PROCUREMENT DEPARTMENT
Rm. 120 Municipal Services Building
Philadelphia, PA 19102-1685
FAX: (215) 686-4716

CITY OF PHILADELPHIA

Janet Hagan
Acting Procurement Commissioner

May 31, 2007

BID NUMBER: T8D02800

TITLE: P C Leasing System

DEPARTMENT: FREE LIBRARY OF PHILADELPHIA

DATE TO OPEN: June 05, 2007 at 10:30 AM

ADDENDUM # **1**

TO ALL BIDDERS:
You are hereby notified of the following changes to the above mentioned bid:

Bid #T8D02800 has been **Postponed Until Further Notice.**

Please sign, date and return this addendum with your bid to the Procurement Department, 1401 J.F.K Boulevard, Bid Room 170A, Philadelphia, PA 19102-1685 as it now becomes a part of the proposal.

_____
Buyer, T. Vinson

_____
AUTHORIZED SIGNATURE

_____
FIRM NAME (PRINT)

_____
DATE

TV/cs

PROCUREMENT DEPARTMENT
Rm. 120 Municipal Services Building
Philadelphia, PA 19102-1685
FAX: (215) 686-4716

CITY OF PHILADELPHIA

Janet Hagan
Acting Procurement Commissioner

June 7, 2007

BID NUMBER: T8D02800

TITLE: P C Leasing System

DEPARTMENT: FREE LIBRARY OF PHILADELPHIA SUPPORT DIVISION

DATE TO OPEN: June 5, 2007 at 10:30 AM

ADDENDUM # **2**

TO ALL BIDDERS:
You are hereby notified of the following changes to the above mentioned bid:

Bid # T8D02800 will now open on **June 25, 2007 at 10:30 AM.**

There will be a **Non-Mandatory Pre-Bid Meeting** for **Bid #T8D02800,** held on **June 11, 2007 at 3:30 PM** at the Procurement Department, MSB, 1401 JFK Blvd. Room 170A.

Please note the **Participation Ranges** below that have been added to **Bid #T8D02800** and the documents attached, in this regard.

MBE Range 3 % - 7 %

WBE Range 2 % - 6 %

DSBE 0 %

Please sign, date and return this addendum with your bid to the Procurement Department, 1401 J.F.K Boulevard, Bid Room 170A, Philadelphia, PA 19102-1685 as it now becomes a part of the proposal.

_____
Buyer, T. VInson

_____
AUTHORIZED SIGNATURE

_____
FIRM NAME (PRINT)

_____
DATE

Attachments

TV/cs

CITY OF PHILADELPHIA
MINORITY BUSINESS ENTERPRISE COUNCIL
ANTIDISCRIMINATION POLICY- MINORITY, WOMEN AND DISABLED OWNED BUSINESS ENTERPRISES

FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS[1] FOR BIDS TO BE AWARDED BY THE PROCUREMENT DEPARTMENT (BIDS)

Under the authority of Executive Order No. 02-05, the City of Philadelphia has established an antidiscrimination policy ("Policy") relating to the participation of Minority (MBE), Women (WBE) and Disabled (DSBE) Owned Business Enterprise in City contracts. The purpose of this Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City's antidiscrimination policy is applicable to this Invitation and Bid.

The Minority Business Enterprise Council (MBEC) has approved projected ranges of participation for this Invitation and Bid which serve as a guide in determining each bidder's responsibility. These ranges represent the percentage of MBE, WBE and/or DSBE (collectively, "M/W/DSBE") participation that should be attained by M/W/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of certified M/W/DSBEs to perform various elements of the contract. Please review these forms carefully as the submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the bid and failure to submit the required information will result in rejection of your bid.

Bidder hereby verifies that all forms, information and documentation submitted to the MBEC are true and correct and is notified that the submission of false information by Bidder is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

1. Only firms that are certified by the MBEC at the time of bid opening will be credited toward the participation ranges on City contracts. A list of currently certified firms is maintained by the MBEC and is available online at www.phila.gov/mbec/directory or in printed form at the MBEC offices, located in the Municipal Services Building, 1401 JFK Blvd. Suite 330, Philadelphia, PA. 19102-1666.

