

Date: January 24, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Agenda Item No. 8(A)(1)

From: Carlos A. Gimenez
County Mayor 

Resolution No. R-25-12

Subject: Change Order No. 1 to the South Terminal Baggage Handling System Operation and Maintenance Contract with John Bean Technologies Corporation, MDAD Project No. ITN-MDAD-01-06, increasing the contract by \$13,258,531

RECOMMENDATION

It is recommended that the Board approve Change Order No. 1 to the contract with John Bean Technologies Corporation (JBT) for the Operation and Maintenance (O&M) of the South Terminal and Concourse F Baggage Handling System (BHS) at Miami International Airport (MIA). This Change Order increases the total contract amount by \$13,258,531, extends the contract on a month-to-month basis not to exceed 12 months, and will include contract language mandated by federal law, regulation or contract to enable the County to obtain federal reimbursement.

CHANGE ORDER NO.

Change Order No. 1 (MDAD No. ITN-MDAD-01-06)

SCOPE

PROJECT NAME:

Baggage Handling System Operation and Maintenance

PROJECT NO.:

ITN-MDAD-01-06

PROJECT DESCRIPTION:

This project ensures the safe operation and maintenance of the BHS for the MIA South Terminal and Concourse F. The contractor supports the O&M of all systems on a 24-hour, seven-days-a-week basis. Required services include preventive and corrective maintenance, maintaining spare parts and inventories.

PROJECT LOCATION:

Miami International Airport

PRIMARY DISTRICT:

Miami International Airport is located primarily within Commissioner Rebeca Sosa's District Six; however, the impact of this item is countywide in nature as Miami International Airport is a regional asset.

APPROVAL PATH:

Board of County Commissioners

USING DEPARTMENT:

Miami-Dade Aviation Department (MDAD)

MANAGING DEPARTMENT:

Miami-Dade Aviation Department

FISCAL IMPACT/FUNDING SOURCE

**CHANGE ORDER
FUNDING SOURCE:**

The contract is funded from MDAD Revenue and Reserve Maintenance Funds. MDAD has applied for a \$5,000,000 Transportation Security Administration (TSA) grant to partially reimburse the cost of this Change Order. The current contract value is \$37,338,979.39; with the changes contemplated in this Change Order, the contract value increases by \$13,258,531 to an adjusted contract value of \$50,597,510.39 (includes Inspector General fee). JBT will maintain the same rate as currently charged.

PTP FUNDING: No

GOB FUNDING: No

ARRA FUNDING: No

**CHANGE ORDER
DESCRIPTION:**

Increases the contract amount by \$13,258,531, and extends the term of the contract on a month-to-month basis not to exceed 12 months

TRACK RECORD/MONITOR

JBT's services to Miami-Dade County are above satisfactory. The company has no performance data in the Capital Improvements Information System (CIIS). MDAD Facilities Superintendent Neil Wyatt will monitor this contract.

BACKGROUND

This project, competitively solicited under an Invitation To Bid (ITB), elicited submissions from FMC Technologies Inc. and Aircraft Service International Group (ASIG), which were opened September 15, 2006. The Board subsequently approved December 19, 2006, a recommendation via Resolution No.1445-06, rejecting all bids, waiving formal bid requirements of Section 4.03(D), and authorizing the issuance of an Invitation to Negotiate (ITN) with the two vendors that submitted bids, under the same terms, including but not limited to scope of work, terms and conditions, licensing, status, bid items and pricing.

Based upon negotiations held with both vendors on February 8, 2007, the ITN documents were modified and reissued to the vendors. MDAD's estimate was revised to compensate for additional funds necessary for the restocking of parts. Each of the vendors Best and Final Offers (BAFO), submitted on February 16, 2007, were publicly opened the same day. The BAFO from ASIG was valued at \$39,899,629.00, and the value of the BAFO from FMC was \$37,338,979.39.

On February 20, 2007, the Negotiation Committee met at a public meeting and unanimously voted to recommend that a contract for the South Terminal BHS O&M be awarded to FMC Technologies Inc. The contract was awarded by the Board pursuant to R-545-07 to FMC Technologies on May 8, 2007, and a Notice-to-Proceed (NTP) was issued on June 27, 2007.

Pursuant to R-906-09, on July 2, 2009, the Board approved the Consent to Assignment Agreement from FMC Technologies Inc. to John Bean Technologies Corporation. This contract is scheduled to expire on June 30, 2012.

JUSTIFICATION

The South Terminal Baggage Handling System was the first fully automated sortation BHS with in-line explosives detection screening implemented at MIA. Even though the system has been providing reliable service to the airlines utilizing the South Terminal, MDAD, TSA and the user airlines have continually looked for new ways to enhance system performance with the latest available technologies while providing the highest level of safety and security.

