RWANDA PUBLIC PROCUREMENT AUTHORITY (RPPA) v WAPCOS LTD

[Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RCOM 00003/2022/SC (Cyanzayire, PJ, Hitiyaremye na Muhumuza, J.) 15 Nyakanga 2022]

Amategeko agenga imiburanishirije y'imanza z'ubucuruzi – Gusubirishamo urubanza ku mpamvu zakarengane – Ubujurire bwa kabiri – Si ngombwa ko umuburanyi abanza kwiyambaza inzira y'ubujurire bwa kabiri kugira ngo agire uburenganzira bwo gusaba ko urubanza rwe rusubirwamo ku mpamvu z'akarengane, cyane cyane iyo we abona ko nta mpamvu n'imwe yujuje mu zo itegeko riteganya kugira ngo ubujurire bwa kabiri bwakirwe. Icyo gihe aba yemeye ko urubanza yatsinzwe mu bujurire bwa mbere rubaye ndakuka, bityo bikamuhesha uburenganzira bwo kwiyambaza inzira y'akarengane.

Amategeko agenga imanza z'ubucuruzi – Amasoko ya Leta – Amasoko ya Leta ni amasezerano abantu bagirana na Leta n'inzego zayo kugira ngo zibone ibyo zikeneye nko gukorerwa imirimo runaka, kubona ibikoresho no guhabwa serivisi zitandukanye hatanzwe ikiguzi.

Incamake y'ikibazo: RPPA yafatiye WAPCOS Ltd n'Umuyobozi wayo Mr Thomas POULOSE icyemezo cyo kuyiheza mu masoko ya Leta mu gihe cy'imyaka itanu (5) ibisabwe na WASAC Ltd ivuga ko itari yubahirije amasezerano y'isoko bagiranye. WAPCOS Ltd n'Umuyobozi wayo Mr Thomas POULOSE bagannye inkiko basaba gukuraho icyo cyemezo bavuga ko RPPA nta bubasha bwo kugifata yari ifite kubera ko inshingano zayo zigarukira ku masoko ya Leta, mu gihe WASAC Ltd ari sosiyete y'ubucuruzi igengwa n'amategeko y'ubucuruzi.

Mu rubanza RCOM 02587/2018/TC rwaciwe ku wa 12/03/2019, Urukiko rw'Ubucuruzi rwavanyeho icyemezo cyafashwe na RPPA cyo guheza Mr. Thomas POULOUSE na WAPCOS Ltd gupiganwa mu masako ya Leta mu gihe cy'imyaka 5, kuko yagifashe itabifitiye ububasha.

RPPA yajuririye Urukiko Rukuru rw'Ubucuruzi, mu rubanza RCOMA 0331/2019/HCC, uru Rukiko rwemeje ko ubujurire bwa RPPA nta shingiro bufite, ko imikirize y'urubanza rwajuririrwe idahindutse, ruyitegeka guha WAPCOS Ltd 1.200.000frw akubiyemo ay'ikurikiranarubanza n'igihembo cy'Avoka ku rwego rw'Ubujurire.

RPPA yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urubanza RCOMA 0331/2019/HCC rwasubirwamo ku mpamvu z'akarengane kubera ko mu icibwa ryarwo Urukiko Rukuru rw'Ubucuruzi rwirengagije amategeko ku buryo bugaragarira buri wese.

Perezida w'Urukiko rw'Ubujurire, amaze gusuzuma ubwo busabe, nawe yandikiye Perezida w'Urukiko rw'Ikirenga, asaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane, Perezida w'Urukiko rw'Ikirenga, nawe amaze gusuzuma raporo yarukozweho, yafashe icyemezo ko rusubirwamo ku mpamvu z'akarengane n'Urukiko rw'Ikirenga.

Urukiko rwanbanze gusuzuma ibirebana n'inzitizi yari yatanzwe na WAPCOS Ltd isaba ko urukiko rwabanza gusuzuma niba koko iki kirego cyari cyujuje ibisabwa kugira ngo cyakirwe mu rwego rw'akarengane. WAPCOS Ltd yavugaga ko ishingiye ku ngano y'ikiburanwa gishingiye ku masezerano yari afite agaciro ka 709,608 USD, isanga ikirego cyarashoboraga kujuririrwa bwa

kabiri mu Rukiko rw'Ubujurire hashingiwe ku biteganywa n'ingingo ya 52 y'Itegeko nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko.

RPPA bo bavugaga ko urubanza rusubirishwamo ku mpamvu z'akarengane rutarebana n'amasezerano ku buryo harebwa agaciro kayo, ko ahubwo rurebana n'amasoko ya Leta, aho uwatanze ikirego yasabaga gutesha agaciro no gukuraho icyemezo cyo guheza Mr Thomas POULOSE na WAPCOS Ltd gupiganwa mu masoko ya Leta mu gihe cy'imyaka itanu (5) cyafashwe na RPPA. Urukiko rwasanze iyi nzitizi ntashingiro ifite.

Urukiko rwaburanishije urubanza mu mizi, aho RPPA ivuga ko yari ifite ububasha bwo gukurikirana amasoko yatanzwe na WASAC Ltd nka sosiyete ya Leta ari yo munyamigabane umwe rukumbi, kandi amafaranga yagombaga kwishyurwa kuri iryo soko akaba yaragombaga guturuka mu ngengo y'imari ya Leta. Ibyo ahanini babishingiraga ku ngingo ya 6 y'Itegeko Ngenga n° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta, iteganya ko ikoreshwa ry'amafaranga ya Leta mu nzego zayo zose ryubahiriza ibiteganywa n'itegeko ryihariye rigenga amasoko ya Leta.

Uregwa avuga ko, Inama y'Ubutegetsi ya RPPA yarihaye ububasha budafite itegeko na rimwe bushingiyeho mu kwemera gushyira mu bikorwa ubusabe Umuyobozi Mukuru (CEO) wa WASAC

Incamake y'icyemezo: 1 Si ngombwa ko umuburanyi abanza kwiyambaza inzira y'ubujurire bwa kabiri kugira ngo agire uburenganzira bwo gusaba ko urubanza rwe rusubirwamo ku mpamvu z'akarengane, cyane cyane iyo we abona ko nta mpamvu n'imwe yujuje mu zo itegeko riteganya kugira ngo ubujurire bwa kabiri bwakirwe. Icyo gihe aba yemeye ko urubanza yatsinzwe mu bujurire bwa mbere rubaye ndakuka, bityo bikamuhesha uburenganzira bwo kwiyambaza inzira y'akarengane.

