

# Florida Keys Marathon Int'l Airport



DBE Program

FAA FY 2020 - 2022

October 1, 2019 - September 30, 2022

Monroe County, Florida

August 5, 2020



**MONTGOMERY**  
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**Section I: Objectives / Policy Statement**

The Florida Keys Marathon International Airport (Airport) established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26 for the Airport. The Airport has received Federal financial assistance, in an amount in excess of \$250,000 from the Federal Aviation Administration (FAA), and as a condition of receiving this assistance, the Florida Keys Marathon International Airport has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Florida Keys Marathon International Airport to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in FAA-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of FAA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FAA-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in FAA-assisted contracts; and
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The Key West International Airport's Senior Business Manager has been designated as the DBE Liaison Officer (DBELO). In that capacity, he/she is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the FAA.

The Airport has disseminated this policy statement to all the components of our organization. We have also distributed this statement to the DBE and non-DBE business communities that perform work on FAA-assisted contracts by placing this notice in the contract documents for federal projects and on the Airport's website.

Executed: Beth Leto  
**Beth Leto, DBELO**  
Designee for Florida Keys Marathon International Airport

Date: 8/5/20

## **Section II: Definition of Terms (49 CFR Part 26.5)**

The section below duplicates 49 CFR Part 26.5 and has the same meanings defined in Part 26.5. In the event of a conflict between the plan and regulation, 49 CFR Part 26 will control.

**Affiliation** has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR Part 121. Except as otherwise provided in 13 CFR Part 121, concerns are affiliates of each other when, either directly or indirectly:

- a) One concern controls or has the power to control the other; or
- b) A third party or parties controls or has the power to control both; or
- c) An identity of interest between or among parties exists such that affiliation may be found.

In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets the small business size criteria and the statutory cap on the participation of firms in the DBE program.

**Alaska Native** means a citizen of the United States who is a person of one-fourth (1/4) degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

**Alaska Native Corporation (ANC)** means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

**Assets** mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

**Business, Business Concern, or Business Enterprise** means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

**Compliance** means that a recipient has correctly implemented the requirements of this part.

**Contingent Liability** means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a FAA-assisted highway, transit, or airport program.

**Days** mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

**Department or USDOT** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

**Disadvantaged Business Enterprise or DBE** means a for-profit small business (as defined by the Small Business Administration):

- a) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- b) Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) cap described in 49 CFR Part 26. The current PNW cap is \$1.32 million;
- c) Whose average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$23.98 million;
- d) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- e) Has been certified as a DBE by a certifying member of the Florida Unified Certification Program (UCP) in accordance with 49 CFR 26.

**FAA-assisted contract** means any contract between a recipient and a contractor (at any tier) funded in whole or in part with USDOT and/or FAA financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

**Good faith efforts** mean efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

**Home State** means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

**Immediate family member** means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, mother-in-law, father-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

**Indian tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

**Joint venture** means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**Liabilities** mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

**Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

**Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

**Noncompliance** means that a recipient has not correctly implemented the requirements of this part.



**Operating Administration or OA** means any of the following parts of USDOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

**Personal net worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

**Primary industry classification** means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual - United States, which is available on the Internet at the U.S. Census Bureau website: <https://www.census.gov/eos/www/naics/>.

**Primary recipient** means a recipient which FAA-financial assistance and passes some or all of it on to another recipient.

**Principal place of business** means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business.

**Program** means any undertaking on a recipient's part to use FAA-financial assistance, authorized by the laws to which this part applies.

**Race-conscious measure or program** is one that is focused specifically on assisting only certified disadvantaged enterprises.

**Race-neutral measure or program** is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

**Recipient** is any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

**Secretary** means the Secretary of Transportation or his/her designee.

**Set-aside** means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

**Small Business Administration or SBA** means the United States Small Business Administration.

**SBA Certified Firm** refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB program.

**Small Businesses** must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65. A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a 3-year period.

**Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - a) Black Americans, which includes persons having origins in any of the Black racial groups of Africa;
  - b) Hispanic Americans, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - c) Native Americans, which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
  - d) Asian-Pacific Americans, which includes persons whose origins are from: Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia, (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  - e) Subcontinent Asian Americans, which includes persons whose origins are from: India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - f) Women; and



- g) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
3. Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

**Spouse** means a married person, including a person in a domestic partnership or civil union recognized under State law.

**Tribally-owned concern** means any concern at least 51 percent owned by an Indian tribe as defined in this section.

### **Section III: Non-Discrimination (49 CFR Part 26.7)**

The Florida Keys Marathon International Airport shall not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any FAA-assisted contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the Florida Keys Marathon International Airport shall not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

### **Section IV: Record Keeping Requirements (49 CFR Part 26.11)**

**Reporting to FAA** - The Florida Keys Marathon International Airport will provide reports of DBE participation to the FAA annually, by or before December 1, to demonstrate commitments and attainments, as required by FAA reporting forms, including the “Uniform Report of DBE Awards or Commitments and Payments” (49 CFR Appendix B to Part 26).

**Bidders List** - The Florida Keys Marathon International Airport will create a bidders list, consisting of information about the DBE and non-DBE firms that bid or quote on FAA-assisted contracts. The purpose of the requirement is to allow use of the bidder’s list approach in calculating overall goals.

### **Section V: Federal Financial Assistance Agreement Assurance (49 CFR Part 26.13)**

**Assurance** - The Florida Keys Marathon International Airport has signed the following assurance, applicable to all FAA-assisted contracts and their administration. This language will appear verbatim in financial assistance agreements with sub-recipients:

*“The Florida Keys Marathon International Airport shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Florida Keys Marathon International Airport shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of FAA-assisted contracts. The Florida Keys Marathon International Airport's DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Florida Keys Marathon International Airport of its failure to carry out its approved program, the FAA may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).”*

**Contract Assurances** - The Florida Keys Marathon International Airport will ensure that the following clause is placed in every FAA-assisted contract and subcontract, verbatim:

*“Nondiscrimination - The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FAA assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:*

- 1. Withholding monthly progress payments,*
- 2. Assessing sanctions,*
- 3. Liquidated damages, and/or*
- 4. Disqualifying the contractor from future bidding as non-responsible.”*

**Required Contract Clauses** - The following clauses will be included in all FAA-assisted contracts (but not in leases) between the sponsor and any contractor:

*“Equal Opportunity - DBE Obligation - The recipient or its contractors agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have an equal opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of FAA-assisted contracts.”*

The Florida Keys Marathon International Airport will advise each contractor and subcontractor who performs on an FAA-assisted project that failure to carry out the above requirements shall constitute a breach of contract. The following clause may be used for this purpose:

*“Failure to Carry Out DBE Obligations - All bidders, potential contractors, or subcontractors for this FAA-assisted contract are hereby notified that failure to carry out the FAA policy and the DBE obligation, as set forth above, shall constitute a breach of contract which may result in termination of the contract or such other remedy as deemed appropriate by the recipient and the FAA.”*

**Section VI: DBE Program Updates (49 CFR Part 26.21)**

The Florida Keys Marathon International Airport will continue to carry out the DBE Program until all funds from FAA financial assistance have been expended. The Florida Keys Marathon International Airport does not have to submit regular updates to the DBE Program document, as long as it remains in compliance. Updates will be provided to FAA if there are significant changes in the Program.

**Section VII: DBE Liaison Officer (DBELO) (49 CFR Part 26.25)**

The Florida Keys Marathon International Airport has designated the following person as the DBE Liaison Officer (DBELO):

Ms. Beth Leto  
Key West International Airport  
3491 South Roosevelt Boulevard  
Key West, Florida 33040  
Phone: (305) 809-5200  
Email: leto-beth@monroecounty-fl.gov

In this capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that the Florida Keys Marathon International Airport complies with the provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Florida Keys Marathon International Airport concerning DBE Program matters. Resources available to the DBELO which are adequate to support the DBE Program include Florida Keys Marathon International Airport administration and such other Airport resources as may be deemed appropriate for the implementation of this Program.

