



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

Issued by the Department of Transportation
on the 17th day of June, 2020

Essential Air Service at

KEARNEY, NEBRASKA
(FAIN 69A3452060446)¹

DOT-OST-1996-1715

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 SkyWest Airlines, Inc., branded as United Express (SkyWest), to provide Essential Air Service (EAS) at Kearney, Nebraska, with 12 nonstop round trips per week to Chicago O'Hare International Airport (ORD) and/or Denver International Airport (DEN) using 50-passenger Bombardier CRJ-200 (CRJ-200) aircraft for a three-year contract term from September 1, 2020, through August 31, 2023, at an annual subsidy rate of \$3,638,264.²

Background

By Order 2017-12-23 (December 26, 2017), the Department selected SkyWest to provide EAS at Kearney with 12 nonstop round trips per week to DEN using CRJ-200 aircraft for the two-year contract term from August 1, 2018, through August 31, 2020, at an annual subsidy rate of \$3,675,276.

As the expiration of the current contract approached, the Department issued Order 2020-1-3 on January 7, 2020, requesting proposals from air carriers interested in providing EAS for a new contract term at the community. In response to that Order, SkyWest was the only air carrier to submit a proposal.

SkyWest's complete proposal and the community's comments may be accessed online at www.regulations.gov by entering the docket number DOT-OST-1996-1715 in the search block.

¹ FAIN = Federal Award Identification Number.

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

Proposal of SkyWest

SkyWest submitted a proposal for a three-year contract term to provide Kearney with 12 nonstop round trips per week to ORD or DEN, branded as United Express, using CRJ-200 aircraft, for an annual subsidy rate of \$3,638,264. SkyWest included plans for marketing in its proposal, at \$20,000 per year.

Community Comments

On February 13, 2020, the Department requested comments from the community of Kearney regarding this EAS carrier-selection case. In response, the Department received a letter dated February 20, 2020, from Stanley A. Clouse, Mayor of Kearney, supporting SkyWest's selection based on the factors the Department is directed to consider when selecting a carrier under 49 U.S.C. § 41732(c). The Mayor expressed that SkyWest's proposal was unanimously recommended by the Kearney City Council and the Kearney Air Transportation Committee.

Decision

Title 49 U.S.C. § 41733(c)(1) directs the Department to consider five factors when making an air carrier selection not in Alaska: (A) service reliability; (B) contractual and marketing arrangements with a larger air carrier at the hub; (C) 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 those users; and (E) whether the air carrier has included a plan in its proposal to market the service.

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

The Department notes that, prior to SkyWest's commencement of operations at Kearney, the community experienced a significant decrease in total annual passengers during the time period of fiscal year 2017, averaging 19.3 passengers per day. However, for fiscal year 2019³, after a little more than 12 months of SkyWest service, the average number of passengers increased to 58.0 per day. The increase in passengers reflects on SkyWest's reliability, and other improvements in the service. In addition, SkyWest's codeshare with United Airlines will provide passengers connectivity and global access through the DEN hub. Lastly, the Department notes that, with this selection, SkyWest's subsidy will have decreased by \$37,012 annually (\$3,638,264 annual subsidy for the new contract vs. \$3,675,276 annual subsidy for the previous contract), thus providing savings for the Federal Government.

Reminder About EAS Eligibility

To remain eligible for EAS, communities must comply with all applicable EAS eligibility requirements. Title 49 U.S.C. § 41731(a)(1)(C) states that, to be eligible for EAS, a community must have an average subsidy per passenger of less than \$1,000 during the most recent fiscal year, as determined by the Secretary of Transportation, or face termination of subsidy eligibility, regardless of distance to the hub airport. The \$1,000 subsidy per passenger limit applies to all EAS communities outside of Alaska and Hawaii.

³ For most of fiscal year 2018, Kearney Regional Airport was closed due to runway construction.

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 with 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. Kearney is subject to the Subsidy Cap.

The Department expects SkyWest and Kearney to work together to ensure that the community will comply with these requirements. 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 fit, willing, and able to provide reliable service before the Department may subsidize it to provide EAS. SkyWest 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 SkyWest is reliable and fit to conduct the operations proposed at Kearney.

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

ACCORDINGLY,

1. The Department selects SkyWest Airlines, Inc. to provide Essential Air Service at Kearney, Nebraska, from September 1, 2020, through August 31, 2023, and establishes the annual subsidy rate as described in Appendix B;
2. The Department makes this selection contingent upon receiving properly-executed certifications from SkyWest 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;⁴
3. The Department directs SkyWest 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

⁴ The certifications are available online under “Reports and Publications” at <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

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 SkyWest Airlines, Inc. is fit, willing, and able to operate as a certificated air carrier, and capable of providing reliable Essential Air Service at Kearney, Nebraska;

5. This docket will remain open pending further Department action; and

6. The Department will serve this Order on the mayor and city manager of Kearney, Nebraska, the airport manager of Kearney Regional Airport, and SkyWest 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

SkyWest Airlines
Essential Air Service Bid
2/11/2020

	EAR DEN/ORD
Number of round trips per week	12
Aircraft type	CRJ
Passenger Revenue	
Passengers	36,000
Average fare	\$ 94.00
Revenue	\$ 3,360,000
Block Time	
Trip block time (minutes)	101
Total scheduled block time	2,103
Total completed block time	2,035
RPMS	
Passengers	36,000
Stage length	467
Total RPMs	16,540,000
ASMs	
Scheduled departures	1,248
Completed departures	1,210
Stage length	467
Available Seats	50
Total ASMs	28,192,795
Marketing Costs	\$ 20,000
Direct operating expenses	\$ 5,098,952
RPM related	\$ 147,574
Departure related	\$ 1,164,708
ASM related	\$ 262,757
Total expenses	\$ 6,693,991
Operating income (loss)	\$ (3,333,991)
5% profit margin	\$ 304,272
Annual subsidy requirement	\$ 3,638,264
Effective Subsidy rate per unit	
Subsidy per trip	\$ 3,006
Subsidy per passenger	\$ 101
Load factor	59%

SkyWest Airlines, Inc.
Essential Air Service to be provided at Kearney, Nebraska
DOT-OST-1996-1715

<u>Annual Subsidy:</u>	\$3,638,264
<u>Contract Term:</u>	September 1, 2020, through August 31, 2023
<u>Hubs:</u>	Chicago O'Hare International Airport (ORD) <i>and/or</i> Denver International Airport (DEN)
<u>Scheduled Service:</u>	12 nonstop round trips per week
<u>Aircraft:</u>	50-passenger CRJ-200
<u>Rate per Flight:</u> ¹	\$3,006
<u>Weekly Ceiling:</u> ²	\$72,144

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 \$3,638,264 divided by 1,210 annual departures (24 weekly departures x 52 weeks x 97 percent completion).

² 24 arrivals and departures per week multiplied by \$3,006.