This change order will fund approximately \$5 million in TSA enhancements as follows:

- \$3 million to upgrade the BHS operating system (software and hardware) and for reconfiguration of the Checked Baggage Resolution Area (CBRA). The CBRA is where TSA hand scans suspect bags; changes will make the system more ergonomic and compliant with current TSA standards and the Life Safety Code. This includes installation of "light curtains" that detect the presence of a human in the path of the baggage conveyor openings separating the airside and landside areas; an interface with the light-curtain sensor with MDAD's operation Control Center for 24/7 monitoring; and other TSA-mandated enhancements to the system.
- \$2 million to optimize planning/engineering. The TSA now has a program to replace or optimize the screening machines, allowing for reconfiguration and upgrading from CTX 9000 to CTX 9800. This would increase the capacity to provide in-line screening for the South Terminal as well as for the Central terminal.

This change order also allocates \$1 million in case of emergency to allow MDAD the contracting capacity to act as needed to ensure the safety, security and operation of the system.

The balance of the funding (approximately \$7 million) and the additional time will allow MDAD to refine the existing specifications of the successor contract, incorporate additional life-safety enhancements to the system, and put a new contract out for bid. Any unused funds from this contract will be carried over into the new contract.

MANDATORY PROVISIONS FOR FEDERALLY FUNDED PROJECTS

In the event that the County is eligible for federal funding, the contractor shall comply with the federal requirements as listed on page 4 of this Change Order.

COMPANY NAME: John Bean Technologies Corporation

COMPANY PRINCIPAL(S): Charles H. Cannon Jr., Chairman, President, CEO
Ronald D. Mambu, VP, CFO, Controller

COMPANY QUALIFIER(S): Brian Douglas De Roche
(Florida License CBC No. 1254819)

COMPANY EMAIL ADDRESS: Gilbert Lopez, Regional Mgr. gilbert.lopez@jbt.com

COMPANY STREET ADDRESS: 1805 West 2550 South, Ogden, Utah 84401

GENDER, ETHNICITY & OWNERSHIP BREAKDOWN: Publicly Traded (NYSE: JBT)

YEARS IN BUSINESS: Eighty years (80) as FMC Technologies, Inc.

**PREVIOUS CONTRACTS
WITH THE COUNTY WITHIN
THE PAST FIVE (5) YEARS:**

Existing MDAD Baggage Handling System O&M June 2007

CONTRACT MEASURES:

CSBE Goal 19% (\$7,094,406)
DBE Goal 19% (\$570,000 – based on estimated \$3,000,000 TSA Grant)

**CONTRACT MEASURE
ACHIEVED:**

23% (\$4,317,975.50) Note: With SBD's concurrence, the total dollar amount of the contract as regards the CSBE goal has been reduced to \$19,066,089.50 to reflect the subtraction of parts purchased from the dedicated allowance account

**COMMUNITY WORKFORCE
PROGRAM (CWP):**

29% Goal (9 employees)

CWP ACHIEVED:

Five (5) employees are currently enrolled; as more employees are hired in the designated area, the number will increase.

TERM OF CONTRACT:

One Thousand Ninety-Five (1,095) calendar days (three years) from effective date established in the Notice to Proceed (NTP), with two one-year renewal options.

**ORIGINAL CONTRACT
AMOUNT:**

\$37,338,979.39, inclusive of Inspector General Audit Account for \$84,668.89

**AMOUNT OF RECOMMENDED
MODIFICATIONS:**

\$13,258,531.00

**CLASSIFICATION OF
CHANGE ORDER:**

TSA Mandates and County Requested Changes

**ADJUSTED CONTRACT
AMOUNT:**

\$50,597,510.39

**PERCENT CHANGE THIS
MODIFICATION:**

35.5%

IPSIG//INSPECTOR GENERAL:

Provisions included

CONTRACT AWARD DATE :

May 8, 2007

RESPONSIBLE WAGE:

Yes



Deputy County Mayor

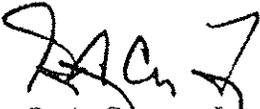


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 24, 2012

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(A) (1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)
1-24-12

