

Order 2010-2-29
Served: February 26, 2010



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 26th day of February, 2010

Essential Air Service at

LAUREL/HATTIESBURG, MISSISSIPPI

DOCKET DOT-OST-2001-10685

Under 49 U.S.C. 41731 *et seq.*

ORDER REQUESTING PROPOSALS

Summary

By this order, the Department is requesting proposals, by April 1, from carriers interested in providing essential air service (EAS) at Laurel/Hattiesburg, Mississippi, for a new two-year period beginning July 1, 2010, with or without subsidy. (See Appendix A for map.)

Background

By Order 2008-4-2, April 1, 2008, the Department selected Mesaba Aviation, Inc. d/b/a Northwest Airlink (Mesaba), to provide EAS at Laurel/Hattiesburg for the two-year period through June 30, 2010. That order established an annual subsidy rate of \$1,191,435 for service consisting of 14 nonstop round trips per week to Memphis, operated with 34-seat Saab 340 aircraft.

Request for Proposals

As the end of the current rate term approaches, in order to provide sufficient time to complete the carrier-selection process before the current contract expires, we are here requesting proposals from carriers interested in providing service at Laurel/Hattiesburg, with or without subsidy support, for the two-year period beginning July 1, 2010. Carriers should file their proposals no later than April 1. After that date, our staff will docket proposals, thereby making them public, and direct each carrier to serve a copy of its proposal on the civic parties and other applicants. Shortly afterwards, we will provide a summary of the proposals to community officials and ask

them to submit their final comments. We will give full consideration to all proposals filed in a timely manner.¹

Interested carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals. We retain the discretion to negotiate proposals with carriers when we deem it desirable; in such cases, of course, we will give all applicants the same opportunity. We also retain the discretion to reject outright all unreasonable or unrealistic proposals and solicit a new round of proposals. However, we anticipate that negotiation or rejection will remain only occasional exceptions to the rule.

We are here providing interested carriers with some basic information to serve as guidance when they prepare their proposals, but we will not prescribe a precise format for their proposals. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. The applicants can make their own judgments as to the level of detail they wish to present; however, they might want to include proposed schedules as well as supporting data for their subsidy requests, such as projected block hours, revenues and expenses. We strongly encourage clear, well-documented proposals that will facilitate their evaluation by the affected community and the Department.²

Proposals should provide sufficient capacity to accommodate historical levels of traffic. Specifically for Laurel/Hattiesburg, we request proposals for service consisting of two nonstop round trips per day with 34-seat aircraft, or four nonstop round trips on weekdays and weekends (24 per week) with 19-seat aircraft. Service should be with two-pilot, twin-engine aircraft with at least 15 passenger seats, unless the community agrees to smaller aircraft. In that event, we would also consider proposals for five round trips a day with eight- or nine-seat aircraft. If aircraft with fewer than 15 passenger seats are contemplated, service patterns should consist of nonstop service between the community and the proposed hub airport. If a proposal offering aircraft fewer than 15 seats is submitted and the community ultimately supports the service, in effect waiving their right to 15-seat or larger aircraft, we would consider the waiver to apply only to the two-year carrier-selection at hand, *i.e.* we would not assume that the community waives their rights for all time. Of course, as always, we will formally solicit the community's views on any service options we receive before making a long-term carrier selection decision. The community and air carriers are encouraged to work together in advance of the due date for proposals to craft a service pattern that is desirable to the community and meets the operational needs of the airline interested in submitting a proposal.

¹ Carriers should not expect the Department to accept late filings. In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

² In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (1) service reliability; (2) contractual and marketing arrangements with a larger carrier at the hub; (3) interline arrangements with a larger carrier at the hub; and (4) community views. In addition, the Consolidated Appropriations Act, 2008, Public Law 110-161, provides that when selecting a carrier to provide EAS, the Department may consider the relative subsidy requirements, thus codifying a factor that we have considered since the inception of the program. Interested carriers should also be aware that our general provisions governing EAS will be included in the selection order as part of our authorization of subsidy for the selected service. Appendix C of this order contains those general provisions.

