



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

Issued by the Department of Transportation
on the 10th day of July, 2020

Essential Air Service at

**DICKINSON, NORTH DAKOTA (FAIN
69A3452160423)¹**

DOCKET DOT-OST-1995-697

Under 49 U.S.C. § 41731 *et seq.*

ORDER SELECTING AIR CARRIER

Summary

By this Order, the U.S. Department of Transportation (the Department) is selecting United Airlines, Inc. (United) to provide Essential Air Service (EAS) at Dickinson, North Dakota, with 12 nonstop round trips per week to Denver International Airport (DEN), using 50-seat regional jet aircraft. The Department is selecting United for a two-year contract term from October 1, 2020 through September 30, 2022, at an annual subsidy rate of \$2,981,242.²

Background

By Order 2018-6-17 (June 22, 2018), the Department selected United to provide EAS at Dickinson for a two-year term from October 1, 2018, through September 30, 2020. Under the terms of that Order, United provides 12 weekly nonstop round trips to DEN using 50-seat regional jet aircraft at an annual subsidy rate of \$3,650,000.

As the expiration of the current contract approached, the Department issued Order 2020-1-5 (January 14, 2020), requesting proposals from air carriers interested in providing EAS for a new contract term. In response to that Order, United was the only air carrier to submit a proposal.

United's complete proposal and the community comments may be accessed online at www.regulations.gov by entering the community's docket number in the search block.

¹ Federal Award Identification Number.

² Such subsidy is calculated and distributed on a fiscal year basis, subject to the availability of funds.

Proposal of United

United submitted a proposal for a two-year contract term to continue to provide EAS at Dickinson, with 12 nonstop round trips per week to DEN, using 50-seat regional jet aircraft, at an annual subsidy rate of \$2,981,242. United would continue to promote DEN service by including Dickinson in corporate and regional marketing programs and initiatives where applicable, as well as through its broader promotion of its DEN hub.

Community Comments

On February 19, 2020, the Department requested comments from Dickinson regarding this EAS carrier-selection case. The Department received letters from various civic and community leaders supporting United. For example, on February 25, 2020, Mr. Kyle Wanner, Executive Director of the North Dakota Aeronautics Commission stated:

I support the decision that Dickinson has adopted to request the acceptance of the air service bid submitted by United Airlines, a company that has a strong reputation and proven track record within this community. Any disruption of the current air service could have incredible negative results for the Southwestern part of our state, and it is critical that the DOT moves forward to reselect United Airlines to continue providing service for the Dickinson Theodore Roosevelt Regional Airport.

Decision

49 U.S.C. § 41733(c)(1) directs the Department to consider five factors when making an air carrier selection for a community not in Alaska, where basic essential air service will not be provided without compensation:³ (A) service reliability of the applicant air carrier; (B) the existence of contractual and marketing arrangements with a larger air carrier at the hub; (C) the existence of interline arrangements with a larger air carrier at the hub; (D) the preferences of the actual and potential users of the service, giving substantial weight to the views of the elected officials representing the actual and potential users of the service; and (E) whether the air carrier has included a plan in its proposal to market the service.⁴ In addition, Section 41732(b)(1)(A) requires basic essential air service to include at least two daily round trips six days a week for an eligible place not in Alaska.

United was the only air carrier to submit a proposal to serve Dickinson, and its proposal meets all five of the selection criteria the Department is required to consider. Therefore, the Department is selecting United for a new, two-year contract term.

United has served Dickinson reliably for several years and its service of 12 weekly roundtrip flights will continue to provide the community's passengers seamless connectivity and global access at United's Denver hub. The community supports United's proposal, and United included a plan to market the service. The Department finds the service and subsidy to be

³ The Department did not receive any proposals to serve Dickinson without subsidy, and there is no other scheduled air service at Dickinson.

⁴ In addition, the Further Continuing Appropriations Act, 2020, Pub. L. No. 116-94, provides that, when selecting a carrier to provide EAS, the Department may consider the relative subsidy requirements, thus formalizing a factor that has been considered since the inception of the program.

reasonable and notes that, with this selection, United's subsidy will have decreased by \$668,758 annually, thus providing savings for the Federal Government (\$2,981,242 annual subsidy for the new contract vs. \$3,650,000 for the current contract).

Reminder About EAS Eligibility

To remain eligible for EAS, communities must comply with all applicable EAS eligibility requirements. 49 U.S.C. § 41731(a)(1)(B) provides that a community must maintain an average of 10 enplanements per service day, as determined by the Secretary of Transportation, during the most recent fiscal year, to remain eligible for EAS. Locations in Alaska and Hawaii, and communities that are more than 175 driving miles from the nearest large or medium hub airport, are exempt from this requirement. Dickinson is not subject to this requirement.