RESOLUTION NO. R-25-12

RESOLUTION APPROVING CHANGE ORDER NO. 1 TO SOUTH TERMINAL BAGGAGE HANDLING SYSTEM OPERATION AND MAINTENANCE CONTRACT BETWEEN MIAMI-DADE COUNTY AND JOHN BEAN TECHNOLOGIES CORPORATION, PROJECT NO. ITN-MDAD-01-06, INCREASING THE CONTRACT BY AN AMOUNT NOT TO EXCEED \$13,258,531, AND AUTHORIZING COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE CHANGE ORDER AND TO PERFORM ALL NECESSARY ACTIONS TO ENFORCE ITS TERMS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves Change Order No. 1 to the contract for Baggage Handling System Operation and Maintenance ("BHS O&M") at Miami International Airport ("MIA"), Project No: ITN-MDAD-01-06, between the County and John Bean Technologies Corporation, increasing the contract by an amount not to exceed \$13,258,531, and including contract language mandated by federal law, regulation, or contract, including but not limited to DBE participation and Davis-Bacon wage requirements to enable the County to obtain federal reimbursement; all as more particularly set forth in the accompanying memorandum from the County Mayor; this Board authorizes the County Mayor or County's Mayor's designee to execute the same for and on behalf of the County, and to exercise the provisions contained therein.

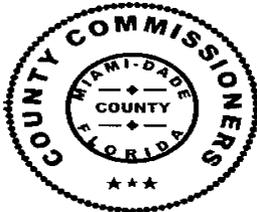
The foregoing resolution was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Audrey Edmonson** and upon being put to a vote, the vote was as follows:

	Joe A. Martinez, Chairman	aye
	Audrey M. Edmonson, Vice Chairwoman	aye
Bruno A. Barreiro	aye	Lynda Bell
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz
Sally A. Heyman	aye	Barbara J. Jordan
Jean Monestime	aye	Dennis C. Moss
Rebeca Sosa	aye	Sen. Javier D. Souto
Xavier L. Suarez	aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of January, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK



By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

**MIAMI - DADE COUNTY
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 1 PROJECT NO. ITN MDAD-01-06 DATE: _____

PROJECT NAME: **Baggage Handling System Operation & Maintenance**

TO CONTRACTOR: **John Bean Technologies Corporation**

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES TO THE CURRENT CONTRACT, AND TO PERFORM THE WORK SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

ITEM	DESCRIPTION	UNIT	UNIT PRICE	QUANTITY	AMOUNT
1	Third Year Option for Services – South Terminal & CC F	MO	\$524,530.25	12	\$6,294,363
2	Dedicated Allowance Account for Parts	LS	\$931,104.00	1	\$931,104
3	General Allowance Account	LS	\$6,000,000	1	\$6,000,000
4	Disadvantaged Business Enterprise (DBE) Participation Requirements as shown on Page 4 of this Change Order				\$0
5	Davis-Bacon Requirements as shown on Page 4 of this Change Order				\$0
Item A (Sum of Items 1 through 5):					\$13,225,467
Item B (1/4% of Total Item A) – Inspector General Audit Account:					\$33,064
Total Change Order Amount:					\$13,258,531

JUSTIFICATION:

- This extension allows MDAD sufficient time to bid out, and refine the specifications of the successor contract.
- This Baggage Handling System (BHS) was the first in-line BHS implemented at Miami International Airport. As a result, forecasting the required parts to maintain the system efficiently was severely underestimated.
- The additional funding and time requested through this Change Order are required in order to incorporate required life safety enhancements to the South Terminal system, as well as providing an upgrade, the majority of which is funded by TSA.
- DBE Programs:** For all federally funded Work, the Contractor, shall comply with the following Contract Measures.

DBE	
Subcontractor Goals	Nineteen Percent (19%)

- Davis-Bacon Wage Rates:** The minimum wage rates for laborers, mechanics and apprentices shall be not less than those established by the United States Department of Labor, Employment Standards Administration, the determination for which are included in Attachment 2 to this Change Order.

RELEASE OF CLAIM

This Change Order modifies the Contract by increasing the contract amount to \$50,597,510.39 and does not authorize the Contractor to either perform the work described herein or entitle the Contractor to claim or receive payment of any of the funds referenced herein unless and until a Work Order, duly executed pursuant to Contract provisions, so authorizes and entitles the Contractor. Such Work Orders, when executed, contain appropriate waiver and release clauses pertinent to the work description and cost provisions included therein. This Change Order does not obligate the Contractor to finish all current and future work for a fixed price or for the additional amount added by this Change Order, and in executing this Change Order, the Contractor waives all rights to make a claim as a result of this Change Order.

