


Memorandum



Date: February 15, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Report on the Development of Procedures for Miscellaneous Construction Contracts (MCC) in Accordance with Resolution No. 1062-21, Directive 212622

At the November 2, 2021 Board of County Commissioners (Board) meeting, Board members approved Resolution No. R-1062-21 directing the County Mayor or County Mayor’s designee to develop procedures that: (i) determine what work is allocated to the Miscellaneous Construction Contract (MCC) Contractor; (ii) identify and prioritize MCC projects; (iii) monitor MCC projects and expenditures; (iv) establish MCC approval paths as well as delegated authority and accountability; (v) incorporate other general MCC oversight guidelines, such as the reporting and tracking of project status and small business goal compliance; (vi) include guidelines that determine which MCC staff are contract staff of the County, the circumstances under which such contract staff will be permitted to engage in outside employment, and the provision of an ethics training program for such contract staff; and (vii) place a report directly on the Board’s agenda in accordance with Ordinance No. 14-65.

As directed by Board members, the Aviation Department has prepared a set of procedures (attached as Exhibit A), which will be incorporated into the Department’s standard operating procedures upon the Board’s approval. These proposed procedures, among other things, determine the allocation of work to MCC projects, identify and prioritize projects and expenditures, establish MCC approval paths, and track project status as well as small business goal compliance.

Pursuant to Ordinance No. 14-65, this memorandum will be placed on a Board agenda for review within 30 days. Should you have any questions or require additional information, please contact Aviation Director, Ralph Cutié, at 305-876-7066.

C: Geri Bonzon-Keenan, County Attorney
Gerald Sanchez, First Assistant County Attorney
Jess McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
Ralph Cutié, Director, Miami-Dade Aviation Department
Melissa Adames, Director, Clerk of the Board
Yinka Majekodunmi, CPA, Commission Auditor
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
Eugene Love, Agenda Coordinator

EXHIBIT A

DEPARTMENTAL STANDARD OPERATING PROCEDURES

Miami Dade Aviation Department
DSOP No.
Effective:

**SUBJECT: MIAMI-DADE AVIATION DEPARTMENT MISCELLANEOUS
CONSTRUCTION CONTRACT**

PURPOSE: To establish general guidance and procedures for the management and administration of the Miami-Dade Aviation Department Miscellaneous Construction Contract.

I. AUTHORITY

- A Board of County Commissioners Resolution No. 1062-21
- B. Sec. 2-11.1. – Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. (January 2016)

II. DEFINITIONS

- | | | |
|----|--------------------------|---|
| A. | Airport System | Miami International Airport and the General Aviation Airports |
| B. | BMWS | SBD's Business Management Workforce System |
| C. | CBP | Customs and Border Protection |
| D. | FAA | Federal Aviation Administration |
| E. | ISD | Internal Services Department |
| F. | FAA | Federal Aviation Administration |
| G. | LCPtracker | SBD's Labor Compliance Payroll Tracker Software |
| H. | MCC Program | Miscellaneous Construction Contract (7040/7360 Plans) |
| I. | MCC Contract | MDAD's MCC Contract |
| J. | MDAD/Aviation Department | Miami-Dade Aviation Department |
| K. | SBD | Small Business Development Division |
| L. | TSA | Transportation Safety Administration |

III. GENERAL INFORMATION

- A. It is the intent of the Aviation Department to foster the participation of the County's small business enterprises in all construction projects performed throughout the County's airport system, and to expedite the award of MCC projects utilizing Miami-Dade County's MCC Program and MDAD's MCC Contract. The Aviation Department will use the MCC Program, which is managed by ISD's SBD for maintenance and emergency projects, whereas the MCC Contract, which is

managed by MDAD, will be used to oversee, and manage all new construction, alterations, remodeling, and maintenance projects throughout the County's airport system.

