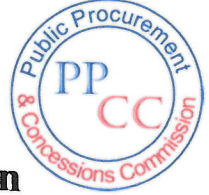




Republic of Liberia  
Complaints, Appeals & Review Panel  
Public Procurement & Concessions Commission



Executive Mansion Grounds, Capitol Hill, Monrovia, Liberia

Website: [www.ppcc.gov.lr](http://www.ppcc.gov.lr) Cell #: 0886534284/0886515649 Tel. # 0026967873/027304000

June 19, 2017

Hon. James Dorbor Jallah  
Executive Director  
Public Procurement and Concessions Commission (PPCC)  
Monrovia, Liberia

Dear Hon. Jallah:

I extend my compliments and herewith submit, for your action, the ruling of the Complaints, Appeals and Review Panel (CARP) in the Case, "North Star Industry, Inc. versus Liberia Petroleum Refining Company". Please see attached five (5) original copies of the Opinion.

The Complaints, Appeals & Review Panel looks forward to your continuous support as we promote integrity, fairness, accountability, and public confidence in the procurement process.

Kind regards.

Sincerely yours,

  
Beyan D. Howard, (CLLR.)  
CHAIRMAN, COMPLAINTS, APPEALS & REVIEW PANEL

REPUBLIC OF LIBERIA )  
MONTSERRADO COUNTY)

BEFORE THE COMPLAINTS, APPEALS & REVIEW PANEL (CARP), PUBLIC  
PROCUREMENT & CONCESSIONS COMMISSION (PPCC), REPUBLIC OF LIBERIA

**North Star Industry, Inc.** represented by  
Its General Manager, Mr. Eric Alkins of the City of  
Monrovia, R.L..... **Petitioner**

Versus

**Liberia Petroleum Refining Company** represented by and  
Thru its Managing Director, Hon. Sumo G. Kupee of the City of  
Monrovia, Republic of Liberia ..... **1<sup>st</sup> Respondent**

**Complaint against  
The Tender for the  
Removal & Disposal of  
Obsolete Scrap Metals at  
Product Storage Terminal**

And

**CP. Minerals & Mining, Inc.** represented by and thru its  
Chief Executive Officer, Mr. Kashif-Alexander Garley of  
The City of Monrovia, Republic Of Liberia.... **2<sup>nd</sup> Respondent**

Heard: May 24, 2017.

Decided: May 30, 2017.

Cllr. Mark M. M. Marvey of the Heritage Partner & Associates appeared for Plaintiff. Atty. Witness Donyen, Legal Counsel appeared for 1<sup>st</sup> Respondent

This Case was forwarded to the Complaint, Appeals and Review Panel (CARP) based on the Complaint filed Petitioner alleging that 1<sup>st</sup> Respondent did not follow the requirements enshrined in its Tender documents for the sales and removal of obsolete scrap metals of the Product Storage Terminal on its premises on the Bushrod Island. Petitioner insists that 1<sup>st</sup> Respondent award of contract to 2<sup>nd</sup> Respondent was unfair and a gross violation of the Procurement laws of Liberia since 2<sup>nd</sup> Respondent was not responsive.

In keeping with the records before us, the Liberia Petroleum Refining (LPRC), on February 23, 2017 invited tenders from eligible registered scrap companies through the National Competitive Bidding Process to purchase and remove scrap metals from its premises on the Bushrod Island. Three (3) companies including North Star Industry, Inc. Universal Impex and C. P Minerals submitted bids. Out of the three (3) companies, C. P Mineral was declared as the winner. This means that C. P Minerals was the most responsive and qualified bidder; a decision which North Star Industry, Inc. challenged and admonished Liberia Petroleum Refining Company to rescind.

The Complaint further reveals that the Liberia Petroleum Refining Company placed in the Tendering document requirements, which in order to win the contract, should be met by all participating bidders. The requirements to qualify as written in the bidding document include:

- Articles of Incorporation
- Valid Recent Tax Clearance
- Valid Business Registration Certificate
- PPCC Vendor Registration Certificate
- Environmental Protection Agency (EPA) Certificate
- Scrap Dealership License/ Certificate from the Ministry of Lands, Mines & energy, and
- List of Equipment for removal of scrap

Moreover, Count 5 of the Invitation for Tender document states that the selected company will be required to remove the scrap at its own expense without any cost to the LPRC.

However, inspite of the major requirements vividly spelt out in the Tender document, the Liberia Petroleum Refining Company (LPRC), according to North Star Industry, Inc. without any regard to its own requirements declared C. P. Minerals and Mining that submitted Scrap Broker License instead of Scrap Dealership License as the most responsive bidder.

