GROUP SAS;
On 10/04/2015, NIRP requested RDB to suspend procurement process and submit all documents related to this tender;
On 16/04/2015, RDB submitted the requested documents;
On 07/05/2015, NIRP informed both RDB and LUDWIN GROUP SAS that an additional time not exceeding 30 days will be required for an appropriate decision to be taken.

4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- The "Financial plan" is included in the technical evaluation mentioned in the Request For Proposal (RFP)" (Refer to Section III. Instructions to Consultants, Data Sheet, 5.3);
- LUDWIN GROUP SAS never raised the issue on the content of the RFP before the deadline of Proposals submission;
- The RFP requires also following criteria:
 - o Specific experience of the company related to the assignment (30 Pts);
 - i.a) Having at least 10 years of experience in the industry of similar assignment in the country of the present assignment or in any other country worldwide (10 pts);
 - i.b) Having at least one (1) Lottery program in a developed country (5pts);
 - i.c) Having at least two (2) Lottery programs on the African continent (15 pts) (each one carries 7.5 marks);
- The Technical Proposal of LUDWIN GROUP SAS, the complainant, does not show experience related to Lottery Program but rather the experience for Gaming industry and Sports betting which is not similar to requirements;
- EDITEC UK/PREMIER BETTING do not present a Lottery program carried out in a developed country;
- According to the evaluation report, the JV EDITEC - PREMIER BETTING RWANDA got 30/30 on the above criteria;
- The RFP requires also following criteria:
 - o (iii) *Qualifications and competence of the key staff for the Assignment (40 pts)*
Signed CVs with concrete evidence of completed similar assignments, and Copy of degree or certificates for the key personnel are required);
- The CVs of the proposed key staff presented in the technical Proposal of LUDWIN GROUP SAS are not signed;
- On the accusation of corruption to JV EDITEC - PREMIER BETTING RWANDA, LUDWIN GROUP SAS don't furnish to NIRP tangible evidence;
- On the issue of conflict of interest against Mr Georges El Gharib who was recruited through the public procurement process to assist the client in the analysis of this tender, RDB states that:
"... an expert or a consultant does not participate in decisions of tender award as per procurement law. He/she just provides his technical views as far as technical compliance of bidders is concerned. The Decision of awarding the tender is taken by the client. However, the final decision to award the tender is taken after thorough due diligence if need be".

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5. COMMENTS BY THE PANEL MEMBERS

Given that LUDWIN GROUP SAS do not have experience on Lottery Program and presented CVs of key staff are not signed as was required in the RFP, NIRP members do concur with RDB on the scores awarded for the above concerned requirements.

However, NIRP members note that JV EDITEC - PREMIER BETTING RWANDA do not present a Lottery Program carried out within a developed country as required, yet RDB awarded them a maximum score.

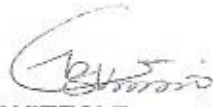
On the issue of conflict of interest, NIRP recommend RDB to conduct further due diligence on the relationship between Mr Georges El Gharib and JV EDITEC - PREMIER BETTING RWANDA..


6. DECISION BY THE PANEL MEMBERS

Basing on the above background and comments;

Pursuant to 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 RDB to re-evaluate all proposals on the criterion of "Having at least one (1) Lottery program in a developed country" and award the tender to the bidder whose proposal attains the highest score as per the law of the public procurement.


BAGILIZINA Emmanuel
Vice Chairperson


KAYITESI Eugenia
Member


MUNYURA Claver
Member


MUKANTABANA Crescence
Member


BIRANGWA Amri
Member