The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials. Duties and responsibilities include, but may not be limited to the following:

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1. Gathering and reporting statistical data, compliance information and other information as required by the FAA;
2. Reviewing third party contracts and purchase requisitions for compliance with the DBE Program;
3. Working with Florida Keys Marathon International Airport and engineering department to set overall annual goals;
4. Ensuring that bid notices and requests for proposals are available to DBEs in a timely manner;
5. Identifying contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and race-conscious contract specific goals) and monitoring results;
6. Analyzing the Florida Keys Marathon International Airport's progress toward goal attainment and identifying ways to improve progress;
7. Participating in pre-bid meetings;
8. Advising on DBE matters and achievement;
9. Participating with the legal counsel and others to determine contractor compliance with good faith efforts; and
10. Acting as liaison to the State of Florida Uniform Certification Program (UCP) as a non-certifying member; and
11. Participating in DBE outreach initiatives, as required.

**Section VIII: DBE Financial Institutions (49 CFR Part 26.27)**

It is the policy of the Florida Keys Marathon International Airport to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on FAA-assisted contracts to make use of these institutions.

As part of this DBE Goal Methodology Report, Florida Keys Marathon International Airport's DBE Consultant has investigated services offered by banks owned and controlled by socially and economically disadvantaged individuals in the local area by contacting the U.S. Treasury Department and reviewing its November 22, 2019 listing of Minority Bank Deposit Program in Florida. Based on this search, there is one bank defined by the Treasury located in Miami, FL (located within the market area) listed below:

1. Interamerican Bank – Miami, FL.

As of June 30, 2019, depository institutions that participate in the Federal Deposit Insurance Corporation's (FDIC) Minority Depository Institutions Program have been added to the Treasury's Minority Bank Deposit Program. By contacting the Federal Reserve System and reviewing the June 30, 2019 listing of minority-owned depository institutions, DBE banks located in the airport's market

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area can be identified. Based on this search, the following have offices within the airport's market area:

- a) Bac Florida Bank – Miami-Dade County;
- b) Banesco USA – Miami-Dade County;
- c) Central Bank – Hillsborough County;
- d) Continental National Bank – Miami-Dade County;
- e) Executive National Bank – Miami-Dade County;
- f) Interamerican Bank – Miami-Dade County;
- g) International Finance Bank – Miami-Dade County;
- h) Ocean Bank – Broward County, Miami-Dade County;
- i) Plus International Bank – Miami-Dade County;
- j) Sunstate Bank – Miami-Dade County;
- k) U.S. Central Bank – Miami-Dade County.

The participants in the Minority Bank Deposit Program and Minority Depository Institutions Program change; updates can be found at the following website location:

<https://fiscal.treasury.gov/mbdp/participants.html>

<https://www.fdic.gov/regulations/resources/minority/mdi.html>

<https://www.federalreserve.gov/releases/mob/>

**Section IX: Prompt Payment Mechanisms (49 CFR Part 26.29)**

**Prompt Payment** - The Florida Keys Marathon International Airport includes the following clause in each FAA-assisted prime contract:

*“Prompt Payment - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Florida Keys Marathon International Airport. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Florida Keys Marathon International Airport. This clause applies to both DBE and non-DBE subcontractors”.*

**Retainage** – The Owner has three (3) options in determining whether retainage will be withheld on the project. The Owner will analyze each project to determine which retainage method should be used. The Owner must insert the clauses verbatim for the option that applies and delete the clauses for the other two options. Proper use of this language assists with meeting the requirements of 49 CFR § 26.29.

“To implement this measure, the Owner includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract (references to Sections below are included in this Advisory Circular)”:

“Option 1: The Owner may decline to hold retainage from prime Contractors and prohibit prime Contractors from holding retainage from subcontractors. Insert this clause if Option 1 is selected:

- a) Retainage will not be withheld on this project. No retainage will be withheld by the Owner from progress payments due the prime Contractor. Retainage by the prime or subcontractors is prohibited, and no retainage will be held by the prime from progress due subcontractors.
- b) The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c) When at least 95% of the project work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner’s discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.”

“Option 2: The Owner may decline to hold retainage from prime Contractors and require a contract clause obligating prime Contractors to make prompt and full payment of any retainage kept by prime Contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. Insert this clause if Option 2 is selected:

- a) No retainage will be held by the Owner from progress payments due the prime.
- b) The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c) When at least 95% of the project work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner’s discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.”

“Option 3: The Owner may hold retainage from prime Contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime Contractors based on these acceptances, and require a contract clause obligating the prime Contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the Owner’s payment to the prime Contractor. If Option 3 is selected, the percent withheld may range from 0% to 10% but in no case may it exceed 10%. When establishing a suitable retainage value that protects the Owner’s interests, give consideration that the performance and payment bonds also provide similar protection of Owner interests. Owner may elect to incrementally release retainage if owner is satisfied its interest with completion of the project are protected in an adequate manner. If Option 3 is selected, insert the following clause and specify a suitable value where indicated:

- a) From the total of the amount determined to be payable on a partial payment, [insert amount of retainage, not to exceed 10%] percent of such total amount will be deducted and retained by the Owner for protection of the Owner’s interests. Unless otherwise instructed by the Owner, the amount retained by the Owner will be in effect until the final payment is made except as follows:
  1. Contractor may request release of retainage on work that has been partially accepted by the Owner in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.
  2. In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.
- b) The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- c) When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner’s discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.”

**Failure to Comply with the Prompt Payment Provisions, Dispute Resolution, and Enforcement for Noncompliance** – Florida Statue (F.S.) 255.071 requires payment to subcontractors within 30 days of being paid by the County and provides a subcontractor with the procedure to follow if



payment is not made. F.S. 255.071 is detailed as follows; in the event of a conflict between the plan and F.S. described below, F.S. 255.071 will govern.

F.S. 255.071 Payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects:

1. Any person, firm, or corporation who receives a payment from the state or any county, city, or political subdivision of the state, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall pay, in accordance with the contract terms, the undisputed contract obligations for labor, services, or materials provided on account of such improvements.
2. The failure to pay any undisputed obligations for such labor, services, or materials within 30 days after the date the labor, services, or materials were furnished and payment for such labor, services, or materials became due, or within the time limitations set forth in s. 255.073(3), whichever last occurs, shall entitle any person providing such labor, services, or materials to the procedures specified in subsection (3) and the remedies provided in subsection (4).
3. Any person providing labor, services, or materials for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work improvements to real property may file a verified complaint alleging:
  - a. The existence of a contract for providing such labor, services, or materials to improve real property.
  - b. A description of the labor, services, or materials provided and alleging that the labor, services, or materials were provided in accordance with the contract.
  - c. The amount of the contract price.
  - d. The amount, if any, paid pursuant to the contract.
  - e. The amount that remains unpaid pursuant to the contract and the amount thereof that is undisputed.
  - f. That the undisputed amount has remained due and payable pursuant to the contract for more than 30 days after the date the labor or services were accepted or the materials were received.
  - g. That the person against whom the complaint was filed has received payment on account of the labor, services, or materials described in the complaint and, as of the date the complaint was filed, has failed to make payment within the time limitations set forth in F.S. 255.073(3).
4. After service of the complaint, the court shall conduct an evidentiary hearing on the complaint, upon not less than 15 days' written notice. The person providing labor, services, or materials is entitled to the following remedies to the extent of the undisputed amount due for labor or services performed or materials supplied, and upon proof of each allegation in the complaint:

- a. An accounting of the use of any such payment from the person who received such payment.
  - b. A temporary injunction against the person who received the payment, subject to the bond requirements specified in the Florida Rules of Civil Procedure.
  - c. Prejudgment attachment against the person who received the payment, in accordance with each of the requirements of chapter 76.
  - d. Such other legal or equitable remedies as may be appropriate in accordance with the requirements of the law.
5. The remedies specified in subsection (4) must be granted without regard to any other remedy at law and without regard to whether or not irreparable damage has occurred or will occur.
  6. The remedies specified in subsection (4) do not apply:
    - a. To the extent of a bona fide dispute regarding any portion of the contract price.
    - b. In the event the plaintiff has committed a material breach of the contract which would relieve the defendant from the obligations under the contract.
  7. The prevailing party in any proceeding under this section is entitled to recover costs, including a reasonable attorney's fee, at trial and on appeal.
  8. The provisions of this section shall also apply to any contract between a subcontractor and a sub-subcontractor or supplier and any contract between a sub-subcontractor and supplier on any project for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work.