2. Amasoko ya Leta ni amasezerano abantu bagirana na Leta n'inzego zayo kugira ngo zibone ibyo zikeneye nko gukorerwa imirimo runaka, kubona ibikoresho no guhabwa serivisi zitandukanye hatanzwe ikiguzi.Tegeko Ngenga ryasohoka, ubu noneho na WASAC Ltd, kimwe n'ayandi masosiyete y'ubucuruzi Leta ariyo munyamigabane umwe rukumbi, ni rumwe mu nzego zitanga amasoko ya Leta.

Ikirego cyatanzwe gisaba gusubirishamo ku mpamvu z'akarengane urubanza nta shingiro gifite;

Urega agomba guha uregwa 800.000 Frw akubiyemo ay'igihembo cya Avoka n'ay'ikurikiranarubanza.

Amategeko yashingiweho:

Itegeko Ngenga N° 001/2020/OL ryo ku wa 08/06/2020 rishyiraho amategeko rusange agenga ibigo bya Leta, ingingo ya 3.

Itegeko Ngenga N° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta, ingingo ya 6.

Itegeko N° 62/2018 ryo ku wa 28/08/2018 rigenga amasoko ya Leta, ingingo ya 3 n'iya 8.

Itegeko N°25/2011 ryo ku wa 30/06/2011 Rishyiraho Ikigo cy'igihugu Gishinzwe Gutunganya Amasoko aa Leta (RPPA) rikanagena inshingano, imiterere n'imikorere byacyo, ingingo ya 3

Inyandiko z'abahanga:

François Collart Dutilleul, Philippe Delebecque, Contrats civils et commerciaux, 11ème édition, Dalloz, 2019, page 640.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ku itariki ya 18/09/2018, RPPA yafashe icyemezo nº 384/2018/BD/D cyo guheza WAPCOS Ltd n'Umuyobozi wayo Mr Thomas POULOSE mu masoko ya Leta mu gihe cy'imyaka itanu (5), kubera ko itarangije inshingano zikubiye mu masezerano y'isoko yagiranye na WASAC (Water and Sanitation Corporation Ltd) ku itariki ya 08/05/2015. WAPSCOS Ltd yatakambiye icyo cyemezo muri RPPA ntibyagira icyo bitanga, bituma iregera Urukiko rw'Ubucuruzi isaba gutesha agaciro no gukuraho icyemezo nº 384/2018/BD/D cyafashwe na RPPA, ivuga ko cyayirenganyije kandi ko kitakurikije amategeko.

[2] Muri urwo Rukiko, RPPA yatanze inzitizi yo kutakira ikirego cya WAPCOS Ltd ivuga ko itabanje kuyitakambira mu minsi iteganyijwe n'amategeko, byongeye kandi n'aho ibikoreye bikaba byarakozwe n'umuntu utabifitiye ububasha. WAPCOS Ltd yo yavugaga ko RPPA itari ifite ububasha bwo kuyifatira icyemezo kuko isoko rya WASAC Ltd atari isoko rya Leta kubera ko WASAC Ltd ari sosiyete y'ubucuruzi.

[3] Ku itariki ya 12/03/2019, Urukiko rw'Ubucuruzi rwaciye urubanza nº RCOM 02587/2018/TC rwemeza ko inzitizi yatanzwe na RPPA nta shingiro ifite, ko ikirego cya WAPCOS Ltd gifite ishingiro kuko RPPA itari ifite ububasha bwo gufata ibyemezo ku masezerano y'isoko yakozwe hagati ya WASAC Ltd na WAPCOS Ltd, rutegeka ko icyemezo nº 384/2018/BD/D cyo guheza WAPCOS Ltd n'Umuyobozi wayo Mr Thomas POULOSE mu masoko ya Leta mu gihe cy'imyaka itanu (5) gikuweho.

[4] RPPA yajuririye icyo cyemezo mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'Ubucuruzi rwirengagije ko WAPCOS Ltd itayitakambiye mbere yo kuregera Urukiko, kuko uwatakambye mu izina ryayo atari abifitiye ububasha, kandi ko uko gutakamba kwayo kwakozwe gukererewe. RPPA yajuriye kandi ivuga ko mu kwemeza ko nta bubasha ifite mu masoko y'amasosiyete y'ubucuruzi nka WASAC Ltd, Urukiko rw'Ubucuruzi rwaranzwe no kwivuguruza gukabije, no kuba rwarashingiye ku ngingo zimwe z'amategeko rukirengagiza izindi zivuguruza ibyo rwemeje, ndetse runanyuranya n'Itegeko rigenga amasoko ya Leta. WAPCOS Ltd yireguye kuri izo mpamvu z'ubujurire ivuga ko nta shingiro zifite, isoza isaba kugenerwa amafaranga y'ikurikiranarubanza n'ay'igihembo cya Avoka.

[5] Ku itariki ya 13/12/2019, Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza nº RCOMA 00331/2019/HCC rwemeza ko ubujurire bwa RPPA nta shingiro bufite, ko imikirize y'urubanza nº RCOM 02587/2018/TC rwaciwe n'Urukiko rw'Ubucuruzi ku itariki ya 12/03/2019 igumyeho, rutegeka RPPA guha WAPCOS Ltd 200.000 Frw y'ikurikiranarubanza na 1.000.000 Frw y'igihembo cya Avoka ku rwego rw'ubujurire.

[6] Urukiko rwasobanuye ko kuba WASAC Ltd atari ikigo cya Leta, ahubwo ari sosiyeti y'ubucuruzi ifite Leta y'u Rwanda nk'umunyamigabane umwe rukumbi, amasoko yayo nka sosiyeti y'ubucuruzi bitari ngombwa ko acishwa muri RPPA.

[7] RPPA yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urubanza nº RCOMA 0331/2019/HCC rwasubirwamo ku mpamvu z'akarengane kubera ko mu icibwa ryarwo, Urukiko Rukuru rw'Ubucuruzi rwirengagije amategeko ku buryo bugaragarira buri wese. Amaze gusuzuma ubwo busabe, Perezida w'Urukiko rw'Ubujurire yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rwakongera kuburanishwa. Perezida w'Urukiko rw'Ikirenga, amaze gusuzuma raporo yakozwe kuri urwo rubanza, yemeje ko rwongera kuburanishwa ruhabwa Nº RS/INJUST/RCOM 00003/2022/SC.

