



41 Perimeter Center East, Suite 250  
Dunwoody, Georgia 30346  
P (678) 382-6700 F (678) 382-6701  
dunwoodyga.gov

## **MEMORANDUM**

**To:** Honorable Mayor and City Council  
**From:** Warren Hutmacher, City Manager  
**Date:** December 13, 2010  
**Subject:** Consideration of a Protest of Bid Number ITB 10-31 (City of Dunwoody – Audio Visual Improvements)

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City Council awarded a contract to AV Tech services on October 25, 2010 for Audio Visual Improvements to the Council Chamber/Court Room for Dunwoody City Hall. The award was made in concurrence with a staff recommendation to award the contract to the low bidder who met the requirements of the bid.

On October 27, 2010, Media Products, Inc. filed a formal protest with the Office of the City Manager. In accordance with the approved purchasing policy, I have taken the following steps:

1. Suspended the award of the contract pending a final determination regarding the protest of the award filed by Media Products, Inc.
2. Sent a letter to Media Products, Inc. formally acknowledging receipt of their protest letter and advising them of all their rights under our purchasing procedures.
3. Sent a letter to our Purchasing Manager formally requesting a response to the protest of the contract award.
4. Thoroughly reviewed the merits of the protest letter and waited the full 14 days to allow the protesting bidder to request a hearing
5. Sent notice to Media Products, Inc. notifying them of my initial determination of the merits of their protest
6. Prepared documentation for City Council consideration of my determination to dismiss the protest of this award.

#1.15.



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In accordance with our Purchasing Policy, Council is required to either approve or reject the City Manager's determination in this matter.

I recommend the Council approve my determination to dismiss the protest of the award of Bid Number ITB 10-31.



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December 2, 2010

Media Products, Inc.  
 1235 Old Alpharetta Road, S. 130  
 Alpharetta, GA 30005  
 Attention: Dan Lynn, Account Executive

Dear Mr. Lynn,

Pursuant to our purchasing policy, I have reviewed your protest letter for ITB 10-31 and the response to the protest by our Purchasing Manager.

In reviewing your protest I have determined that your bid was ultimately compliant with all the requirements of the bid process; however my review concludes that you are not the low bidder for ITB 10-31.

The following table reflects the proper breakdown of your bid:

Item	Amount	Source
Base Bid	\$ 67,543.88	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Add: Crestron Control System in lieu of AMX	\$ 22,927.66	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Add: Aavelin Signmate Digital Signage System	\$ 9,955.87	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Deduct: X20 Digital Signage System	\$ (10,736.50)	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Add: In-ceiling document camera in place of the Wolf Vision VZ-8Plus3	\$ 4,042.05	Bidder's Page 10R
Add: Placing camera 4 (Section 2.2.16) in the side meeting room and installing an omni-directional microphone in the side meeting room and Ability to view content from the main chambers in the Small Meeting room.	\$ 130.00	Bidder's Page 10R
Podium	\$ 4,886.36	Bidder's AAAQ2002 and written protest.
Lump Sum Total	\$ 98,749.32	

Ken Wright Mayor

Denis Shortal City Council Post 1  
 Adrian Bonser City Council Post 2  
 Doug R. Thompson City Council Post 3

Robert Wittenstein City Council Post 4  
 Danny Ross City Council Post 5  
 John Heneghan City Council Post 6

#1.15.



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The City awarded the contract for ITB 10-31 to AV Tech Services, Inc. on October 25, 2010. I have reviewed their bid documents and have no evidence to support any change to their bid of \$93,240.72.

In conclusion, I agree with your claim that your bid should be considered responsive to the requirements of the bid process. I reject your claim that your bid was the lowest received by the City. The City Council intended to award the contract to a responsive bidder at the lowest bid price I have no reason to believe that their decision to award the bid to AV Tech Services should be reversed.

I am dismissing your protest of the award of ITB 10-31.

The City Council is required to either approve or reject my final determination in this matter. They will consider this matter on December 13<sup>th</sup> at 7:00 PM at their Special Call Meeting. The meeting will take place at City Hall on the 1<sup>st</sup> floor in the Council Chamber (address listed on letterhead). The meeting is open to the public and you are invited to attend.

You have the right to appeal a decision by the City Council by filing a writ of certiorari to the Superior Court of DeKalb County within thirty (30) days of the final decision of the City Council.