A subcontractor's lawful remedy for a prime contractor's failure to comply with the prompt payment provisions of the contract are outlined above in F.S. 255.071. Failure to comply with the prompt payment provision of the contract may result in the County taking sanctions under the contract, as listed below:

- a) Withholding monthly progress payments;
- b) Disqualifying the contractor from bidding on future contracts as non-responsible; and/or
- c) Other remedies the County deems appropriate.

**Prompt Payment Complaint Reporting** – The County tracks and reports subcontractor complaints as required under FAA Reauthorization Act of 2018 (Public Law No: 115-254 Section 157).

Monroe County reports required data to the following website:

<https://www.surveymonkey.com/r/PromptPaymentComplaints>

**Section X: DBE Directory (49 CFR Part 26.31, 26.33, 26.35)**

The publicly-available Florida Unified Certification Program (UCP) Disadvantaged Business Enterprise (DBE) Directory, which is maintained by the Florida Department of Transportation, is used by the Airport as the sole ACDBE/DBE Directory of certified firms. The Florida UCP DBE Directory is available on-line at:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>

This DBE Directory identifies firms eligible to participate as DBEs, which have been certified by a Florida UCP member. The database lists the firm name, contact information, and Certified NAICS codes.

There have been no identified areas of overconcentration in the Florida Keys Marathon International Airport area and the Florida Keys Marathon International Airport DBE Program does not include a business development/mentor-protégé program.

#### **Section XI: Monitoring and Enforcement Mechanisms (49 CFR Part 26.37)**

The Florida Keys Marathon International Airport has implemented and carries-out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by program participants, including prompt payment, and describes and set forth these mechanisms in the Florida Keys Marathon International Airport's DBE program.

**Monitoring Payments to DBEs and Non-DBEs** – The Florida Keys Marathon International Airport provides ongoing monitoring of prime payments to subcontractors over the course of FAA-assisted contracts. Such monitoring activities includes:

1. Based on the payments made to each prime contractor, the airport requests information from the prime contractors on DBE and non-DBE subcontractors that were paid as a result of the payments made to the prime by the County for a specific period.
2. The Airport then queries the DBE subcontractors to verify or dispute the amount received by the prime contractors for each period. Any discrepancies are re-verified between prime contractor and subcontractor.
3. The Airport actively monitors participation by maintaining a running tally of actual DBE attainments (e.g. payments actually made to DBE firms).

The Florida Keys Marathon International Airport requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the Florida Keys Marathon International Airport's financial assistance agreement, whichever is longer. These records are made available for inspection upon request by FAA. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Florida Keys Marathon International Airport proactively reviews contract payments to subcontractors including DBEs on a bi-annual basis. Payment reviews evaluate whether the actual

amount paid to DBE subcontractors is equivalent to the amounts reported to the Florida Keys Marathon International Airport by the prime contractor.

The Florida Keys Marathon International Airport will bring to the attention of the FAA any false, fraudulent, or dishonest conduct in connection with the program, so that the FAA can take appropriate steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FAA Inspector General, action under suspension and debarment or Program Fraud and Civil Remedies rules) provided in paragraph 49 CFR Part 26.107.

In order to ensure subcontractors have been promptly paid by the prime contractor within 30 days of receipt of payment from Monroe County, the prime contractor must submit documentation of prior subcontractor payments and dates with their pay requests. The Airport retains the right to audit a contractor's books and records to determine the accuracy of the information reported. See **Appendix 1** for form that can be used for this monitoring.

**Monitoring Contracts and Work Sites** – The Florida Keys Marathon International Airport reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g. as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.

Work site monitoring is performed by the DBELO or designee. Contracting records are reviewed by the DBELO or designee. The County will maintain written certification, as illustrated in **Appendix 2**, that contracting records have been reviewed and work sites have been monitored at least once during the construction period for each FAA-assisted contract. Each reviewed contract is required to have its own signed and dated written certification and be maintained in the respective project files. The County provide reports of DBE participation to FAA, to demonstrate commitments and attainments, as required by FAA reporting forms provided in 49 CFR Part 26.37 (b).

## **Section XII: Small Business Participation (49 CFR Part 26.39)**

Recognizing that the Airport's DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses; the Airport seeks to implement a small business element into its current DBE policy in accordance with applicable law. The Airport is including this element to facilitate competition by and expand opportunities for small businesses in Airport projects. The Airport is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors/consultants or subcontractors/subconsultants. The Airport will meet its objectives using a combination of the following methods and strategies:

- a) **Unbundling:** The Airport, where feasible may "unbundle" projects or separate large contracts into smaller contracts, which may be more suitable for small business participation. The Airport will determine the feasibility of unbundling by reviewing the

grant application for the federally funded projects and determining the work elements that are likely to be grouped for construction and/or purchase. The Airport will consider the economic feasibility, constructability, and schedule impacts in addition to providing greater opportunities for small business participation in the assessment of unbundling the projects. Similarly, the Airport will encourage its prime contractors and prime consultants to unbundle contracts to facilitate participation by small businesses.

- b) **Outreach and Technical Assistance:** The Airport advertises contracting opportunities through various outlets, including local newspapers. In addition, the Airport will address the small business enterprise (SBE) element and SBE opportunities at its annual DBE/SBE outreach meeting. The outreach meeting incorporates the Airport's commitment to the SBE element and encourages participation of SBE firms on Airport projects in addition to DBE firms.

As described above, the Airport currently uses a variety of methods to facilitate small business participation. In each FAA-assisted contract, the project goal will identify method (if any) in which the small business element will be implemented (i.e. unbundling and/or outreach).

**Certification and Verification Procedures** – The Airport accepts the following certifications for participation in the small business element of the Airport's DBE Program with applicable stipulations:

1. Florida Unified Certification Program (UCP) Certification – Currently valid DBE certification by a certifying UCP member which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by a UCP certifying agency. Applicant shall submit a copy of the certification letter and verification of status on the current Florida UCP database.
2. State of Florida Department of Management Services Certification – Currently valid certification by State of Florida Department of Management Services. Applicant shall submit a copy of certification letter/certificate and two (2) years of business tax returns or a copy of the business' current balance sheet, if the business has been established less than twelve months, in order to demonstrate ability to meet size standards.
3. City / County / Authority Certification – Currently valid city, county and/or authority government certification indicating eligibility to participate in women, minority and/or veteran's procurements. Applicants will submit a copy of the certification letter/certification and two (2) years of business tax returns or a copy of the business' current balance sheet, if the business has been established less than twelve months, in order to demonstrate ability to meet size standards.
4. SBA 8(a) Business Development Certification – Federal 8(a) certification as described in 13 CFR Parts 121 and 124. Applicants will submit a copy of the certification letter/certification and two (2) years of business tax returns or a copy of the business' current balance sheet, if the business has been established less than twelve months, in order to demonstrate ability to meet size standards.

Any of the small business certification may qualify a company to be considered a small business. **In meeting DBE goals at the Airport established for projects receiving federal funds, the Airport accepts only certification from the Florida Unified Certification Program.** Small business certification from other agencies such as: State of Florida Department of Management Services, City, County, Authority Certification, and SBA 8(a) certifications do not qualify a company as a FL UCP DBE certified company.

**Assurances** – The Airport makes the following assurances regarding the small business element (SBE) of the Airport’s DBE Program:

- a) The DBE Program, including its small business element is not prohibited by state law;
- b) Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
- c) There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
- d) There are no limits on the number of contracts awarded to firms participating in the DBE Program;
- e) Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
- f) Steps will be taken to encourage minority-owned and women-owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.

