



# Florida Keys DBE News

Key West International &  
Florida Keys Marathon  
Airports' DBE Program

Spring 2006

## New ACDBE Program

On March 22, 2005, U.S. DOT published the final rule version of the Airport Concessionaire Disadvantaged Business Enterprises (ACDBE) final rule (49 C.F.R. Part 23). The new rule parallels 49 C.F.R. Part 26 [DBE program for DOT assisted construction contracts]. The final rule:

- Requires that concessionaires, subconcessionaires and contractors subject to Part 23 not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, subcontract, purchase, lease or other agreement covered by 49 CFR Part 23.
- Requires certain airports to adopt a DBE participation program with the new size standard for small businesses.

### DBE Size Standards:

No major change from present standards (\$30 million for most)

Exceptions:

- Bank and Financial Institutions: \$275 million in assets
- Car rental companies: \$40 million average annual gross receipts over the prior three fiscal years
- Pay Telephone Companies: 1,500 employees

### Personal Net Worth (PNW):

- New rule: \$750,000 limitation (same as Part 26).
- Exclusions: equity in primary residence; equity in the business seeking certification; and up to \$3 million for assets that owner can show are necessary to obtain financing to enter or expand a concession business.

### Certification of ACDBEs:

- Same process as under Part 26.
- Joint venture entities are not certified as ACDBEs; ACDBEs in a joint venture are counted if respon-

sible for a distinct, clearly defined portion of the work and share in the capital, contribution, control, management, risk and profit and are counted only to the extent of their participation.

- ACDBEs may participate to completion of the existing contract. If there is a renewal, extension, major amendment of a contract, or exercise of an option, the ACDBE's participation no longer counts.



## SBA Surety Bond Guarantee Program

Small business contractors and service companies requiring surety bonding can look to the U.S. Small Business Administration for assistance.

SBA's Surety Bond Guarantee Program guarantees surety companies against a percentage of the losses sustained as a result of a contractor's default on a guaranteed bid, payment or performance bond, making them more willing to issue bonds for smaller, newer companies. The SBA can guarantee bid, payment and performance bonds for construction, service, and supply contracts up to \$2 million for eligible small contractors.

SBA guarantees 90 percent for bonds on contracts up to \$100,000, and on bonds for socially and economically disadvantaged contractors.

The SBA charges fees to both the contractor and the surety company. Rates are published periodically in the Federal Register. The SBA does not charge the contractor a fee for a bid-bond guarantee.

As every experienced subcontractor knows, good subcontract agreements do not appear out of thin air. They are crafted and negotiated. This may not be “the best of all possible worlds,” but with skill, subcontractors can stand up for themselves and get better deals. But how?

When a subcontractor is involved in contract negotiation, it will need people with strong persuasive skills to obtain the best possible subcontract terms. The ability to persuade is a “soft skill,” i.e., a skill that is more art than it is science, but it is a critical skill you need to identify in your firm so that you can negotiate the best subcontract agreements.

The ability to persuade may not seem that important to your business at first glance. Doesn't the economic leverage of the general contractor trump any of your ideas that the general contractor doesn't like? The answer is “No.”

While a general contractor has an economic advantage over a prospective sub-contractor because the general contractor controls the award of work, this inequality does not automatically give the general contractor the “final say” over the subcontract terms with a specific subcontractor. On the contrary, the subcontract is subject to mutual agreement, whether that agreement comes in the form of the general contractor's acceptance of your bid, your acceptance of the general contractor's counter-offer, or a negotiated solution such as a mutually agreed-upon subcontract rider.

The process of convincing the general contractor to accept your proposal with terms your firm wants begins well before any actual conversation or correspondence with the general contractor. It starts with customer research and preparation of the bid package, including supporting documents such as a scope of work letter. Your bid package communicates your expectations to the general contractor about the work your firm is prepared to perform, and under what conditions.