We encourage proposals that meet these requirements in an efficient manner. Carriers are also welcome to propose more than one option, if they choose; they need not limit themselves to those requirements if they envision other, potentially more attractive service possibilities -- different hubs, for example -- with subsidy requirements that remain competitive.

New Filing Procedures

Carrier proposals should be submitted to the Department with all materials merged into a single document. In addition, because the document will be published on Regulations.gov, each page should be formatted to be viewed online.

Service and Traffic History

In order to assist carriers in developing traffic and revenue projections for their proposals, we have summarized historical passengers in Appendix B. By year-ended September 30, 2009, Laurel/Hattiesburg had generated 25,296 O&D passengers, averaging 40.4 enplanements a day, slightly less than the prior 12-month period (year-ended 9/30/2008) when it had 26,777 passengers, an average of 42.6 daily enplanements.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination.³ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements, as well as copies of the certifications, should contact the Office of Aviation Analysis at (202) 366-5903. The Department is prohibited from paying subsidy to carriers that do not submit these documents.⁴

Community and State Comments

Civic officials and the State are welcome to submit comments on the proposals at any time. As noted earlier, we will provide a summary of the proposals to the civic parties and ask them to submit their final comments shortly after April 1, the due date for carrier proposals.

This order is issued under authority delegated in 49 CFR 1.56a(f) and re-delegated to the Director, Office of Aviation Analysis.

³ The regulations applicable to these areas are: (1) 49 CFR Part 20 – New restrictions on lobbying; (2) 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation – Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27 – Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 – Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 – Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

⁴ The certifications are also available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

ACCORDINGLY,

1. We request that carriers interested in providing essential air service at Laurel/Hattiesburg, MS, submit their proposals, with or without subsidy requests, no later than April 1, 2010. The proposals should be emailed to: EAS@dot.gov with the title “Proposal to Provide Essential Air Service at Laurel/Hattiesburg, Mississippi, Docket DOT-OST-2001-10685”;⁵
2. Docket DOT-OST-2001-10685 will remain open until further order of the Department; and
3. The Department will serve a copy of this order on the civic officials of Laurel and Hattiesburg, Mississippi, the airport manager of the Hattiesburg-Laurel Regional Airport, Mesaba Aviation, and the parties listed in Appendix D.

Persons entitled to petition the Department for review of this order under the Department’s Regulations, 14 CFR 385.50, must file such petitions within ten (10) days after the date of service of this order.

This order will be effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

By:

TODD M. HOMAN
Director
Office of Aviation Analysis

(SEAL)

An electronic version of this document is available online at
www.regulations.gov

⁵ Questions regarding filings in response to this order should be directed to Renée Williams at 202-366-1058, or via email at renee.williams@dot.gov. Parties may call 202-366-5903 to confirm receipt of their EAS proposals.

Area Map



**Historical O&D Traffic and Average Daily Enplanements
at Laurel/Hattiesburg, Mississippi¹**

	<u>O&D Traffic</u>	<u>Average Daily Enplanements²</u>
4Q08	6,327	40.0
1Q09	4,727	30.7
2Q09	6,270	40.2
3Q09	<u>7,972</u>	<u>50.5</u>
YE 9/30/09:	25,296	40.4
4Q07	8,026	50.8
1Q08	6,260	40.1
2Q08	6,605	42.3
3Q08	<u>5,886</u>	<u>37.3</u>
YE 9/30/08:	26,777	42.6

¹ Source: Bureau of Transportation Statistics; TranStats Form 41, Schedule T-100.

² Daily averages are based on one-half of the O&D passengers, divided by 313 service days (314 during leap years).

General Terms and Conditions for Essential Air Service

The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plans outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with the order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be ensured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the stipulated amounts or at the stipulated service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the Department and carrier do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Funds are not currently available for performance under this order beyond September 30, 2010. The Government's obligation for performance under this order beyond September 30, 2010, is contingent upon the availability of appropriated funds from which payment for services can be made. No legal liability on the part of the Government for any payment may arise for performance under this order beyond September 30, 2010, until funds are made available to the Department for performance. If funds are not made available for performance beyond September 30, 2010, the carrier will receive notice in writing by the Department.