Sincerely,

Warren Hutmacher  
City Manager

Ken Wright Mayor

Denis Shortal City Council Post 1

Adrian Bonser City Council Post 2

Doug R. Thompson City Council Post 3

Robert Wittenstein City Council Post 4

Danny Ross City Council Post 5

John Heneghan City Council Post 6



**Memo to: Warren Hutmacher – City Manager, Dunwoody**  
**Subject : Protest of Bid Number ITB 10-31**  
**Date: 10-27-2010**

Dear Mr. Hutmacher,

Media Products, Inc. responded to ITB 10-31 and although we were the low bidder, we were ruled ineligible due to “lack of clarity”. I followed all the instructions issued from the pre- bid meeting by City of Dunwoody personnel and submitted all specs for every proposed alternate item. The response, “lack of clarity” is unjustified.

#### **AMX vs. Crestron**

These are control system manufacturers. AMX was in the bid; however, I asked if we could bid Crestron as an alternate. As recently as last week, I was told by IT manager Michael Lockett, in a telephone conversation that upon further research, Crestron was preferred due to better technological advances and ease of use.

#### **X2O vs. Aevalin Digital Signage systems**

The bid called for an X2O work station with a Black Magic Design HD card. I was told this was not a valid model number by X2O, therefore, it was not a valid part number. I brought this to the attention of the purchasing department, but it was not addressed. Therefore, I bid a much more robust system with extra options at a low government price as an alternate and it is manufactured by Aevalin. I included detailed specifications with my bid. I was not the only bidder to respond with an alternate digital signage systems as we did not have enough information to bid the X2O system.

#### **Podium**

We were told during the bid conference to bid a podium/lectern as an alternate item in our bid response. Therefore, I complied with a lectern that would also house a document camera which was part of ITB-1031. On Wednesday 10/13, I received an email by Mr. Lockett to give him a call. He wanted to clarify the podium issue. Apparently the other bidders included the podium in their bid, even though we were instructed it was an alternate item that may or may not be purchased and to show the cost number outside of the bid. My original bid was \$86,871.41. The podium cost to the city is \$4886.36 which as Mr. Lockett pointed out would make my total number \$91,757.77 – still the lowest bid by a few hundred dollars.

#1.15.

**Summary**

I complied with all instructions from purchasing and bid alternates under a separate bid. I bid as specified under quote AAAQ1998 and the alternates under bid number AAAQ2002. I noticed the “winning bidder” used AMX. I speculate the X2O Digital signage system was bid as well. Thereby, providing a “clean” bid without alternate equipment. If this is the case, then the system should have been sole sourced or had a “no substitutions” clause.

Mr. Lockett told me that my bid ‘lacked clarity’ which is why the council chose to go to the next bidder. I believe I need a better definition. I provided six binders with tabbed, labeled sections including the bid response, alternative suggestions, various specification sheets and all required documentation. ‘Lack of clarity’ is not a valid reason for disqualification in this case as I provided all the information in a manner prescribed by the purchasing department.

At the end of the day, I believe I provided the best system at the lowest cost to the City of Dunwoody.

Thank you for your time and I look forward to your ruling on the matter.

Dan Lynn  
Account Executive  
Media Products, Inc.  
1235 Old Alpharetta Road  
Alpharetta, Ga. 30005

770-772-4252 office  
770-539-2534 cell



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November 17, 2010

Media Products, Inc.  
 1235 Old Alpharetta Road, S. 130  
 Alpharetta, GA 30005  
 Attention: Dan Lynn, Account Executive

Dear Mr. Lynn,

I am in receipt of your protest letter regarding Bid Number ITB 10-31 (City of Dunwoody – Audio Visual Improvements). Our purchasing policy includes a procedure for considering protests to bid awards.

In accordance with this policy, I will make an initial determination regarding your protest of the award for Bid Number ITB 10-31 referenced above. You have the right to request a hearing on this matter, although it is not required. Please contact my office within fourteen (14) calendar days of the date listed above if you wish to exercise your right to a hearing. You will be notified in writing of my initial determination regarding this protest.

Our purchasing policy further requires that the City Council either approve or reject my final determination. The City Council will act on this item on December 13<sup>th</sup>, 2010 at 7PM at their Special Call Council meeting. The meeting will take place at City Hall on the 1<sup>st</sup> floor in the Council Chamber. The meeting is open to the public; however there is no Public Hearing on this issue and the Council has no obligation to hear from any party in this matter.

You have the right to appeal a decision by the City Council by filing a writ certiorari to the Superior Court of DeKalb County within thirty (30) days of the final decision by the City Council. Please let me know in writing if you have any questions regarding our appeal procedure.