From the point of view of a negotiator, the strategic objective of the bid package is to convince the general contractor that your firm can perform the work at the promised price, or at least that your firm is worthy of approaching with a counter-offer or a negotiation process. Thus, when bidding, the question your team should ask is not, “How do we obtain the work?” It is, “How can we convince the general contractor to ac-

cept our proposal for the work at the most favorable terms to us that the general contractor will accept, make a counter-offer to, or negotiate?” You want a strong starting-point for negotiation in case your bid is not accepted as-is and you do not accept the general contractor's counter-offer.

Your bidding strategy should anticipate what kind of negotiating room your firm will have if the bidding process takes your firm to the negotiation phase. Will the bid package, if not accepted as-is, leave your firm the ability to compromise on less important terms? For example, the general contractor may like your price but dislike your specific description of the work in the scope of work letter. That's something you may be able to work through negotiation. Is there room for “give and take” from the original bid package that will still achieve your firm's goals? Allowing for negotiating room will give you the best persuasive tool of all: Making the other party feel that it is gaining a real benefit through changes to your proposal.

Finally, but certainly not least important, is selection of the person who will conduct the negotiations on your behalf. When the negotiation phase begins, you'll benefit if your negotiator is someone who:

- Is capable of persuading others effectively, including possessing necessary writing and verbal skills.
- Understands what subcontract terms are important to your firm, and what terms are less important.
- Has the authority and ability to make negotiation decisions “on the spot.”
- Can put himself or herself “in the shoes” of the general contractor.
- Knows the history of your company's relationship with the general contractor.

With the background and skills necessary to persuade others, and with sufficient room to negotiate subcontract terms different from the original bid package, your negotiator can stand up for your company in negotiations and achieve a better subcontract agreement.

Source: SBE New Orleans, 10/05/04 (AGC)



Reggie Paros, has been Manager of the Florida Keys Marathon Airport in Monroe County since February 2003. Prior to managing Marathon Airport, Reggie spent 29 years as Director of Emergency Services and Director of Public Safety for Monroe County. Most recently, Reggie has been tapped to also be the Director of the newly created division of Housing and Community Development.

As Manager of the Florida Keys Marathon Airport, Reggie's primary functions include overseeing daily operations, planning future construction projects and reviewing environmental studies in conjunction with the FAA, FDOT and other Federal, State and County agencies. One of his goals is to re-establish regularly scheduled commercial air service. The airport has been operating primarily as a general aviation airport for several years. In 2005, passenger traffic was 62,356, including general aviation, international, military and commuter passengers.

When asked about the future of airport, Mr. Paros states the future looks very bright. Last year the airport was awarded a Small Community Air Service Development Grant (SCASDG) by the U. S. Department of Transportation. He also stated there have been several expansion and construction projects proposed, including:

- Construction of corporate hangars
- Additional T-hangars
- Possible lengthening of the runway

Upcoming projects include completing repairs to the

- Terminal building
- Electrical vault
- T-hangars

all of which were damaged by Hurricanes Katrina, Rita and Wilma.

Even with such a busy schedule, Reggie still has time to belong to the following professional organizations:

- International City/County Management Association, Corporate Member
- American Association of Airport Executives
- Florida Airports Council, Airport Managers Association
- Florida Association of EMS
- Association of Emergency Medical Services Providers
- Associated public Safety Communications Officers, Inc., Florida Chapter
- National Emergency Number Association
- Solid Waste Association of North American



Reggie Paros, Manager for Marathon Airport.

## Airport Projects

**Key West International Airport:  
McCoy Terminal Complex  
Noise Improvement Program**

**Florida Keys Marathon Airport:  
Terminal Canopy Replacement**





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## See What's New At Key West International Airport

Key West International Airport is in the process of constructing the New McCoy Terminal Complex. The project will provide a new 26,000 square foot terminal building with ticketing, concessions, restrooms and security. The scheduled completion date is July 2007.

The Prime Contractor is the Morganti Group. For more information, please contact Jim Inman, the Project Executive at (813) 248-6663.