[8] Uru rubanza rwaburanishijwe mu ruhame ku itariki ya 17/05/2022, Rwanda Public Procurement Authority (RPPA), ihagarariwe na Me NTARUGERA Nicolas, naho WAPCOS Ltd ihagarariwe na Me SANGANO Yves.

[9] Urukiko rwabanje kumva ababuranyi ku birebana n'inzitizi yari yatanzwe na WAPCOS Ltd isaba ko urukiko rwabanza gusuzuma niba koko iki kirego cyari cyujuje ibisabwa kugira ngo cyakirwe mu rwego rw'akarengane. WAPCOS Ltd yavugaga ko ishingiye ku ngano y'ikiburanwa gishingiye ku masezerano yari afite agaciro ka 709,608 USD, isanga ikirego cyarashoboraga kujuririrwa bwa kabiri mu Rukiko rw'Ubujurire hashingiwe ku biteganywa n'ingingo ya 52 y'Itegeko nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko.

[10] Ku ruhande rwa RPPA bo bavugaga ko urubanza rusubirishwamo ku mpamvu z'akarengane rutarebana n'amasezerano ku buryo harebwa agaciro kayo, ko ahubwo rurebana n'amasoko ya Leta, aho uwatanze ikirego yasabaga gutesha agaciro no gukuraho icyemezo cyo guheza Mr Thomas POULOSE na WAPCOS Ltd gupiganwa mu masoko ya Leta mu gihe cy'imyaka itanu (5) cyafashwe na RPPA.

[11] Nyuma yo kumva ibisobanuro bw'impande zombi kuri iyo nzitizi, Urukiko rwafatiye icyemezo mu ntebe rwemeza ko nta shingiro ifite. Rwasobanuye ko atari ngombwa ko umuburanyi abanza kwiyambaza inzira y'ubujurire bwa kabiri kugira ngo agire uburenganzira bwo gusaba ko urubanza rwe rusubirwamo ku mpamvu z'akarengane, cyane cyane iyo we abona ko nta mpamvu n'imwe yujuje mu zo itegeko riteganya kugira ngo ubujurire bwa kabiri bwakirwe. Rwavuze ko icyo gihe aba yemeye ko urubanza yatsinzwe mu bujurire bwa mbere rubaye ndakuka, bityo bikamuhesha uburenganzira bwo kwiyambaza inzira y'akarengane.

[12] Urukiko rwakomeje iburanisha hasuzumwa ibijyanye no kumenya niba RPPA nta bubasha yari ifite bwo guheza WAPCOS Ltd mu masoko ya Leta hashingiwe ku masezerano y'isoko yakoranye na WASAC Ltd, ndetse no kumenya niba indishyi ababuranyi basaba bakwiye kuzihabwa.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO.

a. Kumenya niba RPPA nta bubasha yari ifite bwo guheza WAPCOS Ltd mu masoko ya Leta hashingiwe ku isoko rya WASAC Ltd.

[13] Me NTARUGERA Nicolas uburanira RPPA avuga ko basaba Urukiko rw'Ikirenga gusesengura amategeko n'amabwiriza ariho hagamijwe kureba niba isosiyeti y'ubucuruzi WASAC Ltd itarebwa n'amategeko agenga amasoko ya Leta ku buryo RPPA nta bubasha bwo kuyakurikirana ifite. Avuga ko RPPA ibizi neza ko WASAC Ltd ari isosiyeti y'ubucuruzi Leta ifitemo imigabane yose 100%, ndetse ikaba izi ko amasosiyeti y'ubucuruzi na WASAC Ltd irimo, agengwa n'amategeko agenga amasosiyeti y'ubucuruzi (*company Law*), ko ariko ibyo bidakuraho ko hari igihe WASAC Ltd iba igomba gukurikiza amategeko agenga amasoko ya Leta. Avuga ko RPPA ibyo yabisobanuriye Urukiko Rukuru rw'Ubucuruzi, irugaragariza amategeko n'ibimenyetso bishyigikira ibyo yavugaga ariko ruranga rubirengaho rwemeza ko nta bubasha ifite ku masoko ya WASAC Ltd.

[14] Avuga kandi ko RPPA yagaragarije Urukiko Rukuru rw'Ubucuruzi amategeko akurikira ahamya ko hari igihe WASAC Ltd irebwa n'amategeko agenga amasoko ya Leta:

- Ingingo ya 44 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015;
- Ingingo ya 6, iya 13 (3), (6), (7), iya 14 (14), n'iya 58 z'Itegeko Ngenga n° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta;
- Ingingo ya 3 (23) y'Itegeko no 62/2018 ryo ku wa 25/08/2018 rigenga amasoko ya Leta;
- Amabwiriza ya Minisitiri w'Imari n'Igenamigambi no 996/10/15/RPPA yo ku itariki ya 27 Gashyantare 2015 yasabaga WASAC Ltd gukoresha Itegeko rigenga amasoko ya Leta ku masoko itanga ikishyura ikoresheje ingengo y'imari ya Leta isanzwe (*ordinary budget*);
- Amasezerano no 00l/W/13/WPl/EWSA/GOR/05 *ya consultancy services for detailed design for rehabilitation, reinforcement and extension of water supply distribution networks in 6 satellites for EDPRS 2*', yasinywe ku itariki ya 28/07/2015 hagati ya WASAC Ltd na WAPCOS Ltd;
- National Investment Policy (2017);
- Corporate Governance Policy (2016).

[15] Asobanura ko mu mabwiriza ya Minisitiri yavuzwe haruguru, bigaragara neza ko Minisitiri w'Imari n'Igenamigambi yasabye WASAC Ltd gukoresha itegeko rigenga amasoko ya Leta, mu gihe isoko itanze izaryishyura ikoresheje ingengo y'imari yahawe na Leta (*ordinary budget*), ko ariko mu gihe isoko iri gutanga izaryishyura ikoresheje amafaranga yakuye mu bucuruzi bwayo (*revenues generated from WASAC Ltd investments*) idategetswe gukurikiza itegeko rigenga amasoko ya Leta.

