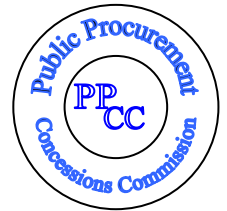


Republic of Liberia  
**Complaints, Appeals & Review Panel (CARP)**  
**Public Procurement & Concessions Commission**  
Executive Mansion Grounds  
Capitol Hill, Monrovia, Liberia



March 16, 2010

OPINION IN THE CASE OF FOMENTO VS. MINISTRY LANDS, MINES AND ENERGY

**Background**

The Public Procurement and Concessions Act which created the Public Procurement and Concessions also Commission also stipulated the creation of the Complaints, Appeals and Review Panel within the Commission, with the sole purpose of investigation of complaints by emanating from procurement /concession proceedings. Against this backdrop, the Commission received this complaint which was later sent to the Panel for investigation.

**Methodology**

The Panel met on the 17<sup>th</sup> of February, 2010 with the full house in attendance. After being briefed, they agreed to investigate the case, which investigation took the form of reviewing the records made available to the Panel. The Panel also reviewed the timelines and dates to determine whether or not the complaints were filed on time, from the date of the complaint to the Concession entity; and to the Commission.

**The Facts**

In a bid to retender, the Concession entity conducted a bid proceedings involving the Western Cluster Mining Concession in which complainant participated. Essentially, the complainant alleged that his financial proposal was returned to him unopened for reasons that his technical proposal did not meet or receive the minimum required score that would enable him to progress to the second stage (opening of the financial proposal). Complainant contends that the return of his financial proposal unopened is a breach of the PPC Act and an adoption of strange procedures during the evaluation process.

**The Issue**

Whether or not the Concession entity acted legally and in consistent with procurement practices when it returned complainant's financial proposal, the part two of this bid, unopened for reasons that said complainant's technical proposal did not meet the minimum required score to advance to the second stage?

When the technical proposal of the bidder fails to meet the minimum required score, said bidder is not qualified to advance to the second stage of the bid evaluation process; as it is the

result from the evaluated technical proposal that advises or informs the evaluation committee as to which bidder progresses to the next evaluation process.

**Decision**

The Complaints, Appeals and Review Panel is in accord with the Concession Entity’s decision to return unopened the financial proposal of the complainant since his technical proposal failed to meet the required minimum score to advance to stage two.

**Rulings**

In view of the foregoing, we are of the opinion that the concession entity, the Ministry of Lands, Mines and Energy acted legally, when it stopped the complainant from advancing to the second stage of the evaluation process for reason above mentioned.

AND IT IS SO ORDERED.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND AFFIXED OUR SIGNATURES TO THIS DOCUMENT THIS DAY 25<sup>TH</sup>, DAY OF MARCH, A.D. 2010.

SIGNED:

Clr. Beyan D. Howard, Chairman\_\_\_\_\_

\*Mr. Massaquoi Morlu Kamara, Co-Chairman\_\_\_\_\_

Atty. Eric Morlu, Secretary \_\_\_\_\_

Mr. David Jallah, Member\_\_\_\_\_

Mrs. Esther Paegar, Member\_\_\_\_\_

Mr. Martin Kollie, Member\_\_\_\_\_

\*Note: Mr. Massaquoi Morlu Kamara did not sign this opinion because he did not participate in the investigation due to his absence from the country.