



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

Issued by the Department of Transportation
on the 27th day of September, 2022

Essential Air Service at

**EL DORADO/CAMDEN, ARKANSAS
HARRISON, ARKANSAS
HOT SPRINGS, ARKANSAS**

DOCKET DOT-OST-1997-2935

under 49 U.S.C. § 41731 *et seq.*

ORDER REQUESTING PROPOSALS

Summary

By this Order, the U.S. Department of Transportation (the Department) is requesting proposals from air carriers interested in providing Essential Air Service (EAS) at El Dorado/Camden, Harrison, *and/or* Hot Springs, Arkansas (El Dorado), for a new contract term beginning March 1, 2023, with or without subsidy. Proposals will be accepted for any one of these communities, all three communities, or any combination of the three communities. Air carriers should file proposals no later than October 27, 2022.

Background

By Order 2021-2-2 (February 4, 2021), the Department selected Southern Airways Express, LLC (Southern) to provide EAS at El Dorado, Harrison, and Hot Springs, Arkansas, using 9-seat Cessna Caravan or PC-12 aircraft for the two-year term from March 1, 2021 through February 28, 2023.

At El Dorado, Southern provides 14 weekly nonstop round trips to Dallas/Fort Worth International Airport (DFW) and four weekly nonstop round trips to Memphis International Airport (MEM), for a total of 18 weekly nonstop round trips, for the first-year annual subsidy of \$2,605,680 and the second-year annual subsidy of \$2,670,822. At Harrison, Southern provides 18 weekly nonstop round trips to DFW for the first-year annual subsidy of \$2,891,294 and \$2,963,576 for the second year. Finally, at Hot Springs, Southern provides 14 weekly nonstop round trips to DFW and four weekly nonstop round trips to MEM, for a total of 18 weekly nonstop round trips, for the first-year annual subsidy of \$2,719,768 and \$2,787,762 for the second-year annual subsidy.

By Order 2021-6-3 (June 2, 2021), the Department approved the request of Southern to alter its EAS pattern at Harrison, effective March 1, 2021, at no additional annual subsidy. The request

was supported by Harrison/Boone County, Arkansas. Under that order, Southern would operate 14 weekly round trips to DFW and four weekly round trips to MEM. At the time, Southern intended on shifting another two weekly frequencies to DFW in Fall 2021 as demand dictates.

The complete public file for EAS at the three communities may be accessed online through the Federal Docket Management System at www.regulations.gov by entering the community's docket number in the "Search" field.

Request for Proposals: General Requirements

The Department is requesting proposals from air carriers interested in providing EAS at El Dorado, Harrison, *and/or* Hot Springs, Arkansas, with subsidy, if necessary, for a new contract period beginning March 1, 2023. Proposals will be accepted for any one of these communities, all three communities, or any combination of the three communities. Air carriers should file their proposals no later than October 27, 2022.

The Department expects clear, well-documented proposals that will facilitate their evaluation by the community and the EAS team.¹ Air carrier proposals should be submitted to the Department with all materials merged into a single document. In addition, proposals should be formatted to be viewed online. In order to evaluate air carrier proposals, the Department requires that air carriers adequately describe the service being proposed and the annual amount of subsidy being requested, if any. The Department requests that proposals include information concerning proposed schedules, projected block hours, and financial data supporting subsidy requests including information on projected expenses and revenues. In cases where an air carrier proposes to provide EAS without subsidy and the Department determines that basic EAS, as required by 49 U.S.C. § 41732, can be reliably provided without such compensation, the Department typically will not proceed with the air carrier selection case. Instead, the Department will simply rely on that air carrier's subsidy-free service as proposed. Lastly, the Department expects that air carriers will have completed due diligence regarding any community-specific operational requirements. Air carriers should prepare their proposals with every expectation that, should they be selected by the Department, they will be able to commence full EAS as described in their proposal on the first day of the new contract term.

Interested air carriers should prepare their proposals with the understanding that their initial proposals will represent their *final* and *only* proposals. However, the Department retains the discretion to negotiate proposals with air carriers when it deems it desirable; in such cases, the Department will give all applicants the same opportunity. The Department also retains the discretion to re-solicit a new round of proposals, in the event that proposals received are rejected due to being unreasonable or unrealistic.