[16] Avuga ko mu rwego rwo kurushaho gusobanurira Urukiko Rukuru rw'Ubucuruzi ko WASAC Ltd itanga amasoko ikishyura ikoresheje amafaranga aturutse ahantu hatandukanye (*source of funds*) harimo n'aturutse mu ngengo y'imari ya Leta (*Government of Rwanda ordinary budget*), RPPA yarugaragarije urugero rw'igenamigambi ry'itangwa ry'amasoko ya WASAC Ltd (*public procurement plan)* ribyerekana. Avuga ko mu guhuza ibyo n'isoko WAPCOS Ltd yari yaratsindiye, RPPA yagaragarije Urukiko ko mu masezerano yasinywe hagati ya WASAC Ltd na WAPCOS Ltd bigaragaramo ko WASAC Ltd yari kwishyura hakoreshejwe amafaranga aturutse

mu ngengo y'imari isanzwe ya Leta (*ordinary budget*), ibyo akaba aribyo byahaga RPPA ububasha bwo guheza WAPCOS Ltd mu masoko ya Leta mu gihe itari yubahirije amasezerano yagiranye na WASAC Ltd.

[17] Mu kwanzura, Me NTARUGERA Nicolas avuga ko ingingo ya 4 y'Itegeko Ngenga nº 001/2016 ryo ku wa 20/04/2016 rishyiraho ibigo bya Leta, ivuga ko ibigo bya Leta biri mu byiciro bibiri, ibikora ubucuruzi n'ibidakora ubucuruzi, WASAC Ltd ikaba iri mu bikora ubucuruzi. Avuga ko na WAPCOS Ltd ijya gutakambira RPPA, ari uko yari izi ko ifite ububasha bwo gufata icyemezo ku isoko yari yaratsindiye muri WASAC Ltd, bityo bakaba basanga amategeko bagaragaje yarirengagijwe n'inkiko zabanje.

[18] Me SANGANO Yves uburanira WAPCOS Ltd, avuga ko umwanzuro wo gusubirishamo urubanza ku mpamvu z'akarengane wa RPPA umeze nk'uw'ubujurire busanzwe, kuko utagaragaza impamvu z'akarengane RPPA ishingiraho. Avuga ko mu guca urubanza, Urukiko Rukuru rw'Ubucuruzi rwasesenguye amategeko impande zombi zashingiyeho ziburana nk'uko bigaragara mu bika kuva ku cya 15 kugeza ku cya 18 by'urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane. Avuga ko akarengane kagombye gushingira ku nenge y'icyemezo cy'urukiko aho gushingira ku byo umuburanyi yakoresheje yiregura ntibihabwe agaciro, bitabaye ibyo iki kirego kikaba ntaho cyaba gitaniye n'icy'ubujurire busanzwe.

[19] Avuga ko kuba RPPA yemera neza ko WASAC Ltd ari isosiyete y'ubucurizi, byumvikana neza ko nayo yemera ibivugwa mu gika cya 15 n'icya 18 by'urubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane, ku bw'ibyo hakaba nta nenge n'imwe urwo rubanza rufite hakurikijwe amategeko u Rwanda rwagenderagaho mu gihe urwo rubanza rwacibwaga, kandi yose Urukiko rwarayasuzumye.

[20] Akomeza avuga ko mu gusuzuma iki kibazo, basanga Urukiko rugomba kureba mbere na mbere niba hari itegeko riha ububasha RPPA, kuko ububasha bwayo budashingiye ku kuba hakoreshwa amafaranga atangwa na Leta nk'uko uyihagarariye ashaka kubyumvikanisha, ko ahubwo bushingiye ahanini ku rwego rutanga amasoko ya Leta nk'uko itegeko rigenga amasoko ya Leta ribiteganya mu ngingo yaryo ya 8 n'iya 9. Avuga ko babisobanura bifashishije amategeko igihugu cyacu kigenderaho mu buryo bukurikira:

- Ingingo ya 6 y'Itegeko Ngenga n° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta, ishimangira neza ko WASAC Ltd itakagombye kugendera ku masoko ya Leta aho iteganya ko *ikoreshwa ry'amafaranga ya Leta mu nzego zayo zose ryubahiriza ibiteganywa n'itegeko ryihariye rigenga amasoko ya Leta*. Akavuga ko mu nzego za Leta amasosiyete y'ubucuruzi Leta ifitemo imigabane atabarirwamo.
- Ingingo ya 2 y'Itegeko Ngenga n° 001/2016/OL ryo ku wa 20/04/2016 rishyiraho amategeko rusange agenga ibigo bya Leta ryakurikizwaga igihe iki kibazo cyavukaga, iteganya ko *iri tegeko ngenga rireba ibigo bya Leta muri rusange*. (…) *Ntirireba kandi ibigo Leta ishoramo imari bigengwa n'itegeko ryerekeye amasosiyeti y'ubucuruzi*. Avuga ko ibi babihuza n'ibiteganywa n'ingingo ya 9 y'Itegeko rigenga amasoko ya Leta ryo mu mwaka wa 2018 ko *inzego zitanga amasoko ya Leta ari inzego zo mu butegetsi bwite bwa Leta, inzego z'ibanze, ibigo bya Leta, komisiyo z'igihugu, imishinga ya Leta cyangwa izindi nzego zahawe*

ububasha n'Umuyobozi Mukuru ushinzwe gucunga ingengo y'imari ya Leta ndetse n'ibigo bya Leta bikora imirimo y'ubucuruzi igihe byakoresheje ingengo y'imari ya Leta.

[21] Ashingiye ku bivugwa muri iyo ngingo, Me SANGANO Yves asobanura ko amasosiyete y'ubucuruzi nka WASAC Ltd ndetse na REG Ltd atabarirwa mu bigo bya Leta bikora imirimo y'ubucuruzi kuko atashyizweho n'itegeko. Ingingo ya 4 y'Itegeko Ngenga n° 001/2016/OL iteganya ko ibigo bya Leta biri mu byiciro bibiri, aribyo ibigo bya Leta bikora imirimo itari iy'ubucuruzi n'ibigo bya Leta bikora imirimo y'ubucuruzi. Avuga ko, ashingiye ku biteganywa n'iryo Tegeko Ngenga, Itegeko rishyiraho ikigo cya Leta rigena icyiciro icyo kigo giherereyemo, ibyo akaba atariko bimeze kuri WASAC Ltd kuko nta tegeko ryayishyizeho. Urugero atanga rw'ikigo cya Leta gikora ubucuruzi hakurikijwe ibiteganywa n'iryo Tegeko Ngenga akaba ari NAEB.