**Section XIII: Quotas/Set-Asides (49 CFR Part 26.43)**

The Florida Keys Marathon International Airport does not use set-aside contracts for DBEs on FAA-assisted contracts, except that, in limited and extreme circumstances, set-asides may be used when no other method could be reasonably expected to redress egregious instances of discrimination.

**Section XIV: Overall Goals (49 CFR Part 26.45)**

**Amount of Goal** – The Airport’s Average 3-Year DBE Goal for Florida Keys Marathon International Airport for FAA FY 2020 - 2022 is as follows:

**10.1%** of the federal financial assistance that the Airport will expend in FAA-assisted contracts. Given that the number of FAA-assisted contracts the Airport expects to contract during FAA FY 2020 - 2022 is **\$3,375,000** the Airport has set a goal of expending **\$339,346** with DBEs during the FAA FY 2020 - 2022 timeframe. The Airport estimates that, in meeting its overall goal of **10.1%**, it will obtain **3.7%** from race-neutral means and **6.4%** through race-conscious (contract goal) means.

**Update of County Goals - DBE Goal Process** – FAA requests airport sponsors establish a multi-year DBE goal for the up-coming three (3) years. To establish the multi-year DBE goal, minority, women, and small business industry groups and trade organizations were consulted to solicit information and input concerning the following:

- The availability of disadvantaged and non-disadvantaged businesses;
- The effects of discrimination on opportunities for DBEs; and
- The BOCC's efforts to establish a level playing field for the participation of DBEs.

The overall goal period for the DBE Program at the Florida Keys Marathon International Airport is established on a 3-year basis coinciding with FAA's fiscal year (FY), beginning on October 1, 2019 and ending on September 30, 2022 covering FAA FY 2020, 2021, and 2022.

**Goal Setting Methodology** – The Airport's overall goal for Florida Keys Marathon International Airport for FAA Fiscal Years 2020 – 2022 has been set using the methodologies described in 49 CFR Part 26, and described as follows:

The goal setting methodology described in 49 CFR 26.45(c)(1) was used to determine the base figure for the relative availability of DBEs. FAA advisory document entitled "Required DBE Goal Elements for Update" was also used to document the goal methodology. A determination of the FAA FY 2020 - 2022 goal setting process includes identifying a base figure for the relative availability of DBEs based on demonstrable evidence of the availability of ready, willing and able DBEs as compared to the availability of all businesses participating on FAA-assisted contracts. The first step of the goal setting process includes creating a base figure for the relative availability of ready, willing and able DBEs in the Airport's normal market area. Specifically, the market area is based on where the substantial majority of bidders, both successful and unsuccessful bidders, are located for the anticipated types of work that are to be performed in the coming 3-year timeframe, and where the Airport has previously spent the substantial majority of funding for similar projects.

A bidders' list was compiled from prior FAA-funded projects located at the Florida Keys Marathon International Airport from the period 2014 – 2019, which is the latest data available for analysis. **Appendix 3** identifies the normal market area and provides a breakdown of the number of bidders per geographical location, and the location of contracts awarded by the Airport.

Reviewing the anticipated federally funded projects and types of work depicted in the Airport's Capital Improvement Program for the three (3) years (FAA FY 2020 - 2022), the location of previous bidders on similar-type projects, the normal market area for the Florida Keys Marathon International Airport was determined. Based on the market area analysis, the normal market area represents 72% of the counties where previous airport expenditures were made, and 77% of the counties where all bidders and interested consultants/contractors were located for projects at the Airport within the 2014 - 2019 timeframe.



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The normal market area did not include locations from prior bidders in Brevard County, FL; Dakota County, MN; Leon County, FL; Monmouth County, NJ; Orange County, FL; and Sarasota County, FL. These areas are outliers to the current normal market area due to the distance to/from the Airport, limited bidders from the identified area, and/or the type of work anticipated in the FAA FY 2020 – 2022 timeframe. The outliers were eliminated from consideration within the normal market area.

The normal market area for the Florida Keys Marathon International Airport is determined to include the following Florida counties:

- Hillsborough
- Lee
- Miami-Dade
- Monroe
- Palm Beach

The market area reflects the type of projects (i.e. rehabilitation/improvement projects) anticipated during the FAA FY 2020 – 2022 timeframe; thus, tailoring the market area to the anticipated FAA-funded projects expected during the multi-year timeframe. Planning and engineering services are expected to be contracted through the retained consulting firms for the airport. Separate requests for professional services are not anticipated for each specific project. The market area identified includes areas where construction and equipment providers are anticipated to be based for the upcoming three-year period.

The second step in the goal setting methodology is to make adjustments to the base figure, relying on an examination of additional evidence including historical DBE participation, experience, local expertise, the consultation process, and anticipated changes in FAA-assisted contracting over the upcoming years. The following sections detail **Step 1** and **Step 2** in the DBE goal setting process.

**FAA FY 2020 - 2022 Projects** – Based on the Capital Improvement Program summary, provided by the Airport’s engineering consultant (Jacobs Engineering), the Airport intends to request funding from FAA for two (2) projects anticipated during FAA FY 2020 - 2022 at the Florida Keys Marathon International Airport:

**Anticipated Federally-Funded Projects  
 Florida Keys Marathon International Airport  
 FAA FY 2020 - 2022**

Project Name	Total FAA Grant Funding	Total % Grant Funding	Total Project Funding
Design and Permitting for Tree Clearing and Mitigation	\$ 675,000	90.0%	\$ 750,000
Relocate/Rehabilitate Runway 7-25 Phase 3 - Construction	\$ 2,700,000	90.0%	\$ 3,000,000
<b>TOTAL:</b>	<b>\$ 3,375,000</b>		<b>\$ 3,750,000</b>

The most refined data available within the North American Industry Classification System (NAICS) 2017 codes was used to identify the various components for the upcoming FAA FY 2020 - 2022 projects. The percentage value for each type of NAICS code description was estimated based on the FAA FY 2020 - 2022 project types. Then, the number of available DBE firms and the number of all firms in the Airport’s market area was determined for each respective NAICS code. To ensure the calculations were relevant, only firms that are likely to do business at the Airport in the upcoming years were identified.

The overall active contractors suitable for projects planned in FAA FY 2020 - 2022 are determined from the NAICS codes listed in the following table.

**Estimated Percentage of Value by NAICS Code  
 of Projects to be Contracted  
 Florida Keys Marathon International Airport  
 FAA FY 2020 - 2022**

NAICS Code	Description	Estimated % of Value of by Category
238210	Electrical Contractors and Other Wiring Installation Contractors	10.0 %
238910	Site Preparation	22.5 %
423390	Other Construction Material Merchant	12.5 %
541330	Engineering Services	55.0 %
<b>TOTAL:</b>		<b>100 %</b>

**Step 1 – Determining a Base Figure Representing DBE Relative Availability**

The 2016 Census Bureau's County Business Patterns data was used to estimate the total number of companies per NAICS code within the market area. The Florida Unified Certification Program (UCP) DBE Directory was used to estimate the number of ready, willing and able DBE companies per NAICS code within the market area.

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The base figure for each anticipated project was calculated by counting the DBEs available in each respective NAICS code (numerator) divided by the census bureau establishments for all firms (denominator) for the same NAICS codes within the Airport’s normal market area. These percentages were then measured against the estimated percentage value of each NAICS code to determine the expected DBE percent participation per NAICS Code. The resulting expected DBE participations for each NAICS code was then summarized to provide a single base goal. **Appendix 4** reflects the DBE firms operating in the market area. **Appendix 5** reflects the DBE and non-DBE businesses operating in the same market area.