2 No bidder that seeks to meet the participation range(s) for participation by entering into subcontracts with any M/W/DSBE subcontractor shall be considered to meet the range(s) if the M/W/DSBE subcontractor does not perform a commercially acceptable function ("CAF"). A M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with the Bid Specifications), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved. The MBEC may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining

[1] These Instructions, Forms and Special Contract Provisions relating to Mayoral Executive Order 02-05 are issued by the Office of The Minority Business Enterprise Council on an interim basis.

whether the M/W/DSBE is performing a CAF. If it is determined during the review of your Solicitation and Commitment Form that the work described on the Form does not constitute a CAF, your bid may be rejected.

3 In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Bidders will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4 An MBE/WBE/DSBE submitting as the prime bidder is required, like all other bidders, to submit a bid that is responsive to the Policy and will only receive credit toward the relevant participation ranges (e.g., MBE range or WBE range or DSBE range) for the amount of its own work or supply effort on this Invitation and Bid. In addition, the participation of an M/W/DSBE partner, as part of a joint venture created for this bid, may be credited towards the participation ranges only to the extent of the M/W/DSBE partner's ownership interest in the joint venture in accordance with the following criteria:

- The MBE, WBE or DSBE partner(s) must be certified by the MBEC prior to bid opening;
- The M/W/DSBE partner(s) must derive substantial benefit from the arrangement;
- The M/W/DSBE partner(s) must be substantially involved in all phases of the contract including bidding, planning, staffing and daily management;
- The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc).

5 M/W/DSBE subcontractors must perform at least fifty percent (50%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees.

6 For the purpose of applying the participation ranges on Public Works projects that include add or deduct alternates, commitments listed by bidders on the Solicitation for Participation and Commitment Form should be based upon the base bid. In the event the City elects to award any add or deduct alternates, the City reserves the right to require the apparent lowest responsible bidder to amend its Solicitation for Participation and Commitment Form, to ensure the bidder's continuing responsibility.

7 In listing participation commitments on the Solicitation for Participation and Commitment Form, bidders are required to list a detailed description of the work or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. (If the Invitation and Bid is for a requirements-type contract, a percentage amount will suffice.) In calculating the percentage amount, bidders may apply the standard mathematical rules in rounding off numbers. The MBEC reserves the right to request clarifying information from bidder in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

A. RESPONSIVENESS

1. Any bid that the MBEC determines is not responsive to the Policy will be rejected, subject to appeal by bidder as more fully discussed below. A bid responsive to the Policy is a bid which contains documentary evidence of the M/W/DSBEs that have been solicited and that

will be used by the bidder on the contract, if awarded, where the bid satisfies the M/W/DSBE participation ranges for that contract; the bidder is rebuttably presumed not to have discriminated in its selection of contract participants. When a bidder is unable to achieve the participation ranges, a bid responsive to the Policy contains the required documentary evidence along with a written request for the reduction of part or all of the M/W/DSBE participation ranges, which reduction or waiver is granted based upon a determination by the MBEC that the bidder did not discriminate. Although the City reserves the right to allow post-bid opening submission of MBEC Forms and information responsive to the Policy, a bidder's failure to submit the required information on M/W/DSBE participation or to cooperate with the MBEC will result in rejection of the bid as nonresponsive.

2. Bidders must submit documentary evidence of MBE, WBE and DSBEs who have been solicited and with whom commitments have been made in response to the participation ranges included in this Invitation and Bid. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the bid as nonresponsive although the City, at its sole discretion, may allow bidders to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

- Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made prior to bid opening shall be submitted, concurrently with the bid, on the enclosed document entitled "Solicitation For Participation and Commitment Form". A bidder should only make actual solicitations of M/W/DSBEs whose work or materials are within the scope of this Invitation and Bid. Mass mailing of a general nature to M/W/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes. The bidder's listing of a commitment with a M/W/DSBE constitutes a representation that the bidder has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City.

- If the bidder has entered into a joint venture with an MBE, WBE and/or DSBE partner, the bidder should submit along with the Solicitation For Participation and Commitment Form, a document entitled "Joint Venture Eligibility Information Form," available at the Office of the MBEC, for the City's review and approval of the joint venture arrangement.