¹ In selecting an air carrier to provide subsidized EAS for an eligible place not in Alaska, 49 U.S.C. § 41733(c)(1) directs the Department to consider five factors: (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 EAS, giving substantial weight to the views of the elected officials representing the users; and (E) whether the air carrier has included a plan in its proposal to market its EAS to the community. The Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (March 15, 2022), authorizes the Department to consider the relative subsidy requirements of the applicant air carriers. Interested air carriers should also be aware that the 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.

Proposals should provide sufficient capacity to accommodate historical levels of traffic with, as a general matter, service up to two airports that provide numerous connecting opportunities to the national air transportation system.² When crafting a proposal, the air carrier should ensure that the proposed hub best meets the air service needs of the community. In order to assist air carriers in developing traffic and revenue projections for their proposals, the Department has provided a summary of recent historical passengers in Appendix B.³ The Department encourages air carriers to work with the communities as they prepare their proposals in order to craft a service proposal that meets the community's needs with subsidy requirements that remain competitive. The Department will fully consider the views of the communities and State before making an air carrier decision.

Air carriers may propose more than one service option. They can also propose service options different from what the communities currently receive—lengths of contract terms or hub airports, for example. However, proposals should have at least one option that complies with the weekly capacity described below, and compliant with all legal requirements.

Air carriers should note that it is a federal crime to knowingly and willfully make materially false, fictitious, or fraudulent statements, entries, or representations in an EAS proposal submitted to the Department.⁴

Request for Proposals: Specific Requirements

The Department expects proposals that meet basic EAS requirements and are consistent with what El Dorado, Harrison and Hot Springs currently receive, which is 14 to 18 weekly round trips in aircraft seating 8-9 passengers. If 30- to 50-seat aircraft is contemplated, the Department will consider frequencies of 12 weekly round trips.

Community requests for certain waivers

Title 49 U.S.C. § 41732(c) states: “Notwithstanding section 41733(e), upon request by an eligible place, the Secretary may waive, in whole or in part, subsections (a) and (b) of this section or subsections (a) through (c) of section 41734. A waiver issued under this subsection shall remain in effect for a limited period of time, as determined by the Secretary.” For example, a community could request a waiver from the Department for its air carrier to provide fewer than two daily round trips six days per week⁵ if it is a highly seasonal market and doing so would facilitate a more reasonable subsidy rate or would better match the community's demand. A

² Ordinarily, where the proposal is for EAS from the community to one airport, that airport must be a medium- or large-hub, and where the proposal is for EAS to two airports, at least one of those airports must be a medium- or large-hub. See 49 U.S.C. § 41732(a)(1) and 14 CFR 398.2(b)(1). However, service to a small-hub or nonhub airport is acceptable for basic EAS if the nearest hub airport is more than 400 miles from the eligible place. See 49 U.S.C. § 41732(a)(2). In some cases, the Department may require service to two hubs, at least one of which must be a large- or medium-hub. See 14 CFR 398.2(b)(3). In the case of a community receiving two total round trips per day, the Department expects that at least one round trip per day will be to a medium- or large-hub airport, as medium- and large-hub airports provide better access to the national air transportation system. Hub classifications are provided by the Federal Aviation Administration at https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/.

³ Source: Bureau of Transportation Statistics, Schedule T-100.

⁴ See 18 U.S.C. § 1001.

⁵ 49 U.S.C. § 41732(b)(1)(A).

community could also request a waiver from the requirement for air carriers to provide service with at least two engines and using two pilots.⁶ Waiver requests by the community may be submitted with an air carrier's proposal or during the community comment period, after proposals are received.

Community and State Comments

The El Dorado, Harrison and Hot Springs communities and the State of Arkansas are welcome to submit comments at any time. The Department encourages interested air carriers to contact the communities *before* they submit their proposals so that they can tailor them to each of the community's needs, as they will not be able to amend them after the due date. After the due date, the proposals will be uploaded to www.regulations.gov, thereby making them public. Shortly afterwards, the Department will notify the communities of the proposals and ask them to submit their comments by a specific date.