[22] Avuga kandi ko basubiye mu mateka y'uburyo WASAC Ltd yashinzwe nka sosiyete y'ubucuruzi, bagaragarije Urukiko rw'Ubucuruzi ndetse n'Urukiko Rukuru rw'Ubucuruzi ingingo z'amategeko zikurikira:

- Ingingo ya 2 y'Itegeko n° 97/2013 ryo ku itariki ya 30/01/2014 rikuraho itegeko n° 43/2010 ryo ku wa 07/12/2010 rishyiraho ikigo cy'igihugu gishinzwe guteza imbere ingufu, amazi n'isukura (EWSA), aho iteganya ko inshingano, imitungo yimukanwa n'itimukanwa, imyenda n'amadeni byari iby'icyo kigo byeguriwe amasosiyete y'ubucuruzi;
- Iteka rya Minisitiri w'Intebe nº 87/03 ryo ku itariki ya 16/08/2014 rigena uburyo inshingano n'imitungo by'ikigo cy'igihugu gishinzwe guteza imbere ingufu, amazi n'isukura (EWSA) byimurirwa mu masosiyete y'ubucuruzi ariyo "the Energy Development Corporation Ltd (EDCL Ltd), the Energy Utility Corporation Ltd (EUCL Ltd) na Water and Sanitation Corporation Ltd (WASAC Ltd);
- Ingingo ya 6 y'Itegeko n° 50/2008 ryo ku itariki ya 09/09/2008 rigena uburyo Leta yivanaho umutungo wayo bwite iteganya ko ibintu urwego rwa Leta rwivanyeho bigomba guhita bivanwa mu bitabo by'ibaruramari, hakurikijwe amategeko, amateka n'amabwiriza agenga ibaruramari rya Leta.

[23] Avuga ko bakurikije ibiteganywa n'ingingo ya 44 y'Itegeko Nshinga, ibyari biteganyijwe byose mu kwimura umutungo wa Leta wari muri EWSA byubahirijwe, ubwo imitungo ya Leta yari ifitwe n'icyo kigo yegurirwaga amasosiyete y'Ubucuruzi harimo na WASAC Ltd.

[24] Me SANGANO Yves avuga ko, ashingiye ku mategeko amaze kugaragazwa, basanga Inama y'Ubutegetsi ya RPPA yarihaye ububasha budafite itegeko na rimwe bushingiyeho mu kwemera gushyira mu bikorwa ubusabe Umuyobozi Mukuru (CEO) wa WASAC Ltd yayigejejeho mu ibaruwa no 11.07.053/1531/17/PROC-CEO/AM/jbd yo ku itariki ya 19/12/2017.

[25] Ku birebana n'ububasha bwa RPPA, Me SANGANO Yves avuga ko ingingo ya 3, agace ka 11°, y'Itegeko riyishyiraho iteganya ko RPPA ishobora kuzuza izindi nshingano yahabwa n'Itegeko zitanyuranyije n'inshingano zayo z'ibanze, ko aha ariho RPPA yagombye kuba igaragaza aho ikura inshingano ku masosiyete y'ubucuruzi kuko nayo yemera ko WASAC Ltd ari isosiyete y'ubucuruzi.

[26] Ku birebana n'amabwiriza ya Minisitiri w'Imari n'Igenamigambi no 996/10/15/RPPA yo ku wa 27 Gashyantare 2015 ajyanye no gukoresha Itegeko rigenga amasoko ya Leta ku masoko WASAC Ltd itanga ikishyura ikoresheje ingengo y'imari ya Leta isanzwe (*ordinary budget*) RPPA iburanisha, Me SANGANO Yves avuga ko ayo mabwiriza nta gaciro akwiye guhabwa ku mpamvu zikurikira:

a) Isoko WAPCOS Ltd yakoze ryatangiye gupiganirwa mu mwaka wa 2013, ayo mabwiriza akaba yari atarajyaho ku buryo ashobora gukoreshwa cyane cyane hashingiwe ku Iteka rya Minisitiri w'Intebe nº 87/03 ryo ku wa 16/08/2014 rigena uburyo inshingano n'imitungo by'ikigo cy'igihugu gishinzwe guteza imbere ingufu, amazi n'isukura (EWSA) byimurirwa mu masosiyete y'ubucuruzi ariyo EDCL Ltd, EUCL Ltd na WASAC Ltd.

b) Amasezerano WAPCOS Ltd yasinye agaragaza neza ko isoko yagombaga gukora ryari rishingiye kuri *procurement guidelines* za WASAC Ltd (*General Conditions: 1.1, Page 7*), ko ritari rishingiye kuri *Public Procurement Law.* Iyo WASAC Ltd iza gusanga ariya mabwiriza ya Minisitiri ayireba kuri iri soko WAPCOS Ltd yari yarapiganiye kuva mu mwaka wa 2013, ntibyari kuba ngombwa ko habaho gusinya amasezerano, ahubwo byari gutuma isoko riseswa noneho rikongera gutangwa hakurikije *Public Procurement Law* nk'uko amabwiriza yabisabaga. Niba *procurement process* yari yaratangiye mu mwaka wa 2013, agaciro k'ariya mabwiriza ntikashoboraga gusubira inyuma (*retroactivity*), bityo isoko rya WAPCOS Ltd rikaba ritarebwa n'ayo mabwiriza n'ubwo amasezerano arikomokaho yasinywe mu kwezi kwa 07/2015.

c) Kuba nta hantu na hamwe bigaragara ko amafaranga yagombaga gukoreshwa mu isoko yari guturuka mu ngengo y'imari isanzwe ya Leta (Ordinary Budget) nk'uko amabwiriza ya Minisitiri abivuga, uretse kuba ku masezerano handitseho ko amafaranga azatangwa na Leta (source of Fund: Government of Rwanda), ibi bikaba bitavuze ingengo y'imari isanzwe (Ordinary Budget), kuko mu ngengo y'imari habamo n'ingengo y'imari y'iterambere (Development Budget) ahanini ituruka ku baterankunga. Avuga kandi ko bitumvikana uburyo isoko ryaba rituruka ku ngengo y'imari isanzwe ngo ryishyurwe mu madolari y'abanyamerika.