Sincerely,

Warren Hutmacher  
 City Manager

Ken Wright Mayor

Denis Shortal City Council Post 1  
 Adrian Bonser City Council Post 2  
 Doug R. Thompson City Council Post 3

Robert Wittenstein City Council Post 4  
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## MEMORANDUM

**To:** Rich Hampton, Purchasing Manager

**From:** Warren Hutmacher, City Manager

**Date:** November 17, 2010

**Subject:** Appeal of ITB 10-31 (Audio Visual Improvements - Council Chamber)

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I am in receipt of a protest of award letter from Media Products, Inc. regarding ITB 10-31 (Audio Visual Improvements – Council Chamber). Pursuant to our purchasing procedures, I am requesting a response in writing to the attached protest letter (dated October 27<sup>th</sup>, 2010). Your response is due to my office within seven (7) calendar days of the date listed above. Please note that I may consider your failure to respond to this request as evidence in my initial determination to either uphold or reverse the award of this invitation to bid.

Pursuant to our purchasing policy, you have the right to request a hearing to decide the merits of this complaint within fourteen (14) calendar days of November 17<sup>th</sup>, 2010.

The City Council will decide on December 13<sup>th</sup> at a 7PM Special Call meeting at City Hall to either approve or reject my initial determination in this matter. You are not required to attend this meeting, but it is open to the public.

I look forward to your timely response to this request.



## **MEMORANDUM**

**To:** Warren Hutmacher, City Manager  
**From:** Rich Hampton, Purchasing Manager  
**Date:** November 18, 2010  
**Subject:** Response to Protest by Media Products, Inc.

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I have reviewed the written protest by Media Products, Inc. (bidder) and all documentation related to ITB 10-31 Purchase and Installation of Council Chamber and Court Room Audio/Visual Presentation System. Following are my responses to issues presented in the written protest:

1. AMX vs. Crestron: The bidder did meet the requirements of the bid by bidding Crestron as allowed for in the revised bid tab (Page 10R). Therefore, on the memorandum to City Council the bidder should not have been deemed as not meeting the requirements of the bid for this reason.
2. X20 vs. Aevalin Digital Signage Systems: In reviewing e-mail correspondences with the bidder it does appear that the bidder brought to the attention of Purchasing that the X20 was not a valid part number. It also appears that this issue was not addressed in the pre-Bid meeting nor in the subsequent Addendum. The bidder submitted an alternate item with sufficient technical documentation as required in the solicitation documents. Therefore, on the memorandum to City Council the bidder should not have been deemed as not meeting the requirements of the bid for this reason.
3. Podium: The City decided to accept the Add/Deduct Item "In-ceiling document camera in place of the Wolf VisionVZ-8Plus3". The City concluded that the use of an in-ceiling camera is not compatible with the existing podium and requires a new podium. The bidder's base bid did not include a podium. Typically bidders are not allowed to submit pricing for new items after the bids are open. However, an alternate quote in the bidder's response (AAAQ2002) itemized a podium at a cost of \$4,886.36. Since this matches the cost in the protest, Purchasing accepts this as the cost for a new podium.

4. Lump Sum Total: A review of the memorandum submitted to City Council found an error in the tabulation of the Lump Sum Total for the bidder and other bidders. The Lump Sum Total tabulations should read:

Rank By Cost	Vendor	Lump Sum total
1	AV Tech Services, Inc.	\$ 93,240.72
2	Multi Media Services, LLC	\$ 94,079.11
3	Xerox Audio Visual Solutions	\$ 94,169.37
4	Media Products, Inc.	\$ 98,749.32
5	Simple Set Up, LLC	\$ 117,135.85
6	York Telecom, Corp.	\$ 124,273.52

Media Products, Inc. Lump Sum Total breaks down as follows:

Item	Amount	Source
Base Bid	\$ 67,543.88	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Add: Cretron Control System in lieu of AMX	\$ 22,927.66	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Add: Aavelin Signmate Digital Signage System	\$ 9,955.87	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Deduct: X20 Digital Signage System	\$ (10,736.50)	Bidder's Memorandum of 10/7/2010 Subject: ITB-1031 Bid clarification
Add: In-ceiling document camera in place of the Wolf Vision VZ-8Plus3	\$ 4,042.05	Bidder's Page 10R
Add: Placing camera 4 (Section 2.2.16) in the side meeting room and installing an omni-directional microphone in the side meeting room and Ability to view content from the main chambers in the Small Meeting room.	\$ 130.00	Bidder's Page 10R
Podium	\$ 4,886.36	Bidder's AAAQ2002 and written protest.
Lump Sum Total	\$ 98,749.32	

**Conclusion:** Media Products, Inc. should not have been deemed as not meeting the requirements of the bid. In addition, errors were made in the computation of the lump sum totals in the memorandum to City Council which erroneously indicated that Media Products, Inc. was the low bidder. However, this does not change the fact that by awarding AVTech Services, Inc. the contract award was made to the lowest responsive and responsible bidder.