3. If Bidder does not fully meet each of the range(s) for participation established for this Invitation and Bid, bidder must request a reduction of participation, indicating the level of M/W/DSBE participation that has been achieved by bidder and explaining what efforts the bidder made to achieve the M/W/DSBE participation ranges. Bidder must demonstrate, through the submission of documentary evidence, that it took all necessary steps and made reasonable efforts to achieve the M/W/DSBE participation ranges, even if these efforts were not fully successful. MBEC will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/W/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the bid as nonresponsive although the City, at its sole discretion, may allow bidders to submit or amend their evidentiary submission at any time prior to award. The submission shall contain and discuss, at a minimum, the following:

- If no MBE/WBE/DSBEs were solicited for the type of services or materials to be contracted, please give reason(s) why no such solicitation was made.

- Document all solicitations and commitments made with non-M/W/DSBEs for services or supplies incident to the performance of the contract; include copies of quotes received.

- Provide reasons for not committing with any MBE/WBE/DSBEs that submitted a quote, regardless of whether the quote was solicited by bidder.

- Provide any additional evidence pertinent to bidder's conduct relating to this bid including sufficient evidence which demonstrates to the MBEC that bidder has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing bidder's efforts to achieve participation within the ranges, bidder may submit any corroborating documentation (e.g., copies of advertisements for participation).

a. The bidder's documentary evidence will be reviewed by the MBEC to ascertain whether discrimination has occurred in the solicitation or selection of contract participants. The review will include consideration of the following:

- Whether the bidder's actions were motivated by considerations of race or gender or disability. The MBEC may investigate the bidder's contracting activities and business practices on similar public and private sector contracts. For example, if bidder rejects any M/W/DSBE based on price, bidder must fully document its reasons for the rejection and also demonstrate that bidder subjects non-M/W/DSBEs to the same pricing standards. MBEC will investigate whether there was any attempt at good faith negotiation of price.

- Whether M/W/DSBEs were treated as equally as other businesses in the solicitation and commitment process. For example, the MBEC will investigate whether M/W/DSBEs are given the same information, access to the bid, plans, specifications, and requirements of the contract and given adequate amount of time to prepare a quote as others who were solicited by bidder. The MBEC will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether bidder short listed M/W/DSBEs for participation in contractor negotiated subcontract opportunities or solicited M/W/DSBEs at pre-bid meetings.

- Whether the bidder's contracting decisions were based upon policies which disparately affect M/W/DSBEs. MBEC will ascertain whether bidder selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. MBEC will consider whether bidder employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract, prompt payment practices or bonding assistance.

4. After review of the bidder’s submission and other information the MBEC deems relevant to its evaluation, the MBEC will make a written determination that will be forwarded to the Procurement Commissioner or his/her designee (the “Commissioner”).

a. If the apparent low bidder’s bid is determined nonresponsive by the MBEC, the bidder will be notified and may file a written appeal with the MBEC within forty-eight (48) hours of the date of notification. The decision of the MBEC may be appealed in writing within forty-eight (48) hours of the date of the MBEC’s decision to the Director of Finance or his/her designee whose decision shall be final.

B. RESPONSIBILITY

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract. M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including approved change orders and amendments). Any change in commitment, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the MBEC.

2. The successful bidder shall, within five (5) business days after receipt of a payment from the City for work performed under the contract, deliver to its M/W/DSBE subcontractors the proportionate share of such payment for work performed (including the supply of materials) by its M/W/DSBE subcontractors. [For Concession bids, the successful bidder shall deliver payment within ten (10) days after receipt of the M/W/DSBE' invoice] In connection with payment of its M/W/DSBE subcontractors, the successful bidder agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.

3. No privity of contract exists between the City and any M/W/DSBE subcontractor identified in any contract resulting from this Invitation and Bid. The City does not intend to give or confer upon any such M/W/DSBE subcontractor(s) any legal rights or remedies in connection with the subcontracted services under Executive Order 02-05 or by reason of any contract resulting from the Invitation and Bid except such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the MBEC determines that the bidder has discriminated against a M/W/DSBE at any time during the term of the contract, or intentionally excluded a M/W/DSBE from a bid on the basis of minority status, gender or disability, the MBEC may recommend to the Director of Finance the imposition of sanctions on the bidder including debarment of the bidder from submitting and/or participating in future City contracts for a period of up to three (3) years.