All claims for payment must be submitted within 60 days of the last day of service provided under this order.

Appendix D

Scheduled Air Carriers, Contiguous US and Puerto Rico

Air Sunshine, Inc.	Jet Air, Daniel Wolford
Air Sunshine, Mirmohammad Adili	Kenmore Air, Tim Brooks
Air West, Inc., John Raatz	McCall Aviation and Salmon Air, Dan Scott
Air Wisconsin, Annette Daly	McCall Aviation, Michelle
Airline Associates, Bill Mishk	Mesa Air, Jonathan Ornstein
Alaska Airlines, Jeff Cole	Mesa Air, Michael Lotz
Alaska Airlines, Sandy Sinick	Mesa Air, Mike Holcomb
Allegiant Air, Robert Ashcroft	Mesaba, John Spanjers
American Airlines, Carl Nelson	Mesaba, Max Shemesh
American Eagle, Jeffrey Hartz	Midstar Airlines, Jeffrey Fonner
Atlantic Southeast, Jon Lindlief	Midwest Airlines, Anthony Intravia
Atlantic Southeast, Roger Weston	Midwest Airlines, Greg Aretakis
Bemidji Aviation, Cori Rude	Midwest Airlines, J.C. Augustson
Bemidji Aviation, Arlen Rinckenberger	MN Aviation, Jose Maldonado
Cape Air, Andrew Bonney	Multi Aero, Darnea
Cape Air, Dan Wolf	Multi Aero, Shane Storz
Cape Air, J.Flaherty	Northwest, Tim McDonald
Classic Aviation, Tony Henderson	NYDC, Henok Araya
Colgan Air, Mike Colgan	OST, Brian Swanson
CommutAir, Andy Price	OST, Dennis DeVany
CommutAir, Joel Raymond	OST, Kevin Adams
Consultant, Robert Silverberg	OST, Kevin Schlemmer
Continental, Bruce Keiner	OST, Michael Martin
Continental, Dan Weiss	OST, Renee Williams
Continental, Lorry Halloway	Pacific Wings, Frank Ford
Delta, Amy Martin	Pacific Wings, Greg Kahlstorf
Delta, Dan Shuman	PenAir, Danny Seybert
Delta, Jeff Morgan	PenAir, Scott Bloomquist
Delta, Joe Esposito	Pinnacle Airlines, Joe Williams
Delta, Karen Zachary	Pinnacle Airlines, Phil Reed
Delta, Sascha Vanderbellen	Public Charters, Jim Gallagher
Dorato Jets	Scenic, Mary Schneider
Dorato Jets, Mark McKenna	Scenic, Mitzi Daines
Era Aviation, Mike Lenorman	Seaborne Airlines, Wayne D'Amico
Executive Airlines, Kate Soled	SeaPort Airlines, Jim Day
Frontier Flying, Bob Hajducovich	SeaPort Airlines, Rob McKinney
Gem Air, Dan Schroeder	Shuttle America, Jerry Balsano
Gem Air, JoAnn Wolters	SkyWest, Eric Christensen
Great Lakes, Chuck Howell	SkyWest, Michael Thompson
Great Lakes, Doug Voss	Sovereign Air, Bob Karns
Great Lakes, Greg Stephens	Sovereign Air, Lois R. Barton
Gulfstream, Dave Hackett	Tradewind, Eric Zipkin
Gulfstream, Mickey Bowman	TransStates, Fred Oxley
Gulfstream, T. Cooper	Transtates, Gerry Wigmore
Homeland Security, Bill Ragan	United, Alicia Gabriel
Homeland Security, David Bernier	United, James Starnes
Homeland Security, Randy Webb	US Airways, Benjamin Slocum
Horizon Airlines, Dan Russo	US Airways, Howard Kass
Horizon Airlines, Jennifer Thompson	US Airways, Jason Reisinger
Horizon, Jeff Cole	Warbelows Air Ventures, Art Warbelow
ICEPR, Luis Irizarry	Wings Air (Air Greco), Aaron Goerlich
Island Air Charters, Linda House	