d) Itegeko rigenga amasoko ya Leta ryo mu mwaka wa 2018 mu ngingo yaryo ya 198, riteganya ko Itegeko nº 12/2007 ryo ku wa 27/03/2007 rigenga amasoko ya Leta nk'uko ryahinduwe kandi ryujujwe kugeza ubu n'ingingo zose z'amategeko abanziriza iri tegeko kandi binyuranyije na ryo bivanyweho, bikaba byumvikana neza ko mu gihe ibiteganyijwe muri aya mabwiriza ya Minisitiri bitigeze byongerwa muri iri tegeko, nayo yahise ata agaciro kuko iryo tegeko rigaragaza neza ko amasosiyete y'ubucuruzi Leta ifitemo imigabane atarebwa n'iryo tegeko (ingingo ya 9 igaragaza inzego zitanga amasoko ya Leta).

e) Ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda mu gika cyayo cya kabiri, iteganya ko *nta tegeko rivuguruza iririsumba*, ko rero aya mabwiriza avuguruza amategeko nta gaciro ashobora kugira, dore ko RPPA itagaragarije Urukiko aho Minisitiri w'Imari yakuye ububasha bwo kuvuguruza itegeko kandi nayo ikabigenderaho.

[27] Asoza avuga ko ibyo kuba Amasosiyete y'ubucuruzi Leta ifitemo imigabane 100% ashobora kurebwa n'amategeko agenga amasoko ya Leta ari bishya mu mategeko y'u Rwanda, kuko byatangiranye n'Itegeko Ngenga n° 001/2020/OL ryo ku itariki ya 08/06/2020 rishyiraho amategeko rusange agenga ibigo bya Leta mu ngingo yaryo ya 3, iteganya ko ibigo bya Leta biri

mu byiciro bibiri aribyo: ibigo bya Leta bikora imirimo itari iy'ubucuruzi, n'amasosiyete y'ubucuruzi ya Leta. Naho mu ngingo yaryo ya 2, agace ka 3, ikavuga ko isosiyete y'ubucuruzi ya Leta ari isosiyete y'ubucuruzi Leta ari yo munyamigabane umwe rukumbi. Asobanura ko ku bw'iri Tegeko Ngenga, isosiyete y'ubucuruzi Leta ifitemo imigabane 100% ifatwa nk'urwego rwa Leta rutanga amasoko nk'uko ingingo ya 9 y'Itegeko rigenga amasoko ya Leta ribiteganya, ko mbere y'uko Itegeko Ngenga n° 001/2020/OL ryavuzwe haruguru risohoka ku itariki ya 08/06/2020, WASAC Ltd itashoboraga gufatwa nk'urwego rwa Leta rutanga amasoko.

UKO URUKIKO RUBIBONA

[28] Ikibazo kiri muri uru rubanza impande zombi zitumvikanaho, gishingiye ku kumenya urwego WASAC Ltd ibarizwamo, niba ari ikigo cya Leta kibarirwa mu nzego zitanga amasoko ya Leta, bityo RPPA ikaba ifite ububasha bwo gukurikirana amasoko gitanga nk'uko uyihagarariye abivuga muri uru rubanza, cyangwa se niba ari sosiyete y'ubucuruzi nk'izindi zose zigengwa n'amategeko y'ubucuruzi, bityo RPPA ikaba itagomba kwinjira mu masoko yayo nk'uko uburanira WAPCOS Ltd abiburanisha.

[29] Kugira ngo iki kibazo kibonerwe igisubizo, Urukiko rwasanze ari ngombwa kumenya inshingano za RPPA hakurikijwe ikibazo kiri muri uru rubanza, maze rusanga ingingo ya 3, agace ka 3 n'aka 9, y'Itegeko n° 25/2011 ryo ku wa 30/06/2011 riyishyiraho rikanagena inshingano, imiterere n'imikorere byayo, iteganya ko ifite inshingano yo kugenzura uko amasoko ya Leta atangwa n'uko ashyirwa mu bikorwa no gukora ikanatangaza urutonde rw'abahagaritswe mu masoko ya Leta. Ibiteganywa muri iyi ngingo binahura n'ibiteganywa mu ngingo ya 8 y'Itegeko n° 62/2018 ryo ku wa 25/08/2018 rigenga amasoko ya Leta, iteganya ko Ikigo cy'Igihugu Gishinzwe Gutunganya Amasoko ya Leta (RPPA) gikora igenzura rihoraho hagamijwe kureba iyubahirizwa ry'amategeko n'amabwiriza bigenga amasoko ya Leta. Iyo ngingo iteganya kandi ko buri rwego rutanga amasoko ya Leta n'undi wese ushinzwe ishyirwa mu bikorwa ry'amasezerano y'isoko bagomba gukorana n'Ikigo cy'Igihugu Gishinzwe Gutunganya Amasoko ya Leta mu kurangiza iyo nshingano.

[30] Urukiko rwasanze nanone ari ngombwa kumenya igisobanuro cy'amasoko ya Leta no kumenya urwego rushinzwe kuyatanga, maze hashingiwe ku biteganywa n'Itegeko n° 62/2018 ryo ku wa 28/08/2018 rigenga amasoko ya Leta, rusanga *"amasoko ya Leta"* ari uburyo urwego rwa Leta rubonamo ibikoresho, inyubako cyangwa serivisi biturutse hanze yarwo, narwo rukishyura ikiguzi cyabyo.[1] Rwasanze kandi, hakurikijwe ibiteganywa n'ingingo ya 9 y'iryo Tegeko, inzego zitanga amasoko ya Leta ari inzego zo mu butegetsi bwite bwa Leta, inzego z'ibanze, ibigo bya Leta, komisiyo z'igihugu, imishinga ya Leta cyangwa izindi nzego zahawe ububasha n'Umuyobozi Mukuru ushinzwe gucunga ingengo y'imari ya Leta ndetse n'ibigo bya Leta bikora imirimo y'ubucuruzi igihe byakoresheje ingengo y'imari ya Leta. Amasoko atangwa n'izo nzego zimaze kuvugwa RPPA ikaba ishobora kuyakurikirana.