C: John Bean Corporation, Surety, Project Manager, Finance, County Attorney's Office, Clerk of the Board, Contracts Administration

SUMMARY OF CONTRACT AMOUNT

REASON FOR CHANGE:	ORIGINAL CONTRACT AMOUNT	\$37,338,979.39
<input type="checkbox"/> Regulatory Change	COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED	\$0.00
<input type="checkbox"/> Other Agency Requested Change	ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER	\$37,338,979.39
<input type="checkbox"/> Design Errors Change	COST OF CHANGES THIS ORDER	\$13,258,531.00
<input type="checkbox"/> Design Omission Change	ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER	\$50,597,510.39
<input checked="" type="checkbox"/> County Requested Change	PER CENT INCREASE, THIS CHANGE ORDER	35.50%
<input checked="" type="checkbox"/> Unforeseen or Unforeseeable Change	TOTAL PER CENT INCREASE TO DATE	35.50%
	EXTENSION OF TIME ALLOWED BY THIS CHANGE	365 CALENDAR DAYS TO JUNE 27, 2013.

CERTIFYING STATEMENT: *I hereby certify that the supporting cost data included is, in my considered opinion, accurate; that the prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit competitive bidding.*

Brent Ahlstrom

 CONTRACTOR SIGNATURE
 Brent Ahlstrom, General Manager

TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

MIAMI-DADE AVIATION DEPARTMENT	<i>Capital Fund</i> <i>Revenue Fund</i> Operation Funds (EA301) and Reserve Maintenance (EA301)	<i>James Lee</i>
DEPARTMENT	FUNDS BUDGETED CODE	CERTIFIED BY

ACCEPTED BY: *Brent Ahlstrom* CONTRACTOR: *Brent Ahlstrom, General Manager*
 APPROVED: _____ BUDGET DIRECTOR

Western Surety Company
Ana W. Oliveras
 Surety
 Ana W Oliveras, Attorney-in-Fact July 12, 2011

MIAMI-DADE COUNTY, Florida
 By its BOARD OF COUNTY COMMISSIONERS

RECOMMENDED: *[Signature]* PROJECT MANAGER
 By: _____ DATE
 COUNTY MAYOR

APPROVED: See attached memo - HNTB
 HNTB (CONSULTING ENGINEER).

[Signature]
 MDAD Minority Affairs

APPROVED: _____ DEPARTMENT DIRECTOR
 By: _____ DEPUTY CLERK

C: John Bean Corporation, Surety, Project Manager, HNTB, Program Control, Contracts Administration

SUPPLEMENTAL INFORMATION

All changes to the Contract contained herein insert federal contracting provisions required in contracts precedent to the County's obtaining federal funds for portion of the Work. Notwithstanding any other provision in the Contract, the following provisions are hereby incorporated and shall be required for all Work performed.

Item 2: Disadvantaged Business Enterprise (DBE) Participation Provisions

- Disadvantaged Business Enterprise - 49 CFR Part 26

Item 3: Davis-Bacon Requirements for Construction Contracts Exceeding \$2,000

- *Davis Bacon Labor Provisions - 29 CFR Part 5

Item 4: Additional Federal Terms and Conditions

Provisions for all Construction Contracts

- Buy American Preference - Title 49 U.S.C., Chapter 501
- *Civil Rights Act of 1964, Title VI - Contractor Contractual Requirements - 49 CFR Part 21
- Airport and Airway Improvement Act of 1982, Section 520 - Title 49 U.S.C. 47123
- *Lobbying and Influencing Federal Employees - 49 CFR Part 20
- Access to Records and Reports - 49 CFR Part 18.36
- Energy Conservation - 49 CFR Part 18.36
- Breach of Contract Terms - 49 CFR Part 18.36
- Rights to Inventions - 49 CFR Part 18.36
- Trade Restriction Clause - 49 CFR Part 30
- Veteran's Preference - Title 49 U.S.C. 47112

Additional Provisions for Construction Contracts Exceeding \$10,000

- *Equal Opportunity Clause - 41 CFR Part 60-1.4
- *Certification of Non-Segregated Facilities - 41 CFR Part 60-1.8
- *Notice of Requirement for Affirmative Action - 41 CFR Part 60-4.2
- *Equal Employment Opportunity Specification - 41 CFR Part 60-4.3
- Termination of Contract - 49 CFR Part 18.36

Additional Provisions for Construction Contracts Exceeding \$25,000

- *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - 49 CFR Part 29

Additional Provisions for Construction Contracts Exceeding \$100,000

- *Contract Workhours and Safety Standards Act Requirements - 29 CFR Part 5
- *Clean Air and Water Pollution Control - 49 CFR Part 18.36(i)(12)

The federal requirements that are marked with an asterisk (*) are applicable to contracts and all subcontracts that meet, or exceed, the dollar threshold, at all tiers.