Upon the evaluation of bids by the Liberia Petroleum Refining Company, the Managing Director, Hon Sumo G. Kupee, according to North Star, informed it (North Star) through a communication dated March 13, 2017, that C. P. Minerals and Mining, Inc bid was the most responsive. This communication, indeed, triggered a protest by North Star against LPRC.

The Liberia Petroleum Refining Company maintains its decision that C. P. Mineral and Mining, Inc was the most responsive bidder thereby leaving North Star with no other alternative but to file a formal letter of complaint to the Complaints, Appeals and Review Panel

The issue for consideration before the Panel is, "Whether or not a bidder who did not submit or meet one of the qualification requirements clearly spelt out in the Tender document can be declared as the most responsive bidder?"

The Answer is NO.

Section 32 (1) states, "In order to participate in procurement proceedings, a bidder must qualify by meeting the criteria set by the Procuring Entity, which will normally include evidence of:

- (a) Professional and technical qualifications;
- (b) Equipment availability, where applicable;
- (c) Past Performance;
- (d) After-sales service, where applicable;
- (e) Spare parts availability;
- (f) Legal capacity;
- (g) Financial resources and condition; and
- (h) Verification by the internal revenue authority of payment of taxes and social security contributions when due.

In this instant case, C. P. Minerals and Mining Inc. did not meet one of the qualification requirements as mentioned in the Invitation for Tender document. In short, C. P. Mining and Mineral Inc did not submit a scrap dealer license. As spelt out in the Invitation for Tender published by 1<sup>st</sup> Respondent Liberia Petroleum Refining Company the following qualification requirements were Articles of Incorporation, Valid Recent Tax Clearance, Valid Business Registration Certificate, PPCC Vendor Registration Certificate, Environmental Protection Agency (EPA) Certificate, Scrap Dealership License/ Certificate from the Ministry of Lands, Mines and Energy, and List of Equipment for removal of scrap.

The documents before the Complaints, Appeal and Review Panel (CARP) clearly show that C. P. Minerals and Mining, Inc. which was declared as the winner due to the responsiveness of its bid submitted to the Liberia Petroleum Refining Company (LPRC) did not submit a Scrap Dealership License: instead, C. P. Mineral and Mining, Inc submitted a Scrap Broker License which is in contravention of the LPRC requested/ qualification requirements.

In addition, Section 32 (2) also states, "The qualification criteria set forth in subsection (1) of this Section shall be applied by examining, through investigation and collaboration with other relevant agencies, to ascertain whether or not the bidder meets the minimum qualification criteria established for the bid and not using a point system for comparing the relative level of qualification of participating bidders".

Consistent with the qualification requirements enshrined in the Tender document the Liberia Petroleum Refining Company should have considered only those bidders who were strictly in adherence. We hold that only a bidder or bidders that presented a scrap dealer license were to enter the final stage of the examination process.




Lastly, research works done at the Ministry of Lands, Mines and Energy, Republic of Liberia to further substantiate the difference between a scrap dealer license and a scrap broker license confirmed that there is a vast difference between a Scrap Broker License and that of a Scrap Dealership License). The Ministry also said that the two different types of licenses vary in terms of scope as well as price. The Agents of the Ministry concluded that a scrap broker license can never be used in place of a scrap dealership license; most especially, when the particular document is conspicuously mentioned or spelt out in a bidding document as a requirement.

WHEREFORE AND VIEW OF THE FACTS and RELIANT ON THE LAWS PREVAILING, it is the Opinion of the Complaints, Appeals and Review Panel (CARP), Public Procurement and Concessions Commission (PPCC) of the Republic of Liberia that C. P. Mining and Mineral, Inc did not meet one of the qualification requirements by failing to submit a **Scrap Dealer License and not a Scrap Broker License**, and should not have entered the final stage of the Evaluation Process.

Therefore, it is the ruling of the Complaints, Appeals and Review Panel that the decision of the Liberia Petroleum Refining Company declaring C. P. Minerals and Mining, Inc. as the most responsive bidder is hereby revised; and that, Northern Star Industry, Inc. be awarded the Contract because a review of all Tender documents submitted by bidders show that North Star Industry Inc. submission met all qualification requirements, making it the most responsive. AND IT IS HEREBY SO ORDERED.

IN WITNESS WHEREOF, WE (MEMBERS OF THE CARP) HAVE HERE ONTO SET OUR HANDS AND AFFIXED OUR SIGNATURES TO THIS INSTRUMENT, THIS 19<sup>th</sup> DAY OF JUNE, A. D. 2017.

Signed:

1. Cllr. Beyan D. Howard.....Chairman 
2. Hon. Massaquoi M. Kamara..... Co-Chairman 
3. Cllr. Eric B. Morlu..... Secretary 
4. Hon. David M. Jallah ..... Member 