Further, the Department of Transportation and Related Agencies Appropriations Act, 2000, Pub. L. No. 106-69 (Oct. 9, 1999), prohibits the Department from subsidizing EAS to communities located within the 48 contiguous States that require a subsidy per passenger amount exceeding \$200 ("Subsidy Cap"), unless the community is located more than 210 miles from the nearest large- or medium-hub airport. Dickinson is not subject to this requirement. EAS communities within the 48 contiguous States are also subject to a \$1,000 subsidy per passenger cap. 49 U.S.C. § 41731(a)(1)(C). Dickinson is subject to this requirement.

Lastly, the Further Continuing Appropriations Act, 2020, Pub. L. No. 116-94 (Dec. 19, 2019), prohibits the Department from subsidizing EAS to communities located less than 40 miles from the nearest small hub airport unless the Department has negotiated with the community over a local cost share. Dickinson is not subject to this requirement.

The Department expects the air carrier and the community to work together to ensure that the community complies with Section 41731(a)(1)(C). Communities that fail to comply with the applicable above requirements may risk having their eligibility in the EAS program terminated. In the event the Department terminates a community's eligibility for EAS due to lack of compliance, that action will supersede this Order.

Air Carrier Fitness

Title 49 U.S.C. §§ 41737(b) and 41738 require that the Department find an air carrier reliable, fit, willing, and able to provide reliable service before the Department may subsidize it to provide EAS. United is subject to the Department's continuing fitness requirements, and no information has come to the Department's attention that would cause the Department to question the air carrier's fitness at this time. The Department has contacted the Federal Aviation Administration, and it has raised no concerns that would negatively affect our fitness findings. The Department therefore concludes that United is reliable and fit to conduct the operations proposed at Dickinson.

This Order is issued under authority delegated by the Secretary of Transportation in 49 CFR § 1.25a(b)(6)(ii)(D).

ACCORDINGLY,

1. The Department selects United Airlines, Inc. to provide Essential Air Service at Dickinson, North Dakota from October 1, 2020 through September 30, 2022, and establishes the annual subsidy rate as described in Appendix C;
2. The Department makes this selection contingent upon receiving properly-executed certifications from United Airlines, Inc. that it is in compliance with the Department's regulations regarding drug-free workplaces and nondiscrimination, as well as the regulations concerning lobbying activities;⁵
3. The Department directs United Airlines, Inc. to retain all books, records, and other source and summary documentation to support claims for payment, including copies of flight logs for aircraft used to provide EAS under this Order and sold or disposed of, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. This documentation shall be retained for three years from the last day of service under this Order, or such longer period as the Department may notify the air carrier. If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. The air carrier may forfeit its compensation for any claim that is not supported under the terms of this Order;
4. The Department finds that United Airlines, Inc. is fit, willing, and able to operate as a certificated air carrier, and capable of providing reliable Essential Air Service at Dickinson, North Dakota;
5. This docket will remain open pending further Department action; and
6. The Department will serve this Order on the Mayor of Dickinson, North Dakota, the Airport Manager of the Dickinson Theodore Roosevelt Regional Airport, and United Airlines, Inc.

By:

