

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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Kigali, on

21 JUL 2015

N° 010/2015-080/NIRP

**THE SECRETARY GENERAL OF THE NATIONAL  
PUBLIC PROSECUTION AUTHORITY**

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 PAPETERIE CHEAP contesting the decision taken on the tender N° 008/F/07/14-06/15/N/NPPA/OB for Supply of stationeries of National Public Prosecution Authority for 2014-2015.

Sincerely,



**BUGINGO Emma Marie**  
Chairperson

CC:

- Director General of RPPA
- Manager of PAPETERIE CHEAP

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**DECISION N° 12/2015/NIRP ON THE TENDER N° 008/F/07/14-06/15/N/NPPA/OB FOR SUPPLY OF STATIONERIES OF NATIONAL PUBLIC PROSECUTION AUTHORITY FOR 2014-2015.**

**COMPLAINANT : PAPETERIE CHEAP**  
**AGAINST : NATIONAL PUBLIC PROSECUTION AUTHORITY (NPPA)**  
**COMPLAINT : APPEAL AGAINST THE DECISION ON THE BID SECURITY SEIZURE**

**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 30/06/2015 analysed the appeal introduced by PAPETERIE CHEAP contesting the decision for seizure of the bid security on the above tender.

**2. SUMMARY OF THE COMPLAINT**

PAPETERIE CHEAP is contesting the NPPA's decision for seizure of their bid security. NPPA seized the bid security due to the PAPETERIE CHEAP's refusal to enter into a written contract.

PAPETERIE CHEAP argue that both parties, NPPA and them, failure to sign the above said contract, and therefore NPPA did not have reason to seize their bid security.

**3. SUMMARY OF FACTS**

- On 26/08/2014, NPPA advertised the tender;
- On 29/09/2014, Bids were opened;
- On 17/10/2014, PAPETERIE CHEAP received the provisional notification letter;
- On 27/10/2014, PAPETERIE CHEAP received the final notification letter;
- On 05/12/2014, Exchanged e-mail between Staff of NPPA and PAPETERIE CHEAP on the contract drafting;
- On 09/12/2014, NPPA invited PAPETERIE CHEAP for contract signature;
- On 11/12/2014, PAPETERIE CHEAP wrote to NPPA indicating that both NPPA and them failed to sign the contract;
- 19/12/2014, NPPA withdrew the PAPETERIE CHEAP's tender award;
- On 30/12/2014, NPPA received the letter of PAPETERIE CHEAP which took note of the withdrawal's decision;
- On 06/01/2015, NPPA wrote to SORAS requesting the bid security of PAPETERIE CHEAP;
- On 15/01/2015, PAPETERIE CHEAP contested the NPPA request to SORAS on the bid security;



*[Handwritten signatures and initials at the bottom of the page]*

- On 02/06/2015, NPPA responded to PAPETERIE CHEAP;
- On 07/06/2015, NIRP received the appeal from PAPETERIE CHEAP;
- On 11/06/2015, NIRP requested NPPA to suspend procurement process and submit all documents related to this tender;
- On 18/06/2015, NPPA submitted the requested documents.

#### 4. OBSERVATIONS BY THE PANEL MEMBERS

NIRP members observed the following:

- In the internal Memo of NPPA dated 16/12/2014 addressed to the Secretary General, the Human resource Manager of NPPA stated: *"Nkuko mwabinsabye ko rwiyememezamirimo uhagarariye PAPETERIE CHEAP watsindiye isoko ...yahamagarwa kugirango agaragarize Ubushinjacyaha Bukuru impamvu ituma yanze gusinya amasezerano....ibi bikaba byarakozwe akaba yarahamagajwe ejo ku wa 16/12/2014 kuri telephone igendanwa N° 0788866910 saa mbiri n'iminota irindwi (8h 07'), ntiyafata telephone..., nyuma nka saa mbiri n'iminota mirongo ine n'itanu (8h 45') nibwo yaje kuntelephona akoresheje indi telephone ifite numero 0788116566. Nyuma yo kumubwira ko yaza hakabaho kurebera hamwe impamvu agaragaza zo kuba atasinya amasezerano ampa gahunda ko ari buze saa cyenda (15h 00'). Iyo gahunda rero ntiyayubahirije, bigeze saa cyenda n'iminota cumi n'itandatu (15h 16') mutelefonye ambwira ko ari mu ntara, mubwira ko agitegerejwe kugeza amasaha y'akazi ageze,...amasaha y'akazi yarinze agera ataragera ku biro.... Bityo rero uko guhura na Rwiyememezamirimo bikaba bitarashoboye kugerwaho".*
- In the minutes of 18/12/2014, the Internal tender committee of NPPA stated: *"Abagize Akanama k'amasoko basanze kuba PAPETERIE CHEAP ivuga ko ingingo yerekeranye n'igihe cyo kugemura atayumvikanyeho n'Ubushinjacyaha atari byo, kuko bigaragagara ko iyo ngingo bari bayumvikanyeho bemeranya iminsi 30 ariko bikaba bigaragara ko yaje kwisubiraho nyuma; akavugako niba icyo gihe kitabaye iminsi 45 adashobora gusinya..."*  
*"...byongeye kandi, abagize Akanama k'amasoko basanga nta mpamvu ifatika PAPETERIE CHEAP igaragaza yatuma atagemura mu gihe cy'iminsi 30 nk'uko byari byemeranyijweho kuko ibyo asabwa kugemura ari ibintu asanzwe acuruza...";*
- In the letter reacting to the withdrawal decision of NPPA, PAPETERIE CHEAP stated: *"...ibaruwa yanyu...yo kuwa 19/12/2014 itumenyeshya ko twambuwe isoko twayibonye".*
- PAPETERIE CHEAP never contested the NPPA's decision for withdrawing the tender award.

#### 5. COMMENTS BY THE PANEL MEMBERS

Since PAPETERIE CHEAP did not respond to the NPPA's request for signing the contract or for the meeting between both parties in order to sign the contract,

Considering that PAPETERIE CHEAP did not contest the decision of withdrawal of the tender award for refusal of contract signature neither before the procuring entity nor before NIRP;

NIRP members do concur with the NPPA action to seize the bid security, in accordance to the article 23, para 5, 3<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.



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**6. DECISION BY THE PANEL MEMBERS**

Basing on the above background and comments;

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 PAPETERIE CHEAP because it is unfounded.

**BUGINGO Emma Marie**  
Chairperson

**BAGILIZINA Emmanuel**  
Vice Chairperson



**KAYITESI Eugenia**  
Member

**SANGANO Yves**  
Member

**BIRANGWA Amri**  
Member

**MUKANTABANA Crescence**  
Member