[31] Ku birebana n'igisobanuro cy'*amasoko ya Leta kandi,* abahanga mu mategeko François Collart Dutilleul na Philippe Delebecque mu gitabo cyabo bise *Contrats civils et contrats commerciaux*, basobanuye ko amasoko ya Leta ari amasezerano abantu bagirana na Leta n'inzego zayo kugira ngo zibone ibyo zikeneye nko gukorerwa imirimo runaka, kubona ibikoresho no

[1] Ingingo ya 3, agace ka 4.

guhabwa serivisi zitandukanye hatanzwe ikiguzi. Basobanura ko amategeko akurikizwa ku masoko yatanzwe: ku ruhande rumwe na Leta n'ibigo byayo (uretse inganda n'ibigo by'ubucuruzi), inzego z'imitegekere y'igihugu n'ibigo byazo; ku rundi ruhande hakurikijwe ibyasabwe n'izo nzego. *(Les marchés publics sont les contrats conclus à titre onéreux avec des personnes publiques ou privées par les personnes morales de droit public déterminées par le code, pour répondre à leurs besoins en matière : de travaux, de fournitures et de services. Le code s'applique aux marchés conclus : d'une part par l'Etat, ses établissements publics (autres qu'industriels et commerciaux), les collectivités territoriales et leurs établissements publics ; d'autre part en vertu d'un mandat donné par eux)*[2].

[32] Igisobanuro cy'*amasoko ya Leta* gitangwa n'abahanga mu mategeko bamaze kuvugwa, kiruzuza ibiteganywa n'amategeko yavuzwe haruguru yakurikizwaga ubwo isoko ryatumye RPPA ifata icyemezo cyaregewe muri uru rubanza ryatangwaga. Abo bahanga nabo bakaba basobanura ko amasoko ya Leta atangwa n'inzego za Leta ndetse n'ibigo byayo.

[33] Urukiko rurasanga ingingo z'amategeko zavuzwe haruguru zisomewe hamwe, ndetse n'ibyasobanuwe n'abahanga, nta gushidikanya ko amasoko RPPA ikurikirana ari ayatanzwe n'inzego za Leta n'ibigo byayo. Igisigaye akaba ari ukumenya niba na WASAC Ltd yarabarizwaga mu nzego za Leta zitanga amasoko, kugira ngo hamenyekane niba RPPA yari ifite ububasha bwo gukurikirana amasoko yayo. Itegeko Ngenga n° 001/2016/OL ryo ku wa 20/04/2016 rishyiraho amategeko rusange agenga ibigo bya Leta ryakurikizwaga igihe RPPA yafatiraga WAPCOS Ltd ibihano biturutse ku isoko yahawe na WASAC Ltd mu masezerano yasinywe ku itariki ya 28/07/2015, mu ngingo yaryo ya 2 rivuga ko ritareba ibigo Leta ishoramo imari bigengwa n'itegeko ryerekeye amasosiyeti y'ubucuruzi, muri ibyo bigo akaba ariho na WASAC Ltd ibarizwa hakurikijwe inyandiko yitwa *Full Registration Information of Domestic Company* yatanzwe n'Ikigo cy'igihugu gishinzwe iterambere (RDB)[3]. Muri iyo ngingo, Umushingamategeko yashatse gutanga umucyo kugira ngo hatazabaho kwitiranya ibigo bya Leta bikora imirimo y'ubucuruzi, n'amasosiyete y'ubucuruzi Leta ishoramo imari.

[34] Hakurikijwe ibiteganywa n'iryo Tegeko Ngenga, Urukiko rurasanga WASAC Ltd itarabarizwaga mu bigo bya Leta, bityo rero ikaba itari no mu nzego za Leta zitanga amasoko ya Leta ku buryo RPPA yari ifite ububasha bwo gukurikirana amasoko yayo. WASAC Ltd, kimwe n'andi masosiyete Leta ifitemo imigabane 100%, yaje guhinduka ikigo cya Leta ubwo hasohokaga Itegeko Ngenga n° 001/2020/OL ryo ku wa 08/06/2020 rishyiraho amategeko rusange agenga ibigo bya Leta, aho ingingo yaryo ya 3 iteganya ko amasosiyete y'ubucuruzi ya Leta (isosiyete y'ubucuruzi Leta ari yo munyamigabane rukumbi) ari kimwe mu byiciro by'ibigo bya Leta.[4] Kuva iryo Tegeko Ngenga ryasohoka, ubu noneho na WASAC Ltd, kimwe n'ayandi masosiyete y'ubucuruzi Leta ariyo munyamigabane umwe rukumbi, ni rumwe mu nzego zitanga amasoko ya Leta.

---

[2] *François Collart Dutilleul, Philippe Delebecque, Contrats civils et commerciaux, 11ème édition, Dalloz, 2019, page 640.*

[3] Icyo cyemezo giteganywa n'ingingo ya 17 y'Itegeko n° 07/2009 ryo ku wa 27/04/2009 ryerekeye amasosiyete y'ubucuruzi ryakurikizwaga WASAC Ltd ishingwa.

[4] Iyo ngingo igira iti: " Ibigo bya Leta biri mu byiciro bikurikira :

1° ibigo bya Leta bikora imirimo itari iy'ubucuruzi;

2° amasosiyete y'ubucuruzi ya Leta.

[35] Ku birebana n'ingingo ya 6 y'Itegeko Ngenga n° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta uburanira RPPA ashingiraho avuga ko urwo rwego rwari rufite ububasha bwo gukurikirana amasoko atangwa na WASAC Ltd, Urukiko rurasanga iyo ngingo iteganya ko ikoreshwa ry'amafaranga ya Leta mu nzego zayo zose ryubahiriza ibiteganywa n'itegeko ryihariye rigenga amasoko ya Leta. Urukiko rurasanga ariko, nk'uko byasobanuwe huruguru, WASAC Ltd itarabarirwaga mu nzego za Leta zitanga amasoko ya Leta igihe yatangaga isoko ryatumye RPPA ifata icyemezo cyaregewe muri uru rubanza, bityo bikaba byumvikana neza ko yo itararebwaga n'iyo ngingo.