**MIAMI - DADE COUNTY
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 1 PROJECT NO. ITN MDAD-01-06 DATE: _____
PROJECT NAME: **Baggage Handling System Operation & Maintenance**
TO CONTRACTOR: **John Bean Technologies Corporation**

**ATTACHMENT NO. 1
Disadvantaged Business Enterprise (DBE) Participation Provisions**

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PARTICIPATION PROVISION
CONTRACTOR

1) UTILIZATION OF DBE CONTRACTORS

(a) *The Contractor, sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contract. The MDAD DBE Program, as required by 49 CFR Part 26 and as approved by DOT, 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. The MDAD may impose sanctions to contractors who fail to carry out the terms of this Provision as provided under Part 26.*

(b) Each sub-contract the prime contractor signs with a sub-contractor must include the following assurance:

“The contractor 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 this contract. 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 remedies as the MDAD deems appropriate.”

(c) Award of this contract will be conditioned upon satisfying the requirements of these bid specifications. These requirements apply to all Contractors, including those who qualify as a DBE. A DBE contract goal of _____% participation has been established for this contract. The Contractor shall make good faith efforts, as defined in Appendix A, 49 CFR of Part 26, Section 26.53, to meet the contract goal for DBE participation in the performance of this contract.

(d) The Contractor will be required to submit the following information with its bid in order to be deemed responsive:

- 1) The Disadvantaged Business Enterprises (DBE) Utilization Form (Form No. DBE-MA-1 Attached).
- 2) If the contract DBE goal is not met, documentation demonstrating good faith efforts must be included with the bid.
- 3) The Schedule of Participation: which constitutes a written representation by the Contractor that to the best of the Contractor's knowledge the DBEs listed are available and have agreed to perform as specified (Form No. DBE-MA-2 Attached).

- 4) Letter (s) of Intent: all Contractors must submit signed Letter(s) of Intent completed by the participating certified DBE sub-contractor. Be sure to include their respective dollar value (if known) and percentage of work. Expenditures to DBEs on a Schedule of Participation that are not confirmed by a Letter(s) of Intent shall not count toward the goal (Form No. DBE-MA-3 Attached).

Provided the Contractor shall have submitted completed forms and information required by these Provisions, and its bid is otherwise responsive to the solicitation, a Contractor shall be provided an opportunity to participate in the proceedings set out in this Provision.

The Contractor's failure to submit completed forms and information required by these Provisions can neither be cured by supplementary submittals and testimony at hearings nor shall the non-responsiveness of the proposal on account thereof be waived, negotiated or compromised.

- (e) The Contractor will be required to submit the following documents after the award of the contract. Failure by the proposer to carry out these requirements is a material breach of this contract:

- 1) Executed Subcontract Agreement with first tier DBE firm (s) noted in the Schedule of Participation (SOP) at a time of first pre-construction meeting, but before notice to proceed is issued. The Subcontract Agreement should address prompt payment and retainage mechanism as specified in 49 CFR of Part 26, Section 26.29.
- 2) Monthly Utilization Report (MUR), thirty (30) days after the commencement of the contract to the Office of Minority Affairs Division Building 5A, 3rd Floor, P.O. Box 025504, Miami, Florida 33102-5504.

- (f) Determination of Compliance: The total value (or percent of bid) for work to be performed by DBE firms as indicated in the Contractor's Schedule of Participation by DBE firms is required to be sufficient to fulfill the stated goal, unless the Contractor shall demonstrate to the satisfaction of MDAD that:

- 1) it has made every reasonable effort to contact and negotiate with DBE firms in an attempt to sub-contract work, including every reasonable effort to select the portions of the work proposed to be sub-contracted, in order to achieve the stated goal.
- 2) it was unable, notwithstanding such efforts, to achieve the stated goal because DBE firms were not Qualified or were Unavailable; and
- 3) it included in its Schedule of Participation, all such proposed agreements it was able to make.

MDAD shall not award a Contract to any Contractor which it determines fails to comply with the applicable requirements of these Provisions. Nothing herein shall relieve any Contractor or any Contractor performing any work under the Contract from any of the terms, conditions, or requirements of the Contract or modify Owner's rights as reserved in the Contract Documents.

Attendance at pre-construction conferences is encouraged to ensure that the contractor and their sub-contractors are aware of the reporting requirements and their responsibilities as they relate to the DBE Program.

MDAD staff makes itself available to both the contractor and their sub-contractors during the course of the contract if any dispute arises concerning the DBE requirements.

The Certification process is the starting point for participation in Miami-Dade County for DBE's wishing to participate in Miami-Dade Aviation Department (MDAD) DBE Programs. In order to participate as a DBE, a firm must be certified by the Miami-Dade County Department of Small Business Development (SBD) and have a valid certification from SBD or from other certifying members of the Florida Unified Certification Program (FLUCP) at the time of proposal submittal, and must maintain its certification throughout the life of the contract.