A **Step 1** Base Figure for each of the federally funded projects that is anticipated to be contracted during the 3-year timeframe is detailed as follows:

**Step 1 – Base Figure Development  
 Projects to be Contracted  
 Florida Keys Marathon International Airport  
 FAA FY 2020 - 2022**

NAICS Codes	NAICS Code Description			Estimated Value of Projects	Expected DBE Participation
238210	Electrical Contractors DBE Firms in Market Area	27	0.017	0.100	0.0017
	Electrical Contractors Firms in Market Area	1,622			
238910	Site Preparation DBE Firms in Market Area	68	0.192	0.225	0.0431
	Site Preparation Firms in Market Area	355			
423390	Construction Material Merchant DBE Firms in Market Area	0	0.000	0.125	0.0000
	Construction Material Merchant Firms in Market Area	126			
541330	Engineering Service DBE Firms in Market Area	89	0.130	0.550	0.0713
	Engineering Service Firms in Market Area	687			
<b>TOTAL STEP 1 - BASE FIGURE - PROJECTS TO BE CONTRACTED:</b>				<b>0.116 X 100% = 11.6%</b>	

**Step 2 – Examination of Available Evidence to Determine What Adjustment, If Any, is Needed to the Base Figures**

49 CFR Part 26.45(d) and the goal methodology guidelines contained on the Office of Small and Disadvantaged Business Utilization’s (OSDBU) website identify numerous examples of the various types of data to examine in order to adjust the **Step 1** Base Figure to narrowly tailor the goals to the precise local market. **Step 2** is intended to adjust the “base figure” percentage from **Step 1** to reflect, as accurately as possible, the DBE participation the Airport would expect in the absence of discrimination.

The factors listed as follows are considered in order to determine whether an adjustment to the **Step 1** Base Figure is appropriate for the FAA FY 2020 - 2022 goals. These guidelines include:

- **Disparity Study** – No known disparity study has been conducted in Monroe County that would impact this methodology process. A disparity study was conducted in Miami-Dade County in 2014; however, the availability of DBE firms in Miami-Dade County differs substantially from that of Monroe County, and does not reflect an accurate representation of ready, willing, and available DBE firms in Monroe County. A disparity study was conducted in Leon County in 2019; however, Leon County is considered an outlier from the normal market area due to distance from Monroe County, and the results from the study would not impact the step 2 methodology process.
- **Historical DBE Participation** – Past DBE participation is based on the analysis of grants similar to anticipated FAA FY 2020 - 2022 projects at Key West International Airport. The base figure may be adjusted, if appropriate, to account for the historical median of past DBE participation at the Airport.
- **Other Factors** – The base figure may be adjusted, if appropriate, to account for information provided in the consultation process.

**Historical DBE Participation – Appendix 6** provides historical information on DBE participation at the Florida Keys Marathon International Airport for the last three (3) years. Adjustments based on recent DBE participation for FAA FY 2017, 2018 and 2019 were specifically considered and analyzed in the following table.

**Historical DBE Participation  
 Florida Keys Marathon International Airport  
 FAA FY 2020 - 2022**

Fiscal Year	DBE Goal	Actual DBE Percentage	Race Neutral/Conscious Over/Under Goals
2019	4.8%	6.6%	1.8%
2018	4.8%	8.5%	3.7%
2017	4.8%	9.1%	4.3%
<b>Historical Median by Value of Grants</b>		<b>8.5%</b>	

Source: Appendix 6

For this DBE Methodology, the historical median of actual DBE participation of 8.5% from the past three (3) years was used to make **Step 2** adjustments. This calculation is illustrated in the following table.

**Step 2 – Base Figure Adjustment  
 Florida Keys Marathon International Airport  
 FAA FY 2020 - 2022**

Base Figure from Step 1 =	11.6 %
Historical Median DBE Participation =	<u>8.5 %</u>
Average Base & Historical =	10.1 %
<b>Proposed Overall Goal =</b>	<b>10.1 %</b>

The adjusted Step 2 goal is 10.1% of the total federal dollars likely to be contracted in the FAA FY 2020 – 2022.

**Other Factors** – Other additional sources of information considered in adjusting the **Step 1** Base Figure include the consultation process, per CRF Part 26.45(g)(1)(i). The following organizations were invited to participate in a scheduled teleconference held on January 7, 2020 to facilitate a discussion on concerns regarding DBE participation (see **Appendix 7** for details of coordination):

- American Business Women’s Association – Southeast Florida,
- Minority Business Development Agency,
- NAACP – Miami Branch,
- Office of Supplier Diversity, Florida Department of Management Services, and
- Women’s Business Development Council of Florida.

No organizations participated in the teleconference held on January 7, 2020 at 10 am. Meeting was closed at 10:10 am.

**Goal Summary** – Based on review of the factors described above, a **Step 2** adjustment was made to the **Step 1** base figure to narrowly tailor the goals to reflect local conditions for the anticipated projects.

The Airport has established the overall FAA FY 2020 - 2022 DBE Goal for the Key West International Airport as **10.1%** for the **\$3,750,000** of federal monies anticipated to be contracted in the 3-year timeframe at the Airport, providing for a total goal value of **\$339,346**. Florida Keys Marathon International Airport will evaluate each federally-funded project to establish project DBE goals and monitor the actual DBE participation on the upcoming federal projects in order to meet and/or balance the overall three-year DBE goal.

**Public Participation** – Per 49 CFR Part 26.45(g)(1)(ii), the Airport will post the DBE Program for Key West International Airport for FAA FY 2020 – 2022 on the Airport’s website at <http://eyw.com/page/Disadvantaged-Business-Enterprise>.

#### **Section XV: Accountability Process (49 CFR Part 26.47)**

The Florida Keys Marathon International Airport cannot be penalized or treated by FAA as being in noncompliance with Part 26, because the DBE participation in a fiscal year falls short of an overall goal, unless the Florida Keys Marathon International Airport fails to administer its DBE program in good faith. The Florida Keys Marathon International Airport understands that to be considered to be in compliance with 49 CFR Part 26, an approved DBE Program and overall DBE goal must be maintained, and this DBE Program must be administered in good faith.

The Florida Keys Marathon International Airport has established an accountability process to be in good faith with program intent should the DBE goals for the awards and commitments fall short of the DBE Program’s overall goals. These steps include:

1. Analyze in detail the reasons for the difference between the DBE Program’s overall goal and the Airport’s awards and commitments, in the fiscal year that falls short of the goals.
2. Establish specific steps and milestones to correct the problems the Airport has identified in the analysis and to enable the Airport to fully meet the goal for the new fiscal year.
3. The Airport prepares an analysis and corrective actions developed under steps one (1) and two (2) of this section. The Airport retains a copy of analysis and corrective actions in records for a minimum of three (3) years and will make it readily available to the FAA upon request.
4. The Airport may consider the following corrective actions that include, but are not necessarily limited to:
  - a) Modifications to the overall DBE goal methodology;
  - b) Changes in the race-conscious/race-neutral split; or
  - c) The introduction of additional race-conscious/race-neutral measures.

The Airport may be regarded as being in noncompliance, and subject to the remedies outlined in 49 CFR 26.103 or 49 CFR Part 26.105 and other applicable regulations, if it fails to impellent the DBE Program in good faith, if any of the following occur:

- a) The Airport does not submit its analysis and corrective actions to FAA in a timely manner as required under 49 CFR Part 26.47(c)(3);
- b) FAA disapproves the Airport’s analysis or corrective actions; or
- c) The Airport does not fully implement the corrective actions to which the Airport has committed or conditions that the Airport has imposed following review of the analysis and corrective actions.

**Section XVI: Race-Neutral and Race-Conscious Participation (49 CFR Part 26.51)**

The Airport will encourage the use of race-neutral means of facilitating DBE participation. It is the goal of the Airport to meet the maximum feasible portion of its DBE goals by using race-neutral means of facilitating DBE participation. The Airport will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation, and will track and report race-neutral and race-conscious participation separately.