- B. The MCC Program is countywide in nature. It is administered and monitored by ISD's SBD using two separate plans that allow County departments to respond quickly and efficiently to the demand for construction projects.
1. The MCC 7040 Plan is a 100 percent set-aside solely for SBE firms certified as a Small Business Enterprise – Construction (SBE-CON) firms. All Contractors with a local Miami-Dade County office that meet the SBE-CON eligibility requirements may participate.
 2. The MCC 7360 Plan is an open-competitive plan that is accessible to all Contractors. It is used only when the funding source prohibits the use of SBE set asides or when ISD determines that there is insufficient availability for an SBE set-aside firm within the MCC 7040 Plan to accomplish the proposed work.
 3. Adherence to the requirements of Implementing Order (IO) No.: IO 3-53, Miscellaneous Construction Contracts (which supersedes the prior IO 3-53 and went into effect on December 15, 2017) is mandated when Contractors participate in the 7040 and 7360 Plan.
 - a. For participation in the MCC 7040 Plan, Contractors must hold valid Miami-Dade County Certificates of Competency and/or State of Florida contractor's license and comply with the following two requirements:
 1. Register as a vendor with ISD's Procurement Management Services Division.
 2. Be certified as a Miami Dade County SBE-CON contractor and maintain certification at all times as an SBE-CON contractor with SBD.
 - b. For participation in the MCC 7360 Plan, the Contractor must hold valid Miami-Dade County Certificates of Competency and/or State of Florida contractor's license and comply with the following two requirements:
 1. Register as a vendor with ISD's Procurement Management Services Division.
 2. Submit a completed MCC Program Registration Form to SBD.
- C. MDAD's MCC Contract procedures have been developed to meet the specific construction needs of the Airport System due to the additional level of field supervision, coordination and management required to meet essential security requirements. These procedures were designed to minimize interference with

airport operations and the movement of vehicles and/or personnel engaged in the day-to-day operations of the Airport System.

IV. DETERMINE WHAT WORK IS ALLOCATED TO THE MCC CONTRACTOR

- A. MDAD's Facilities Development Division oversees and manages construction projects that include the new construction, demolition, alteration, remodeling, and modification of facilities throughout the Airport System. These types of projects, will be allocated to the MCC Contractor, and will be bid and executed through the MDAD MCC Contract. Additionally, the Aviation Department will use the 7040 and 7360 Plans offered in the MCC Program, as appropriate, for maintenance and emergency repair projects.

MDAD's MCC projects include those funded by revenue bonds, reserve maintenance funds, improvement funds, operational funds, FAA and other federal and state grants, or other funding sources. MDAD's MCC Contract provides the means to manage various multi-trade contractors engaged in airport construction projects in a quick and efficient manner that require additional field supervision and coordination resulting from:

1. Working in MDAD secured areas, Airside Operating Area, Security Identification Display Area, and Sterile Areas or any other restricted areas that require close coordination with CBP, TSA, FAA, and MDAD.
2. Working with Security Sensitive Information components.
3. Working in areas used by passengers, tenants, concessioners, and airlines personnel.
4. Working in areas identified as having asbestos or contaminated soil or water.
5. Working to install specialized equipment including baggage handling equipment.

V. IDENTIFY AND PRIORITIZE MCC PROJECTS

The Capital Improvement Program (CIP) was developed to include projects that would address and sustain the industry's growing needs and projections through 2035. Projects with budgets with construction costs exceeding \$5 million are identified will be publicly advertised through a Request for Proposal advertised by ISD. Projects that have a construction cost less than \$5 million are identified and designated to the MCC Contract or the MCC Program based on criteria identified in Section IV. Once a determination is made as to whether a project qualifies for the MCC Contract, MDAD's MCC projects are prioritized based on the following criteria in the order noted below:

- A. Life Safety/Notice of Violations (NOV): The Miami Dade Fire and Rescue Department (MDFR) and MDAD are constantly working together to make sure the existing airport facilities meet the latest life safety requirements. If areas are not up to code, the MDFR issue NOVs. These are reviewed and addressed as soon as possible taking into consideration ongoing operations. These projects are given top priority as they arise.
- B. Operational Necessity: Projects that make up the CIP Master Schedule are situated based on their operational needs (airport, airline and/or commercial). This includes the projects that will provide an additional benefit or area of service for the industry.
- C. Sequence/logic within the CIP Master Schedule: Many of the larger CIP projects require smaller enabling projects to clear the way for future construction. These enabling projects are the catalyst to completing the larger CIP projects that are needed to meet future industry demands. They are the lynchpin to the overall CIP master schedule.
- D. Grant Funding: Projects schedules are evaluated based on the approved grant funding requirements based on the agreements with the various agencies.
- E. Asset Preservation: These projects are required to preserve the operational life of existing buildings, aprons, parking garages, etc.