Application for certification as a DBE may be obtained by contacting the Miami-Dade County, Department of Small Business Development (SBD) located at 111 N.W. 1st Street, Stephen P. Clark Center, 13th Floor, Miami, Florida 33128-1974 or by telephone at (305) 375-3111 or visit their website at www.co.miamidade.gov/sba/home.asp.

The DBE Certification List is maintained and published at least every other week by the Miami-Dade County, Department of Small Business Development (SBD), and contains the names and addresses of currently certified Disadvantaged Business Enterprises (DBEs) certified by the Certification Unit Office.

The Florida Unified Certification Program (FLUCP) Directory is available at www.dot.state.fl.us/equalopportunityoffice. The Directory lists the firm's name address, phone number, date of the most recent certification, certifying agency and type of work the firm has been certified to perform. The FLUCP updates the data every 24 hours and revises the directory regularly. The address for Florida UCP is:

**Florida Department of Transportation,
Equal Opportunity Office
605 Suwannee Street, MS 65
Tallahassee, Florida 32399-0450
Tel: (850) 414-4747 Fax: (850) 414-4879**

2) Investigations and Recommendation by Compliance Officer:

In the event that the Contractor has not met the stated goals, and has submitted the good faith efforts extended by the Contractor to meet the stated goals, the Compliance Officer may, require that the Contractor meet with the Compliance Officer at Miami-Dade County Aviation Department, Minority Affairs Division Building 5A, 3rd Floor, P.O. Box 025504, Miami, Florida 33102-5504, or such other place as the Compliance Officer may designate. The purpose of this meeting shall be for the Compliance Officer to determine, if necessary, whether the good faith efforts of the Contractor to meet the stated goals are sufficient. At this meeting the Contractor shall have an opportunity to present information pertinent to its compliance with the applicable requirements.

The Compliance Officer may require the Contractor to produce such additional information as the Compliance Officer deems appropriate.

No later than fifteen (15) days after the initial meeting with the Contractor, the Compliance Officer shall make a written recommendation to the Aviation Director or his/her designee (hereinafter referred to as "Director") which shall include a statement of the facts and reasons upon which the recommendation is based.

- a) Determination by MDAD - Following receipt of the recommendation, the Director shall, at his discretion, request such further information from the Contractor as he deems appropriate, and may rely upon any factual conclusion reported by the Compliance Officer which is not contradicted by the Contractor, relevant to the issues on which his recommendation to the Board will be based. As soon as practicable, the Director shall make a determination, in writing and setting forth the facts and reasons upon which it is based, whether the bid of such Contractor complies with the requirements of these Provisions or recommending to the Board that the Contract not be awarded to the Contractor. A copy of such determination shall be sent to the Contractor. Such determination shall not affect the power of the Board of County Commissioners to reject the Contractor's bid for any other reason or to take action on the recommendation of the Director as it deems appropriate.
- b) Consideration of Other Bids - If MDAD deems it advisable in the interest of expediting the award of the Contract, the procedures set forth in these Provisions may be carried out with respect to the bids of one or more additional Contractors at the same or different times with each such proceeding to be separately conducted.
- c) Failure of Contractor to Participate - The Contractor will be bound by proceedings under these Provisions to which it has been given required notice without regard to its participation or lack of participation in them. Its lack of participation, upon receiving notices and requests pursuant to these Provisions, shall not be grounds for reconsideration of any actions taken in the proceedings under these Provisions.
- d) Substitution of DBE Firms for those listed in the Schedule of Participation by DBE Firms and Letter (s) of Intent Prior to Contract Award - A Contractor must submit in writing any substitution of another firm from that provided in its Schedule of Participation. Such authorization may be given upon a determination that:
 - (i) although listed by a Contractor in good faith, a sub-contractor appearing on the Contractor's Schedule of Participation is not a DBE sub-contractor, is not qualified or is unavailable and that,
 - (ii) if the work scheduled to be performed by the said contractor is not performed by a DBE sub-contractor, the Contractor will not achieve the level of participation listed on its schedule. Upon receiving such authorization, the Contractor shall make every reasonable effort to replace a sub-contractor listed in its Schedule of Participation with another qualified DBE sub-contractor to perform, for not less than the same dollar value or the value necessary to achieve the level of participation listed on its schedule, the same work or other work not appearing on the Schedule included with its bid submission.

Failure on the part of the Contractor to comply with all of the requirements of these Provisions shall be grounds for the recommendation of the Director to the Board of County Commissioners that the Contract not be awarded to the Contractor.