For reporting purposes race-neutral DBE participation includes, but is not necessarily limited to, the following:

1. DBE participation through a prime contract;
2. DBEs obtained through customary competitive procurement procedures;
3. DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
4. DBE participation on a prime contract exceeding a contract goal; and/or
5. DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The historical results of DBE participation were reviewed to determine the potential need for race-conscious goal setting. Based on the historical experience at Florida Keys Marathon International Airport, DBE participation has met and far exceeded prior advertised contracts (race-conscious) DBE goals over the resent years (see **Appendix 8** for details). The median of the goal variance between goal and actual DBE participation over the last three years exceeds the Step 2 – 3-year DBE goal. The 3-year DBE goal for FAA FY 2020 – 2022 will be a combination of a race-neutral DBE goal and race-conscious goal (i.e., contract goals).

The Airport estimates that, in meeting its overall goal of **10.1%**, it will obtain **3.7%** from race-neutral means and **6.4%** through race-conscious (contract goal) means.

The Airport uses the following race-neutral measures to increase DBE participation in anticipated projects:



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- a) Inform and communicate to DBEs the County's contracting procedures and specific contracting opportunities by planning and participating in training seminars and community outreach activities for the purpose of informing potential contractors of available business opportunities.
- b) Maintain a current DBE directory as a source of identifying all DBEs currently certified by the Florida UCP, and make available copies of the Florida UCP DBE directory to prospective contractors desiring contract information for affected projects.
- c) E-mail copies of contract notices to firms certified by the Key West International Airport and Florida Keys Marathon Airport.
- d) Ensure notices of contracting opportunities are published in a newspaper of general circulation in the area.
- e) Assist in identifying problems confronting DBEs in performing County contracts and work diligently to arrive at acceptable solutions.
- f) Present workable procedures to facilitate the receipt of timely progress payments to DBEs for work completed, following such request for payment.
- g) Encourage DBE attendance at pre-bid/pre-proposal meetings.
- h) Provide assistance to DBEs during the solicitation or bid period for any project, and assist with any explanation of documents, including language barriers, that may exist.

The Airport will establish contract goals to meet any portion of the overall goal when the Airport does not project being able to meet its goal using race-neutral means. The Disadvantaged Business Enterprise Liaison Officer (DBELO) will carefully monitor the award and actual DBE participation and adjust future DBE goals to consider race-neutral and race-conscious participation accordingly.

In order to ensure that the Florida Keys Marathon International Airport's DBE program will be narrowly tailored to overcome the effects of discrimination, the following actions will be taken when contract goals are used:

- Adjustments will be made to the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (49 CFR, Part 26.51(f)).
- The DBELO will separately track and report race-neutral and race-conscious participation.
- Data will be maintained on DBE achievements in those contracts with and without contract goals, respectively.

**Section XVII: Good Faith Efforts (49 CFR Part 26.53)**

**Demonstration of Good Faith Efforts** - The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are contained in Appendix A to 49 CFR Part 26 (available on-line at: <http://www.ecfr.gov>).

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The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive or responsible. The Florida Keys Marathon International Airport will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the Florida Keys Marathon International Airport commits to the performance of the contract by the bidder/offeror.

**Information to Be Submitted** - The Florida Keys Marathon International Airport treats bidder/offeror's compliance with good faith efforts requirements as a matter of responsiveness or responsibility.

Each solicitation for which a contract goal has been established will require the bidder/offeror to submit the following information at the time of the bid:

- 1) Award of the contract will be conditioned on meeting the requirements of this section;
- 2) At the time provided in paragraph (3) of this section:
  - a) The names and addresses of DBE firms that will participate in the contract;
  - b) A description of the work that each DBE will perform;
  - c) The dollar amount of the participation of each DBE firm's participation;
  - d) Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
  - e) Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
  - f) If the contract goal is not met, evidence of good faith efforts.
- 3) The information stipulated in paragraph (2) of this section:
  - a) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; provided that in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the Florida Keys Marathon International Airport.
  - b) No later than 5 days after bid opening as a matter of responsibility. Provided that in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the Florida Keys Marathon International Airport.

**Administration Reconsideration** - Within 10 days of being informed by Monroe County that a Bidder/Proposer is not deemed responsive or responsible because it has not documented sufficient good faith efforts, the bidder/offeror may request administrative reconsideration. Bidder/Offerors should make the request for administration reconsideration in writing to the reconsideration official. The following is the Airport's reconsideration official:

Mr. Richard Strickland  
Florida Keys Marathon International Airport  
3491 South Roosevelt Boulevard  
Key West, Florida 33040  
Phone: (305) 809-5210  
Email: Strickland-Richard@MonroeCounty-FL.Gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make and document sufficient good faith efforts, nor is someone who reports to the DBELO.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the Florida Keys Marathon International Airport's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Florida Keys Marathon International Airport will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation – Federal Aviation Administration (FAA).

**Good Faith Efforts Procedural Requirements** – The awarded contractor is required to make available upon request a copy of all DBE subcontractors' subcontracts. The contractor shall ensure that all subcontractors or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the County. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if the County agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

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3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements;
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. The Florida Keys Marathon International Airport determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides the Florida Keys Marathon International Airport written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE credit for the type of work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract; and/or
10. Other documented good cause that the Airport has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the County's DBELO, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request. The prime contractor must give the DBE five (5) days to respond to the prime contractor's notice and advise the Florida Keys Marathon International Airport and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the prime contractor's action should not be approved. If required in a particular case as a matter of public necessity (e.g. safety), a response period shorter than five (5) days may be provided.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements. Each prime contract will include a provision stating:

*"The contractor shall utilize the specific DBEs listed in the contractor's [bid/solicitation] response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of Monroe County as provided in 49 CFR Part 26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE."*

The Airport will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work

under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If the Florida Keys Marathon International Airport requests documentation from the contractor under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the contractor. The County shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, the Florida Keys Marathon International Airport will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the Florida Keys Marathon International Airport may issue a termination for default proceeding.

#### **Section XVIII: Counting DBE Participation (49 CFR Part 26.55)**

The Florida Keys Marathon International Airport will count DBE participation toward the overall and contract goals in accordance with 49 CFR Part 26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

In case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of 49CFR Part 26.55(d) at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in Part 26.87(j).

#### **Section XIX: Certification Process (49 CFR Part 26.61-73)**

The Florida Keys Marathon International Airport is a non-certifying member of the Florida Unified Certification Program (UCP). The Airport does not provide DBE or ACDBE certification. To be certified as a DBE or ACDBE, a firm must meet all certification eligibility standards required by 49 CFR Part 26 for DBEs, and 49 CFR Part 23 for ACDBEs.

Firms interested in becoming certified as an ACDBE or renewing certification as an ACDBE are directed to apply with a certifying agency of the Florida UCP. For information about certification, firms should contact a member of the Florida UCP within its area at the following website:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/UCPMemberList.aspx>

**Section XX: Compliance Procedures (49 CFR Part 26.101)**

The Florida Keys Marathon International Airport understands that if it fails to comply with any requirement of this part, the County may be subject to formal enforcement action under 49 CFR Part 26.103 or 49 CFR Part 26.105, or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d) and 49 U.S.C. 47122.

**Section XXI: Confidentiality, Cooperation and Intimidation (49 CFR Part 26.109)**

**Availability of Records** – Subject to the provisions of the Florida Public Records Law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to USDOT in any certification appeal proceeding under 49 CFR Part 26.89 or to any other state to which the individual’s firm has applied for certification under 49 CFR Part 26.85.

**Confidentiality** – The Florida Keys Marathon International Airport safeguards from disclosure to third parties’ information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

**Cooperation** – All participants in the Department’s DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with USDOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g. with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

**Intimidation and Retaliation** – The Florida Keys Marathon International Airport, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The County understands that it is in noncompliance with Part 26 if it violates this prohibition.