VI. MONITOR MCC CONTRACT PROJECTS AND EXPENDITURES

- A. After award and prior to issuance of a “Notice to Proceed” for an MCC project, the scope of work to be performed by an SBE or Disadvantaged Business Enterprise (DBE) firm to satisfy any goal in the MCC project shall be separately identified in the schedule of values, which includes a list of every work item on a project along with each item’s value or cost.
- B. Weekly construction coordination meetings are held with the MCC Contractor, the MDAD Project Manager, the Architect/Engineer, MDAD Minority Affairs and SBD. These meetings are intended to determine job progress; discuss issues affecting the progress of the work, address SBE concerns, monitor allowance account balances, and promote coordination with all entities involved in the project. A weekly report will be issued and updated by the MCC Contractor after each meeting.
- C. The MCC Contractor shall provide MDAD with monthly reports containing the contract status including: the original contract amount, change orders, revised contract amount, purchase orders issued, projects under bidding status, upcoming projects, and Key Management Staff budget to monitor MDAD’s MCC balance.

VII. ESTABLISH MCC CONTRACT APPROVAL PATHS AS WELL AS DELEGATED AUTHORITY AND ACCOUNTABILITY

- A. Once a scope of work has been identified by MDAD's Facilities Development Division and project construction documents are provided to the MCC Contractor, a Pre-Construction Project Order Draft will be prepared, which describes the scope of work to be performed, project duration, time allotted for bidding and award and referencing the plans and specifications. Pre-Construction Project Order Drafts are recommended by the MDAD Project Manager, the Architect/Engineer (A/E), MDAD Minority Affairs and is approved by the Chief of Construction.
- B. In response to the Pre-Construction Project Order Draft, the MCC Contractor will prepare and submit to MDAD a Project Construction Packaging Plan, which includes the scope of work broken down by construction trades or bid packages to be subcontracted, the project cost, an estimated cost for each bid package, the project duration, and the recommended contract measures. The MCC Contractor shall submit its contract measures recommendation to the MDAD Project Manager and MDAD Minority Affairs for review and submittal to SBD for final recommendation and approval by the County Mayor or County Mayor's designee. The Project Construction Packaging Plan is reviewed and recommended by the MDAD Project Manager, the A/E, MDAD Minority Affairs and approved by the Chief of Construction.
- C. Upon approval of the Project Construction Packaging Plan, a Construction Project Order Draft is prepared by MDAD and submitted to the MCC Contractor consisting of the project scope, required contract measures, liquidated damages, and special instructions as needed.
- D. Upon receipt of the Construction Project Order Draft, trades or bid packages are advertised by the MCC Contractor.
- E. The MCC Contractor shall review each apparent low bidder of each trade or bid package for accuracy, errors, and omissions and shall submit the bid packages to SBD for compliance review and approval. Upon approval, the MCC Contractor shall prepare and submit to the Contract Officer the Project Order Proposal, which shall state the proposed total cost to perform the work, the cost of each trade or bid package, and a written narrative describing in detail the results of the Subcontractor(s) bidding.
- F. In response to the Project Order Proposal, a Project Order shall be prepared by MDAD to include the scope of work, justification, time for completion, liquidated damages, total cost to perform the work, allowance account, construction fee, and all other terms of the Project Order Proposal including any special conditions. The Project Order shall be accepted by the MCC Contractor, recommended by the MDAD Project Manager and Chief of Construction, and approved by MDAD

Minority Affairs, A/E, Bond Engineer Consultant, MDAD Finance and the Contract Officer.