3) Administrative Reconsideration

- 1) Within 5 days of being informed by MDAD that its bid is not responsive/responsible, because it has not documented sufficient good faith efforts, a Contractor may request administrative reconsideration. Contractor should make this request in writing to the Aviation Director, P.O. Box 025504, Miami, Florida 33102-5504, telephone number (305) 876-7077. The reconsideration official will not have played any role in the original determination that the Contractor did not make to document sufficient good faith efforts.
- 2) As part of this reconsideration, the Contractor 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 Contractor will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. MDAD will send the Contractor a written decision on reconsideration, explaining the basis for finding that Contractor 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.
- 3) In a "design-build" or "turnkey" contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent sub-contracts for the work of the project, MDAD may establish a goal for the project. The master contractor will then establish contract goals, as appropriate for the sub-contracts it lets. MDAD will maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of the DBE plan.
- 4) MDAD will require that a prime contractor not terminate for convenience a DBE sub-contractor (or an approved substitute DBE firm) and then perform the work of the terminated sub-contractor with its own forces or those of an affiliate, without prior written consent by the Aviation Director or designee.
- 5) When a DBE sub-contractor is terminated, or fails to complete its work on the contract for any reason, MDAD will require the prime contractor to make good faith efforts to find another DBE sub-contractor to substitute for the original 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 established.

- 6) MDAD will include in each prime contract a provision for appropriate administrative remedies that it will invoke if the prime contractor fails to comply with the DBE requirements of the contract.

4) REQUIREMENTS AND PROCEDURES SUBSEQUENT TO CONTRACT AWARD:

A) Schedule of Participation - The Contractor shall sub-contract with those sub-contractors listed on the Schedule of Participation by DBE, with substitutions authorized under these Provisions, and shall thereafter neither terminate such sub-contract(s) nor reduce the scope of the work to be performed by, or decrease the price to be paid to, the DBE sub-contractor(s) thereunder without the prior written authorization of the Director.

B) Substitution of Sub-contractors:

- 1) Excuse from Entering Sub-contracts.** If prior to execution of a sub-contract required by these Provisions, the Contractor submits a written request to the Director and demonstrates to the satisfaction of the Director that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of award of the Contract, a DBE Contractor which is to enter into such sub-contract has become not qualified, or that the DBE Contractor has unreasonably refused to execute the sub-contract, the Successful Contractor shall be excused from executing such sub-contract.
- 2) Rightful Termination of Sub-contracts.** If after execution of a sub-contract required by these provisions, the Contractor submits a written request to the Director and demonstrates to the satisfaction of the Director that, as a result of a change in circumstance beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of execution of such sub-contract, a DBE Contractor which entered into such sub-contract has become not qualified or has committed and failed to remedy a material breach of the sub-contract, the Contractor shall be entitled to exercise such rights as may be available to it to terminate the sub-contract.
- 3) Determination of Excuse of Rightful Termination.** If the Contractor at any time submits a written request under these Provisions, the Director, as soon as practicable, shall determine whether the Contractor has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the Contractor an opportunity to present pertinent information and arguments.
- 4) Alternative Sub-contracts.** If the Contractor is excused from entering a sub-contract under this Regulation or rightfully terminates a sub-contract under this Regulation and without such sub-contract the Contractor will not achieve the level of DBE Participation upon which the contract was awarded, the Contractor shall make every reasonable effort to enter into an alternative sub-contract or sub-contracts for the same work to be performed by another Qualified DBE sub-contractor or sub-contractors for a contract price or prices totaling not less than the contract price under the excused or terminated sub-contract, less all amounts previously paid thereunder. The Contractor shall be deemed to satisfy the requirements of this Regulation if:

- a) it shall enter each such alternative sub-contract(s) for the same work;
- b) it demonstrates to the satisfaction of the Director that it has made every reasonable effort to negotiate with a DBE Contractor in an attempt to sub-contract such work, but that it was unable to sub-contract the work because the DBE Contractors were (i) not Qualified; (ii) Unavailable; or (iii) although Qualified and not Unavailable, were unwilling or unable to propose a price for such work equal to or less than the price originally scheduled for such work (less all amount previously paid thereof);
- c) when situations covered by these Regulations arises, the Compliance Officer shall promptly meet with the Contractor and provide him an opportunity to demonstrate compliance with these Provisions. The Compliance Officer shall, as promptly as practicable, recommend to the Director whether the Contractor should be determined to be in continued compliance with these Provisions.