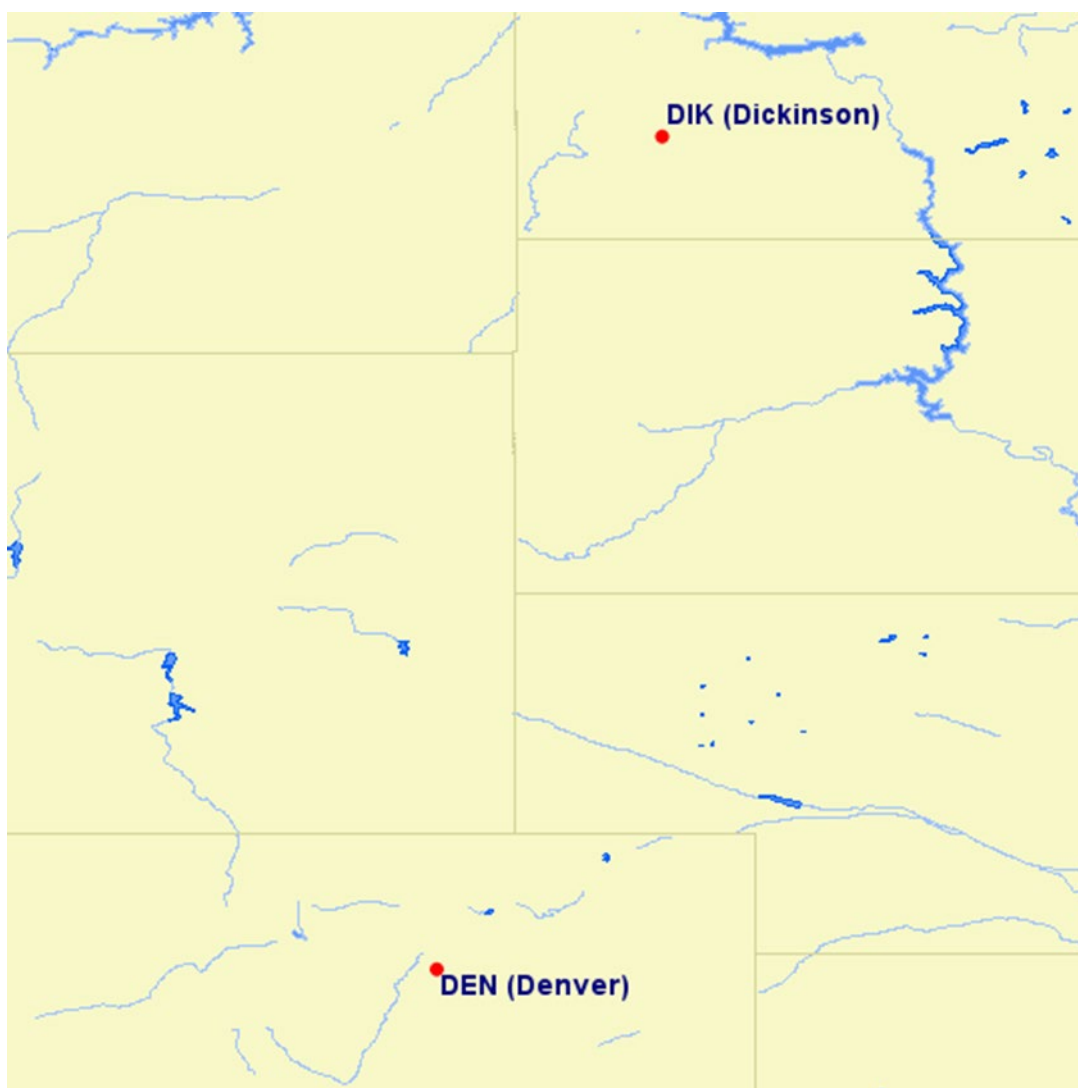
David E. Short
Deputy Assistant Secretary
Aviation and International Affairs

(SEAL)

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

⁵ The certifications are available online under "Reports and Publications" at <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

AREA MAP



Map generated by the Great Circle Mapper - copyright © Karl L. Swartz.

United Proposal at Dickinson

Proposed Schedule

<u>Segment</u>	<u>Depart</u>	<u>Arrive</u>	<u>Frequency</u>
DENDIK	13:35	15:15	Mon-Fri
DIKDEN	15:35	17:27	Mon-Fri
DENDIK	20:35	22:22	Daily
DIKDEN	8:30	10:22	Daily

*Schedule is shown for illustrative purposes only.
United Airlines reserves the right to change without notice.
All times are local.*

Flight Statistics (Annual)

Aircraft:	50 Seat Jet
Number of seats per departure:	50
Mileage:	488
Block Hours per departure:	1.8
Completion Rate:	98%
Departures:	1,226

Revenues

Passengers	46,873
Segment Fare	\$184
Total Passenger Revenue	\$8,624,633
Other Revenue	\$737,492
Total Revenue	\$9,362,126

Expenses

Flight & Pax Variable	\$8,543,367
Other	\$3,800,00
Total Expenses	\$12,343,367

Base Profit/(Loss)	(\$2,981,242)
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Subsidy Required	\$2,981,242
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Subsidy / Departure	\$2,431
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Subsidy / Passenger	\$63.60
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*Note: Expenses include the opportunity cost of alternate use of the aircraft time
Flight statistics, revenues, and expenses shown are annual*

United Airlines
Essential Air Service to be provided at Dickinson, North Dakota
DOT-OST-1995-697

<u>Annual Subsidy:</u>	\$2,981,242
<u>Contract Term:</u>	October 1, 2020, through September 30, 2022
<u>Hub:</u>	Denver International Airport (DEN)
<u>Scheduled Service:</u>	12 nonstop round trips per week
<u>Aircraft:</u>	50-seat regional jet
<u>Rate per Flight:</u> ¹	\$2,431
<u>Weekly Ceiling:</u> ²	\$58,344

Note: 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 this rate, 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 service levels, the carrier may cease to provide service to that specific location without regards 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 contract 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 may not be available for performance under this Order beyond September 30, 2020. The Government's obligation for performance under this Order beyond September 30, 2020, is subject to the availability of 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, 2020, until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond September 30, 2020, the Department will provide notice in writing to the carrier.

All claims for payment, including any amended claims, must be submitted within 90 days of the last day of the month for which compensation is being claimed. For example, claims for service provided in July must be filed by October 31; August claims must be submitted by November 30, and so on.

¹ Annual compensation of \$2,981,242 divided by 1,226 annual departures (24 weekly departures x 52 weeks x 98 percent completion + 3 departures).

² 24 arrivals and departures per week multiplied by \$2,431.