D. ACCESS TO INFORMATION

1. The MBEC shall have the right to make site visits to the bidder's place of business and/or job site and obtain documents and information from any bidder, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain bidder's responsiveness and responsibility.

2. Failure to cooperate with the MBEC in its review will result in a determination that the bidder's bid is nonresponsive and its bid will be rejected.

E. RECORDS AND REPORTS

1. The successful bidder shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment. These records shall be made available for inspection by the MBEC and/or other appropriate City officials. The successful bidder agrees to submit reports and other documentation to the MBEC as deemed necessary by the MBEC to ascertain the successful bidder's fulfillment of its M/W/DSBE commitments.

F. REMEDIES

Anti-Discrimination Policy

1. The successful bidder's compliance with the requirements of Executive Order 02-05, including the fulfillment of any M/W/DSBE commitments, is material to the contract. Any failure to comply with these requirements constitutes a substantial breach of the contract. It is further understood and agreed that in the event the Director of Finance determines that the successful bidder hereunder has failed to comply with these requirements the City may, in addition to any other rights and remedies the City may have under the contract, any bond filed in connection therewith or at law or in equity, exercise one or more of the following remedies, as deemed applicable, which shall be deemed cumulative and concurrent:

a. Withhold payment(s) or any part thereof until corrective action is taken.

b. Terminate the contract, in whole or in part.

c. Suspend the successful bidder from bidding on and/or participating in any future City contracts for a period of up to three (3) years.

d. Recover as liquidated damages, one percent of the total dollar amount of the contract for each one percent (or fraction thereof) of the commitment shortfall. (NOTE: The "total dollar amount of the contract'' shall include approved change orders, amendments and for requirements contracts shall be based on actual quantities ordered by the City. For Concessions, the "total dollar amount of the contract" shall mean the Concession Fee paid to the City.)

The remedies enumerated above are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with any contract resulting from this Invitation and Bid nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors.

SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM (BID)

Minority (MBE), Women (WBE), and Disabled (DSBE) Business Enterprises

DEPARTMENT OF FINANCE

MINORITY BUSINESS ENTERPRISE COUNCIL (MBEC)

BID# AND TITLE -	*Name of Bidder*	*Bid Submission Date*

List below ALL MBE/WBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.

☐ MBE ☐ WBE ☐ DSBE	Work to be Performed	Date Solicited		Commitment Made	Give Reason(s)
Company Name		By Phone	By Mail	Yes *(If Yes, give date)* NO	If No Commitment
Address					
Contact Person		Quote Received		Amount Committed To	
Telephone Number / Fax #		YES	NO	Dollar Amount $	
MBEC CERTIFICATION #				Percent of Total Bid %	

☐ MBE ☐ WBE ☐ DSBE	Work to be Performed	Date Solicited		Commitment Made	Give Reason(s)
Company Name		By Phone	By Mail	Yes *(If Yes, give date)* NO	If No Commitment
Address					
Contact Person		Quote Received		Amount Committed To	
Telephone Number / Fax #		YES	NO	Dollar Amount $	
MBEC CERTIFICATION #				Percent of Total Bid %	

☐ MBE ☐ WBE ☐ DSBE	Work to be Performed	Date Solicited		Commitment Made	Give Reason(s)
Company Name		By Phone	By Mail	Yes *(If Yes, give date)* NO	If No Commitment
Address					
Contact Person		Quote Received		Amount Committed To	
Telephone Number / Fax #		YES	NO	Dollar Amount $	
MBEC CERTIFICATION #				Percent of Total Bid %	

☐ MBE ☐ WBE ☐ DSBE	Work to be Performed	Date Solicited		Commitment Made	Give Reason(s)
Company Name		By Phone	By Mail	Yes *(If Yes, give date)* NO	If No Commitment
Address					
Contact Person		Quote Received		Amount Committed To	
Telephone Number / Fax #		YES	NO	Dollar Amount $	
MBEC CERTIFICATION #				Percent of Total Bid %	

Rev. (12/2005) JAS

[1] MBE/WBE/DSBEs listed above must be certified by the MBEC prior to proposal submission date.

[2] Failure to give reason may result in rejection of your bid. Use additional pages if necessary.