[36] Ku birebana n'amabwiriza uburanira RPPA avuga ko Minisitiri w'Imari n'igenamigambi yahaye WASAC Ltd, Urukiko rurasanga ari amabwiriza akubiye mu ibaruwa n° 006/10/15/RPPA Minisitiri yandikiye ubuyobozi bwa WASAC Ltd ku itariki ya 27/02/2015 abumenyesha ko, ashingiye ku ngingo ya 6 y'Itegeko Ngenga n° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta, abibutsa ko ikoreshwa ry'amafaranga ya Leta ryubahiriza ibiteganywa n'itegeko ryerekeye amasoko ya Leta, ko ashingiye kuri ibyo, abasaba gukoresha amafaranga babona aturutse mu ngengo y'imari ya Leta bakurikije itegeko rigenga amasoko ya Leta[5].

[37] Urukiko rurasanga ayo mabwiriza nta gaciro agomba guhabwa, cyane cyane ko ingingo ya 6 Minisitiri yashingiyeho ivuga ikoreshwa ry'amafaranga ya Leta mu nzego zayo, kandi nk'uko tumaze kubibona, icyo gihe WASAC Ltd kimwe n'andi masosiyeti y'ubucuruzi ya Leta ntiyabarirwaga mu nzego za Leta nk'uko bimeze ubu. Urukiko rurasanga kandi na WASAC Ltd ubwayo itaritaye kuri ayo mabwiriza ubwo ku itariki ya 28/07/2015 yasinyanaga na WAPCOS Ltd amasezerano y'isoko ryabaye intandaro y'icyemezo cyaregewe muri uru rubanza, kuko muri ayo masezerano impande zombi zemeranyije ko mu guhitamo impuguke no kuzikoresha bizakorwa hakurikijwe amabwiriza agenga amasoko ya WASAC Ltd[6]. Ntabwo bemeranyije ko hazakurikizwa amabwiriza agenga amasoko ya Leta nk'uko byari mu ibaruwa ya Minisitiri yavuzwe haruguru.

[38] Hashingiwe ku mategeko no ku bisobanuro byose byatanzwe, Urukiko rurasanga RPPA nta bubasha yari ifite bwo gufatira WAPCOS Ltd icyemezo cyo kuyiheza mu masoko ya Leta hashingiwe ku isoko yabonye muri WASAC Ltd, kuko hasinywa amasezerano y'isoko ryabaye intandaro y'icyo cyemezo, WASAC Ltd itari yakabaye ikigo gitanga amasoko ya Leta ku buryo RPPA yashoboraga gukurikirana amasoko yayo, kubera iyo mpamvu ikirego cyayo gisaba gusubirishamo urubanza ku mpamvu z'akarengane kikaba nta shingiro gifite.

b. Kumenya niba indishyi zisabwa muri uru rubanza zatangwa

[39] Me SANGANO Yves uhagarariye WAPCOS Ltd avuga ko byayisabye gushyiraho abanyamategeko haba mu Buhinde aho ifite icyicaro gikuru, ndetse no mu Rwanda ku buryo byose hamwe byatumye yishyura 25,000 USD, ko rero bashingiye ku biteganywa mu ngingo ya 111

[5] *[…] In accordance with article 6 of the Organic Law n° 12/2013/OL of 12/09/2013 on State finances and property, public finances are used in accordance with the law governing public procurement. Therefore, the Ministry observed that there is a need to establish a clear guidance to state owned companies which are allocated public finances in support of their investments. […]*

[6] *General Conditions of Contract. 1.1. Unless the context otherwise requires, the following terms whenever used in this contract have the following meanings:*
(a) « Applicable Guidelines » means Guidelines for Selection and Employment of Consultants under WASAC procurement procedures. P. 7.

y’Itegeko nº 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y’imanza z’imbonezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi, basaba Urukiko gutegeka RPPA gusubiza WAPCOS Ltd ayo mafaranga kuko ikomeje gusiragizwa mu manza.

[40] Me NTARUGERA Nicolas uhagarariye RPPA avuga ko indishyi WAPCOS Ltd isaba nta shingiro zahabwa kuko ariyo nyirabayazana w’izi manza kuko itubahirije amasezerano. Avuga ko yagaragarije Urukiko ko kuba uru rubanza rwarabaye byaturutse ku makosa ya WAPCOS Ltd itarashishoje ngo ibone ko idakwiriye kurega RPPA, kuko yatanze igihano ku mpamvu ziteganywa n'amategeko kandi bigaca mu nzira zemewe, ko kuba rero byaratumye haba imanza zirimo n'uru, RPPA isaba Urukiko gutegeka WAPCOS Ltd kwishyura indishyi zicishirije zingana na 700.000 Frw zisimbura ibyagiye ku bikoresho n'umwanya mu gihe cyo gutegura, kuburana no gukurikirana urubanza.

UKO URUKIKO RUBIBONA

[41] Urukiko rurasanga amafaranga y’ibyagiye ku rubanza WAPCOS Ltd isaba ikwiye kuyahabwa kuko ariyo itsinze urubanza, kandi bikaba bigaragara ko yagombye gushaka Avoka uyiburanira. Icyakora kubera ko 25,000 USD isaba akabije kuba menshi kandi ikaba itaragaragarije Urukiko ko ariyo yakoresheje muri uru rubanza, ruyigeneye mu bushishozi bwarwo 500.000 Frw y’igihembo cya Avoka na 300.000 Frw y’ikurikiranarubanza, yose hamwe akaba ibihumbi magana inani (800.000 Frw).

[42] Ku birebana n’amafaranga y’ibyagiye ku rubanza asabwa na RPPA, Urukiko rurasanga ntayo igomba guhabwa kubera ko itsinzwe urubanza.

III. ICYEMEZO CY’URUKIKO

[43] Rwemeje ko ikirego cyatanzwe na RWANDA PUBLIC PROCUREMENT AUTHORITY (RPPA) isaba gusubirishamo ku mpamvu z’akarengane urubanza n° RCOMA 00331/2019/HCC rwaciwe n’Urukiko Rukuru rw’Ubucuruzi ku itariki ya 13/12/2019 nta shingiro gifite;

[44] Rwemeje ko nta karengane kari muri urwo rubanza;

[45] Rutegetse RPPA guha WAPCOS Ltd 800.000 Frw akubiyemo ay’igihembo cya Avoka n’ay’ikurikiranarubanza.