The Compliance Officer may require the Contractor to produce such information as the Compliance Officer deems appropriate and may obtain whatever other and further information from whatever source the Compliance Officer deems appropriate. A copy of the Compliance Officer's recommendation shall be promptly hand delivered or sent by registered mail to the Contractor. The Compliance Officer shall not make his/her recommendation under this paragraph without giving the Contractor notice and an opportunity to present pertinent information and arguments.

The Director will consider objections to the Compliance Officer's recommendation only if such written objections are received by the Director within five (5) calendar days from the Contractor's receipt of the Compliance Officer's recommendation. The Director will reply to the Contractor's written objection within (10) days of receipt of these objections.

5) Prompt Payment and Retainage:

Miami-Dade Aviation Department (MDAD) has, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment MDAD makes to the prime contractor.

MDAD must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. MDAD must use one of the following methods to comply with this requirement:

1. MDAD may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
2. MDAD 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.
3. MDAD 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 MDAD payment to the prime contractor.

For purposes of this section, 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 MDAD. When MDAD 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.

MDAD's DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which MDAD set. MDAD's program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with MDAD's prior written approval.

MDAD may also establish, as part of MDAD's DBE program, any of the following additional mechanisms to ensure prompt payment:

1. A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. MDAD may specify the nature of such mechanisms.
2. A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
3. Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBE's and other contractors are fully and promptly paid.

6) Procedures for Post Award Monitoring

MDAD shall monitor the compliance of the Contractor with the requirements of these Provisions during the course of the work to be performed under the Contract. MDAD shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with these Provisions, including, but not limited to, manpower tables, records of expenditures, observations at the job site, and contracts between the Contractor and his sub-contractors, suppliers and material men entered into during the life of the Contract.

The MDAD's DBE Program also includes a monitoring and enforcement mechanism to verify that the work committed to DBEs at contract award is actually performed by the DBEs. This mechanism provides for a running tally of actual DBE attainments (i.e., payments actually made to DBE firms); includes a provision ensuring that DBE participation is credited toward overall or contract goals when payments are actually made to DBE firms; and requires the following elements:

- 1) Site inspections are conducted to verify that the DBE contractors identified as performing work on our contracts are actually doing the work. Inspections may

include desktop audits where invoices are examined as well as payments.

Sub-contracts may be reviewed and employees interviewed to verify information that has been submitted.

- 2) A notarized Monthly Utilization Report (MUR), as found in Form DBE-MA-4 (Attached), is required from all contractors in which a DBE goal has been set. The reports provide the dollars paid to the prime contractor and what the prime contractor has paid each to their sub-contractors. This data is entered into a database to be monitored for compliance with goals.
- 3) Prime contractor must include with their MUR, proof of payment to the DBE sub-contractors. This is achieved by providing copies of checks or written statements from the sub-contractors in which they acknowledge payment.

7) Sanctions for Violations

If at any time MDAD has reason to believe that the Contractor is in violation of its obligation under these Provisions, or has otherwise failed to comply with these Provisions, MDAD may, in addition to pursuing any other legal remedy, commence proceeding to impose sanctions on the Contractor. Such sanctions may include, but are not limited to, one or more of the following:

- 1) The suspension of any payment or part thereof due the Contractor until such time as the issues concerning the Contractor's Compliance are resolved.
- 2) Work Stoppage.
- 3) The termination, suspension or cancellation of the Contract in whole or in part, unless the Contractor demonstrates within a reasonable time its compliance with the terms of these Provisions.
- 4) The debarment of the Contractor to participate in any further contracts awarded by MDAD for a period no longer than three years. No such sanction shall be imposed by MDAD upon the Contractor except pursuant to a hearing conducted by the Director.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space).

_____ The bidder/offeror is committed to a minimum of _____% DBE utilization in this Contract.

_____ The bidder/offeror (if unable to meet the DBE goal of _____% is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By: _____
(Signature)

Title: _____

(Print Name)

Date: _____

**LETTER OF INTENT
DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION**

To: _____

Project: _____

Contract Number: _____ Total \$ value (if known) & % of Bidder/Proposal: _____

The undersigned holds SBD Certificate No. _____ expiring on, _____ 20____. Or
provide proof of DBE certification from other certifying members. .

The undersigned intends to perform the following work in connection with the above Bid/
Proposal (Describe): _____

Description of Services	\$ value (if known) & % of Bid/Proposal
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Total% _____

Signature _____

Date _____

Print Name _____

Title _____

DBE Firm _____

**MIAMI - DADE COUNTY
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 1

PROJECT NO. ITN MDAD-01-06

DATE: _____

PROJECT NAME:

Baggage Handling System Operation & Maintenance

TO CONTRACTOR:

John Bean Technologies Corporation

**ATTACHMENT NO. 2
Davis-Bacon Wage Rates**