**APPENDIX 1**  
**Florida Keys Marathon International Airport**  
**FAA Program & Policies**  
**Documentation Form for Monitoring**  
**30-Day Subcontractor Prompt Payment Requirements**

TYPICAL DOCUMENTATION FOR MONITORING 30-DAY SUBCONTRACTOR PROMPT PAYMENT  
 PRIME CONTRACTOR SHOULD SUBMIT WITH EACH PAY REQUEST  
 (CONSISTENT WITH 49 CFR PART 26.37(A))

Prime Contractor: \*(Insert Prime Contractor Name)\*  
 Project #: \*(Insert Project #)\*  
 Project Description: \*(Insert Project Description)\*  
 Pay Request (PR) #: \*(Insert Pay Request #)\*

Date Requested: XX/XX/20XX  
 PR Amount (\$): XXX,XXX.XX (Includes retainage)  
 Retainage (\$): RETAINAGE  
 PR - Subtotal (\$): AMOUNT LESS RETAINAGE  
 Date Approved (By Engineer): XX/XX/20XX

Subcontractor Payment Request (Sub PR) Tracking			
Subcontractor Name (DBE & Non-DBE)	Prime PR #:	Sub PR #:	County Pay #:
	Sub PR #	Sub PR #	Sub PR #
	Sub PR Date	Sub PR Date	Sub PR Date
	Sub PR Amount (\$)	Sub PR Amount (\$)	Sub PR Amount (\$)
	Retainage (\$)	Retainage (\$)	Retainage (\$)
	Sub PR #	Sub PR #	Sub PR #
	Sub PR Date	Sub PR Date	Sub PR Date
	Sub PR Amount (\$)	Sub PR Amount (\$)	Sub PR Amount (\$)
	Retainage (\$)	Retainage (\$)	Retainage (\$)
	Sub PR #	Sub PR #	Sub PR #
	Sub PR Date	Sub PR Date	Sub PR Date
	Sub PR Amount (\$)	Sub PR Amount (\$)	Sub PR Amount (\$)
	Retainage (\$)	Retainage (\$)	Retainage (\$)

Prime Payments Received by County (County Pay)		
County Pay #	Date Received	Amount (\$)

Subcontractor 30-Day Prompt Payment - Paid By Prime (PBP) Tracking			
Subcontractor Name (DBE & Non-DBE)	County Pay #:	Prime PR #:	County Pay #:
	Sub PR #	Sub PR #	Sub PR #
	PBP Date	PBP Date	PBP Date
	PBP Amount (\$)	PBP Amount (\$)	PBP Amount (\$)
	PBP Retainage (\$)	PBP Retainage (\$)	PBP Retainage (\$)
	Sub PR #	Sub PR #	Sub PR #
	PBP Date	PBP Date	PBP Date
	PBP Amount (\$)	PBP Amount (\$)	PBP Amount (\$)
	PBP Retainage (\$)	PBP Retainage (\$)	PBP Retainage (\$)
	Sub PR #	Sub PR #	Sub PR #
	PBP Date	PBP Date	PBP Date
	PBP Amount (\$)	PBP Amount (\$)	PBP Amount (\$)
	PBP Retainage (\$)	PBP Retainage (\$)	PBP Retainage (\$)



**APPENDIX 2**  
**Florida Keys Marathon International Airport**  
**FAA Program & Policies**  
**Documentation of Airport Review of DBE-Related Contract**  
**and Construction Site Visit(s)**

DOCUMENTATION OF AIRPORT REVIEW OF ACDBE-RELATED CONTRACT  
AND ON-SITE VISIT(S)  
(CONSISTENT WITH 49 CFR PART 23.29)

AIRPORT NAME: \_\_\_\_\_  
 PROJECT NAME: \_\_\_\_\_  
 AIP PROJECT NUMBER: \_\_\_\_\_

PRIME CONCESSIONAIRE: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CONTACT NAME: \_\_\_\_\_  
 TEL/FAX/EMAIL: \_\_\_\_\_

NAME OF ACDBE FIRM: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CONTACT NAME: \_\_\_\_\_  
 TEL/FAX/EMAIL: \_\_\_\_\_  
 IS THIS ACDBE CONTRACTOR IN THE FL-UCP WEBSITE LISTED AS A ACDBE?: \_\_\_\_\_

ACDBE GOAL: \_\_\_\_\_  
 (ESTABLISHED BY AIRPORT)

ESTIMATED PARTICIPATION BY THIS ACDBE CONCESSIONAIRE AT INITIAL/ORIGINAL CONTRACT:

- 1) WAS THIS ACDBE CONCESSIONAIRE INCLUDED IN INITIAL CONTRACT OF PRIME CONCESSIONAIRE? \_\_\_\_\_  
 IF ANSWER IS NO, PRIME CONCESSIONAIRE MUST PROVIDE SUBSTITUTION LETTER TO EXPLAIN REASONS FOR  
 REMOVAL OF OTHER ACDBE CONCESSIONAIRE AND/OR ADDITION OF THIS ACDBE CONCESSIONAIRE
- 2) ESTIMATED PARTICIPATION AT INITIAL CONTRACT \$ \_\_\_\_\_
- 3) ESTIMATED PERCENTAGE OF TOTAL PROJECT FOR THIS ACDBE CONCESSIONAIRE: \_\_\_\_\_ %
- 4) DETAIL SPECIFIC WORK TO BE PERFORMED:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- 5) DATE OF ON-SITE VISIT: \_\_\_\_\_
- 6) WAS THIS ACDBE CONCESSIONAIRE ON-SITE DURING SITE VISIT?: \_\_\_\_\_  
 IF ANSWER IS NO, WHAT IS THE PRIME CONCESSIONAIRE'S EXPLANATION FOR WHY THIS ACDBE  
 CONCESSIONAIRE WAS NOT ON SITE DURING VISIT?: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

- 7) ACTUAL ATTAINED PARTICIPATION (TO DATE) \$ \_\_\_\_\_
- 8) ACTUAL ATTAINED PERCENTAGE OF TOTAL PROJECT FOR THIS ACDBE CONCESSIONAIRE (TO DATE): \_\_\_\_\_ %

The undersigned certifies the review of ACDBE-related contract on-site visit(s) associated with this contract.

Name (Person Performing Review)	Signature	Date
	Print Name/Title: _____	
	Email/Tel: _____	

**APPENDIX 3**  
**Florida Keys Marathon International Airport**  
**FAA FY 2020 – 2022 Methodology**  
**Bidder’s List (2014 – 2019)**

<b>Company</b>	<b>City</b>	<b>State</b>	<b>County</b>
ABC Construction	Miami	FL	Miami-Dade
American Infrastructure Development*	Tampa	FL	Hillsborough
Avirom & Associates*	Key West	FL	Monroe
Burke Construction Group, Inc.	Key West	FL	Monroe
CDM Smith*	Coral Gables	FL	Miami-Dade
Charley Toppin & Sons, Inc.	Key West	FL	Monroe
Chris-Tel Construction of SW FL*	Fort Myers	FL	Lee
D.L. Porter	Sarasota	FL	Sarasota
Douglas N. Higgins, Inc.*	Key West	FL	Monroe
E.L.C.I. Construction Group, Inc.	Miami	FL	Miami-Dade
Jacobs*	Miami	FL	Miami-Dade
Jayne's Cleaning Services, Inc.*	Key West	FL	Monroe
Lynx Construction Management	Coral Gables	FL	Miami-Dade
Martinez Geospatial*	Eagan	MN	Dakota
Montgomery Consulting Group, Inc.*	Orlando	FL	Orange
OAC Action Construction Corp.	Miami	FL	Miami-Dade
O'Neal Surveying & Mapping*	Tallahassee	FL	Leon
Pedro Construction LLC	Asbury Park	NJ	Monmouth
Pedro Falcon Electrical Contractors, Inc.	Big Pine Key	FL	Monroe
Ricondo and Associates*	Miami	FL	Miami-Dade
Sanborn Mapping Co., Inc.*	Cocoa Beach	FL	Brevard
Sea Tech of Florida Keys, Inc.	Pine Key	FL	Monroe
West Construction, Inc.*	Lake Worth	FL	Palm Beach

\*Awarded Contracts

**Florida Keys Marathon International Airport  
 FAA FY 2020 – 2022 Methodology  
 Historical Market Area Details**

<b>County</b>	<b>Awarded Contracts</b>	<b>%</b>	<b>Number of Bidders</b>	<b>%</b>
Brevard County, FL	Yes	6%	1	3%
Dakota County, MN	Yes	6%	1	3%
Hillsborough County, FL	Yes	6%	1	3%
Lee County, FL	Yes	6%	1	3%
Leon County, FL	Yes	6%	1	3%
Miami-Dade County, FL	Yes	28%	9	30%
Monmouth County, NJ	No	0%	1	3%
Monroe County, FL	Yes	22%	9	30%
Orange County, FL	Yes	11%	2	7%
Palm Beach County, FL	Yes	11%	3	10%
Sarasota County, FL	No	0%	1	3%
<b>Awarded Totals</b>	<b>18</b>	<b>100%</b>	<b>30</b>	<b>100%</b>
<b>Market Area Totals</b>	<b>13</b>	<b>72%</b>	<b>23</b>	<b>77%</b>

**Identified as Normal Market Area for FAA FY 2020 – 2022**

Sources:

- Bid tabulations for Key West International Airport, including:
  - Janitorial Services (2014),
  - Marathon Hangar (2015),
  - New Storage Hangar (2016),
- Backup documentation used for FAA dbConnect reporting for FAA FY 2017, 2018 and 2019.