VIII. ESTABLISH OTHER GENERAL MCC OVERSIGHT GUIDELINES, TO INCLUDE REPORTING AND TRACKING OF PROJECT STATUS AND SMALL BUSINESS GOAL COMPLIANCE

- A. The MCC Contractor is responsible for giving a 10-day advance notice to MDAD's Minority Affairs Division and to SBD on a project-by-project basis of all pre-bid, bid opening, and preconstruction meetings.
- B. The MCC Contractor is responsible for monitoring the BMWS on a monthly basis to verify that all subcontractors are registered in SBD's BMWS.
- C. The MCC Contractor is responsible for assuring that all subcontractors submit certified payrolls and labor compliance documentation electronically by the 10th of every month for the previous month using SBD LCPtracker Software before submitting a pay application to MDAD for payment. The MDAD Project manager shall review the MCC Contractor Pay Applications. Pay Applications not complying with LCPtracker requirements will be returned to the MCC Contractor.
- D. The MCC Contractor shall submit weekly reports to MDAD to be used at the scheduled weekly project meetings to track project status and monitor SBE goal compliance.
- E. The MCC Contractor shall present to the SBE Advisory Board Quarterly reports to assist SBD in tracking and monitoring the results and effectiveness of the SBE-CON Program for all MCC projects that fall under the purview of MDAD.

IX. ESTABLISH GUIDELINES FOR DETERMINING WHICH MCC STAFF ARE CONTRACT STAFF OF THE COUNTY, THE CIRCUMSTANCES UNDER WHICH CONTRACT STAFF WILL BE PERMITTED TO ENGAGE IN OUTSIDE EMPLOYMENT, AND SHALL PROVIDE FOR AN ETHICS TRAINING PROGRAM FOR SUCH CONTRACT STAFF

MCC staff are considered not to be "Contract Staff" of the County. Consequently, the Ethics Code has no application to MCM staff, and the Ethics Commission has no enforcement jurisdiction.

X. REVOCATION: None

XI. CROSS REFERENCE: None

MEMORANDUM

Agenda Item No. 11(A)(13)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 2, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to develop procedures for: (1) allocating work to the Miami-Dade Aviation Department Miscellaneous Construction Contractor, (2) identifying and prioritizing Miscellaneous Construction Contractor projects, (3) monitoring of Miscellaneous Construction Contractor projects and expenditures, (4) establishing Miscellaneous Construction Contractor approval paths as well as delegated authority and accountability, and (5) providing general Miscellaneous Construction Contractor oversight guidelines; establishing guidelines for determining which Miscellaneous Construction Contractor staff are contract staff of the County and the circumstances under which such contract staff will be permitted to engage in outside employment, and providing for an ethics training program for such contract staff; directing the County Mayor to provide a report

Resolution No. R-1062-21

This item was amended at the 10-12-21 Airports and Economic Development Committee. The first whereas clause was amended to reflect that the contract encompassed construction management as well as construction work.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



Geri Bonzon-Keenan
County Attorney


GBK/jp



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 2, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(13)

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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. 11(A)(13)
11-2-21

RESOLUTION NO. _____ R-1062-21

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO DEVELOP PROCEDURES FOR: (1) ALLOCATING WORK TO THE MIAMI-DADE AVIATION DEPARTMENT MISCELLANEOUS CONSTRUCTION CONTRACTOR, (2) IDENTIFYING AND PRIORITIZING MISCELLANEOUS CONSTRUCTION CONTRACTOR PROJECTS, (3) MONITORING OF MISCELLANEOUS CONSTRUCTION CONTRACTOR PROJECTS AND EXPENDITURES, (4) ESTABLISHING MISCELLANEOUS CONSTRUCTION CONTRACTOR APPROVAL PATHS AS WELL AS DELEGATED AUTHORITY AND ACCOUNTABILITY, AND (5) PROVIDING GENERAL MISCELLANEOUS CONSTRUCTION CONTRACTOR OVERSIGHT GUIDELINES; ESTABLISHING GUIDELINES FOR DETERMINING WHICH MISCELLANEOUS CONSTRUCTION CONTRACTOR STAFF ARE CONTRACT STAFF OF THE COUNTY AND THE CIRCUMSTANCES UNDER WHICH SUCH CONTRACT STAFF WILL BE PERMITTED TO ENGAGE IN OUTSIDE EMPLOYMENT, AND PROVIDING FOR AN ETHICS TRAINING PROGRAM FOR SUCH CONTRACT STAFF; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE A REPORT