**APPENDIX 4**  
**Florida Keys Marathon International Airport**  
**FAA FY 2020 – 2022 Methodology**  
**Estimate of Total DBE Firms**  
**Operating in Market Area (Numerator)**

NAICS Code	Description	Hillsborough County*	Lee County	Miami-Dade County*	Monroe County	Palm Beach County*	Total
238210	Electrical Contractors	2	3	19	1	2	27
238910	Site Preparation	3	3	54	0	8	68
423390	Other Construction Material Merchant	0	0	0	0	0	0
541330	Engineering Services	20	0	58	1	10	89
<b>TOTAL</b>							<b>184</b>

\*Counties searched to only include DBE firms available to work in Monroe County  
 Source: 2019 State of Florida UCP DBE Directory via FDOT Searchable Database

**APPENDIX 5**  
**Florida Keys Marathon International Airport**  
**FAA FY 2020 – 2022 Methodology**  
**Estimate of Total Firms (DBE and Non-DBE)**  
**Operating in Market Area (Denominator)**

NAICS Code	Description	Hillsborough County	Lee County	Miami-Dade County	Monroe County	Palm Beach County	Total
238210	Electrical Contractors	291	204	660	46	421	1,622
238910	Site Preparation	80	48	105	10	112	355
423390	Other Construction Material Merchant	18	13	69	0	26	126
541330	Engineering Services	441	138	561	17	360	1,517
<b>TOTAL</b>							<b>3,620</b>

*Source: U.S. Census Bureau 2016 County Business Patterns*

**APPENDIX 6**  
**Florida Keys Marathon International Airport**  
**FAA FY 2020 – 2022 Methodology**  
**Historical DBE Participation**

<b>Fiscal Year</b>	<b>Total</b>	<b>DBE Goal</b>	<b>DBE Actual</b>	<b>DBE Variance</b>
<b>2019</b>	\$293,239	4.8%	\$19,498 6.6%	\$5,422.77 + 1.8%
<b>2018</b>	\$449,042	4.8%	\$38,204 8.5%	\$16,649.98 + 3.7%
<b>2017</b>	\$424,206	4.8%	\$38,439 9.1%	\$18,077.11 + 4.3%
<b>3-YR Total</b>	<b>\$1,166,487</b>		<b>\$96,141</b>	<b>\$40,150</b>
<b>3-YR Median</b>		<b>4.8%</b>	<b>8.5%</b>	<b>+ 3.7%</b>

*Source: FAA dbConnect Reporting (2017, 2018 & 2019)*

**APPENDIX 7**  
**Florida Keys Marathon International Airport**  
**FAA FY 2020 – 2022 Methodology**  
**Consultation Information**

In an effort to solicit input in establishing DBE goals, the following email was sent to the following groups identified for consultation:

- American Business Women’s Association – Southeast Florida  
(eengel@elevate4success.com)
- Minority Business Development Agency (mbda@mbdamiamicenter.com)
- NAACP - Miami Branch (adoranweze1@bellsouth.net)
- Office of Supplier Diversity, Florida Department of Management Services  
(donna.williams2@dms.myflorida.com)
- Women’s Business Development Council of Florida  
(nancyallen@womensbusiness.info)

Email Sent for Consultation

*Dear Sir/Madam:*

*Our firm, Montgomery Consulting Group, is assisting the Flagler Executive Airport in consulting with industry groups, community organizations, and minority and women’s groups to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, and the effects of discrimination in an effort to establish a level playing field for the participation of Disadvantage Business Enterprises (DBEs) and the development of a DBE goal for upcoming federally-funded projects at the Flagler Executive Airport.*

*We request that you attend a teleconference consultation meeting on **January 7, 2020 at 10am** to provide your organization’s input. See the call-in details below.*

*Your input is valued and appreciated.*

Best,

Sara Sullivan  
Project Manager  
**Montgomery Consulting Group, Inc.**  
976 Lake Baldwin Lane, Suite 201  
Orlando, FL 32814  
Tel: 407-539-7030 ext. 223



**MONTGOMERY**  
CONSULTING GROUP

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PLANNING | ENVIRONMENTAL | ENGINEERING: TRANSPORTATION | AVIATION | INFRASTRUCTURE

**AGENDA - DBE CONSULTATION**

Date: January 7, 2020

From: Sara Sullivan – DBE Coordinator, Montgomery Consulting Group (MCG)  
[Sara.sullivan@mcgi-us.com](mailto:Sara.sullivan@mcgi-us.com); (407) 539-7030

Reference: Key West International Airport (EYW) & Florida Keys Marathon International Airport (MTH) DBE Consultation Public Teleconference

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Montgomery Consulting Group will be facilitating an open discussion, via teleconference, to discuss concerns regarding the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination on opportunities for DBEs in an effort to establish a level playing field for the participation of DBEs.

Monroe County has established an overall 3-year DBE goal of 23.2% at Key West International Airport (EYW) and 10.1% for Florida Keys Marathon International Airport (MTH) for FAA Fiscal Year (FY) 2020-2022.

We ask for your organization’s input, and will be focusing on the following questions:

1. What is the estimated total membership and/or local chapter membership of your organization?
2. Does your organization represent minority and/or women businesses in the construction or consulting industry?
  - a. If so, approximately how many members of the total are minority and/or women businesses?
3. Does your organization identify if members are minority and/or women businesses, and/or certified DBEs in your organization’s directory?
4. The floor will be open to discuss any awareness of the effects of discrimination on business opportunities for DBEs. To your knowledge:
  - a. Are DBEs treated equal to non-DBEs in bidding/proposal opportunities?
  - b. Are DBEs treated equal to non-DBEs in ability to get and maintain insurances and bonding required for projects?
  - c. Are DBEs treated equal to non-DBEs in ability to secure banking lines or credit for business operation?
  - d. Is there a stigma associated with being a DBE as to the expected quality of work?
  - e. Is there a “level playing field” between DBEs and non-DBEs in the construction and engineering consulting industry?



**APPENDIX 8**  
**Florida Keys Marathon International Airport**  
**FAA FY 2020 – 2022 Methodology**  
**Race-Conscious / Race-Neutral Historical Information**

<b>Fiscal Year</b>	<b>DBE Goal</b>	<b>Achieved DBE Participation</b>	<b>Achieved Race-Conscious Participation</b>	<b>Achieved Race-Neutral Participation</b>	<b>Variance Contract &amp; Achieved Goals</b>
<b>2019</b>	4.8%	6.6%	4.8%	1.8%	+ 1.8%
<b>2018</b>	4.8%	8.5%	4.8%	3.7%	+ 3.7%
<b>2017</b>	4.8%	9.1%	4.8%	4.3%	+ 4.3%
<b>3-YR Median</b>	<b>4.8%</b>	<b>8.5%</b>	<b>4.8%</b>	<b>3.7%</b>	<b>+ 3.7%</b>