WHEREAS, the Miami-Dade Aviation Department (MDAD) has, since 1986, procured a Miscellaneous Construction Contract (MDAD MCC) for >>construction management and<<¹ construction work at Miami International Airport (MIA); and

WHEREAS, the MDAD MCC has historically allowed MDAD flexibility to quickly perform construction work at MIA to accommodate the needs of MIA's passengers, tenants, and airline users; and

¹Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

WHEREAS, MDAD has procured eight prior MDAD MCC contractors, and is currently procuring the ninth MDAD MCC contractor; and

WHEREAS, the MDAD MCC has additionally provided a vehicle for Small Business Enterprise-Construction (SBEC) firms to provide services at MIA, as the MDAD MCC contractor sometimes absorbs for its subcontractors much of the overhead to which a small contractor working under a direct contract to the County would ordinarily be subjected, such as bonding and insurance requirements; and

WHEREAS, the County has an established Miscellaneous Construction Contracts Program (the MCC 7040 program), which provides a prequalified pool of 100 percent SBEC contractors from whom County departments may solicit construction bids when the need for construction arises; and

WHEREAS, under the MDAD MCC, the County hires a single contractor, who then bids out subcontracts at the direction of the County, but who is otherwise responsible to the County for performance of the construction work; and

WHEREAS, under the MDAD MCC, the contractor may be responsible for multiple discrete construction projects; and

WHEREAS, under the MCC 7040 Program, the County contracts with individual contractors for individual construction projects; and

WHEREAS, the overhead on projects performed under the MDAD MCC is often higher than projects performed under the MCC 7040 Program; and

WHEREAS, the MDAD MCC may provide quicker construction solutions than contracting under the MCC 7040 Program; and

WHEREAS, Implementing Order 3-53 establishes a process for bidding work to the MCC 7040 Program; and

WHEREAS, while the MDAD MCC contract establishes how the County is to direct the MDAD MCC contractor, and establishes the process by which the MDAD MCC contractor is to bid and award subcontracts, there is no written process to which the County can refer in order to determine whether construction work at MIA should be performed by the MDAD MCC contractor or by a MCC 7040 Program contractor,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Directs the County Mayor or County Mayor's designee to develop procedures for: (a) determining what work is allocated to the MCC contractor; (b) identifying and prioritizing MCC projects; (c) monitoring of MCC projects and expenditures; (d) establishing MCC approval paths as well as delegated authority and accountability; and (e) other general MCC oversight guidelines, to include reporting and tracking of project status and small business goal compliance. The procedures shall also contain guidelines for determining which MCC staff are contract staff of the County, the circumstances under which such contract staff will be permitted to engage in outside employment, and shall provide for an ethics training program for such contract staff.

Section 2. Directs the County Mayor or County Mayor's designee to provide a report directly to this Board of County Commissioners without placement on a committee agenda within 90 days of the effective date of this resolution, in accordance with Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Danielle Cohen Higgins.

It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Danielle Cohen Higgins** and upon being put to a vote, the vote was as follows:

	Jose "Pepe" Diaz, Chairman	aye		
	Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye	
Sally A. Heyman	aye	Danielle Cohen Higgins	aye	
Eileen Higgins	aye	Joe A. Martinez	aye	
Kionne L. McGhee	aye	Jean Monestime	absent	
Raquel A. Regalado	aye	Rebeca Sosa	aye	
Sen. Javier D. Souto	aye			

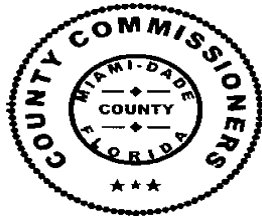
The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of November, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

Melissa Adames

By: _____
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

David M. Murray