Other Air Carrier Requirements

The Department is responsible for implementing various federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁷ Consequently, all air carriers receiving subsidy for EAS must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those air carriers whose subsidies exceed \$100,000 over the life of the contract must also certify that they are in compliance with the regulations governing lobbying activities. Because the Department is prohibited from paying subsidy to air carriers that do not submit these documents, all air carriers that plan to submit proposals involving subsidy should be aware that the selected air carrier will be required to complete the required certifications. Interested air carriers requiring more detailed information regarding these requirements should contact the Office of Aviation Analysis at (202) 366-5903.⁸

This Order is issued under authority delegated by the Secretary of Transportation in 49 CFR 1.25a(b)(6)(ii)(D) and re-delegated to the Director, Office of Aviation Analysis.

ACCORDINGLY,

1. The Department requests that air carriers interested in providing Essential Air Service at El Dorado, Harrison *and/or* Hot Springs, Arkansas submit their proposals, with or without subsidy, no later than October 27, 2022. The proposals should be e-mailed to: EAS@dot.gov and michael.gormas@dot.gov with the subject line "Proposal to Provide EAS at El Dorado, Harrison and Hot Springs, Arkansas";⁹

⁶ 49 U.S.C. § 41732(b)(5).

⁷ 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; (3) 49 CFR Part 32 – Governmentwide requirements for drug free workplace; and (4) 2 CFR Part 1200 – Government-wide debarment and suspension (non-procurement).

⁸ The certifications are available online under "Reports and Publications" at <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

⁹ Questions regarding filings in response to this Order may be directed to Mr. Michael Gormas at (202) 366-1853 or michael.gormas@dot.gov.

2. This docket will remain open until further Order of the Department; and
3. The Department will serve this Order on the civic officials of El Dorado/Camden, Harrison, and Hot Springs, Arkansas, the airport managers of the South Arkansas Regional Airport at Goodwin Field (El Dorado/Camden), Boone County Regional Airport (Harrison), and Hot Springs Memorial Field Airport, and the courtesy distribution list for requests for proposals for EAS communities.

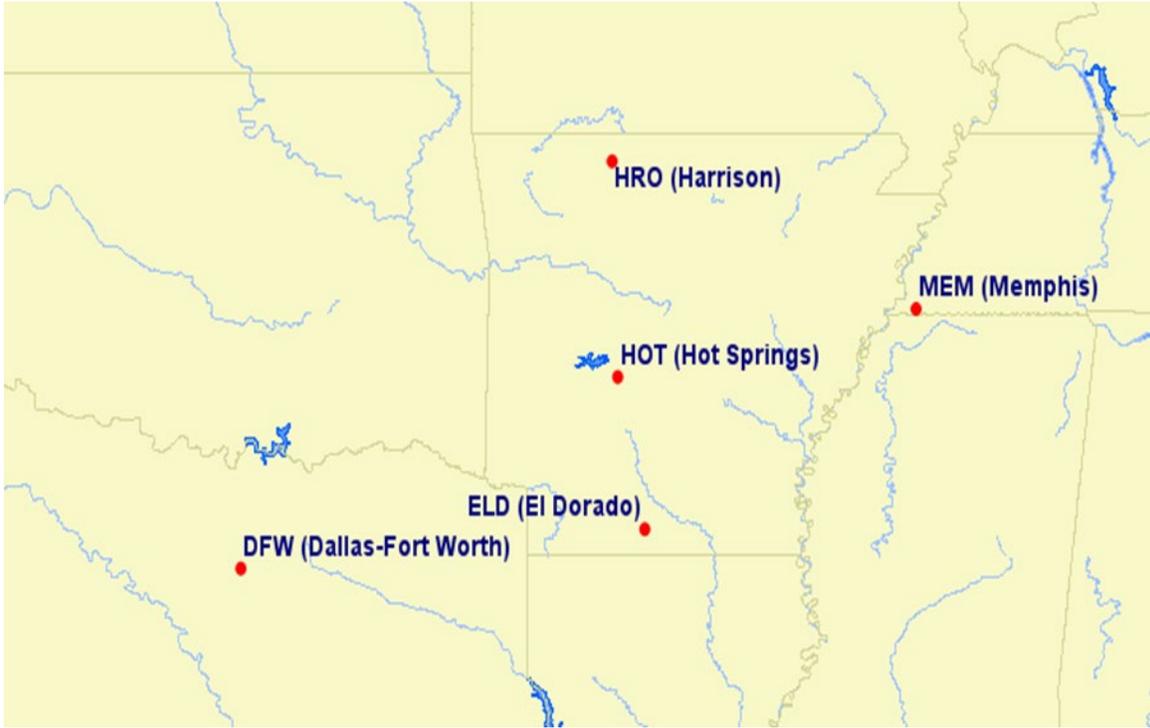
By:

TODD M. HOMAN
Director
Office of Aviation Analysis

(SEAL)

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

AREA MAP



Map generated by the [Great Circle Mapper](#) - copyright © [Karl L. Swartz](#)

Passenger Traffic at El Dorado, AR¹

CityMarketName_1 El Dorado, AR				
Sum of T110_Rpax		Direction		
Year	Month	Deplanements	Enplanements	Grand Total
2020	1	302	292	594
	2	246	222	468
	3	177	188	365
	4	39	33	72
	5	103	133	236
	6	230	212	442
	7	186	202	388
	8	178	184	362
	9	220	245	465
	10	251	249	500
	11	219	236	455
	12	201	231	432
2020 Total		2352	2427	4779
2021	1	169	156	325
	2	102	115	217
	3	193	256	449
	4	245	248	493
	5	267	302	569
	6	306	326	632
	7	295	318	613
	8	243	233	476
	9	262	272	534
	10	255	253	508
	11	316	309	625
	12	278	290	568
2021 Total		2931	3078	6009
2022	1	180	171	351
	2	213	229	442
	3	314	326	640
	4	327	343	670
	5	405	428	833
	6	357	348	705
2022 Total		1796	1845	3641

¹ Source: Bureau of Transportation Statistics: Schedule T-100 Market data.

Passenger Traffic at Harrison, AR

CityMarketName_1 Harrison, AR					
Sum of T110_Rpax		Direction			
Year	Month	Deplanements	Enplanements	Grand Total	
2020	1	348	355	703	
	2	348	373	721	
	3	245	259	504	
	4	66	79	145	
	5	157	171	328	
	6	305	311	616	
	7	317	303	620	
	8	281	296	577	
	9	314	319	633	
	10	372	358	730	
	11	327	349	676	
	12	330	320	650	
2020 Total		3410	3493	6903	
2021	1	244	254	498	
	2	150	174	324	
	3	337	337	674	
	4	370	376	746	
	5	428	420	848	
	6	470	465	935	
	7	470	494	964	
	8	403	418	821	
	9	419	425	844	
	10	440	448	888	
	11	432	470	902	
	12	436	480	916	
2021 Total		4599	4761	9360	
2022	1	353	360	713	
	2	284	293	577	
	3	438	474	912	
	4	453	449	902	
	5	523	538	1061	
	6	512	515	1027	
2022 Total		2563	2629	5192	

Passenger Traffic at Hot Springs, AR

CityMarketName_1 Hot Springs, AR					
Sum of T110_Rpax		Direction			
Year	Month	Deplanements	Enplanements	Grand Total	
2020		1	348	354	702
		2	365	379	744
		3	243	237	480
		4	55	48	103
		5	136	139	275
		6	246	245	491
		7	273	253	526
		8	281	275	556
		9	306	279	585
		10	279	278	557
		11	282	268	550
		12	247	265	512
2020 Total		3061	3020	6081	
2021		1	226	215	441
		2	157	141	298
		3	322	329	651
		4	360	359	719
		5	407	447	854
		6	444	456	900
		7	442	458	900
		8	387	415	802
		9	331	350	681
		10	420	406	826
		11	406	393	799
		12	403	374	777
2021 Total		4305	4343	8648	
2022		1	278	256	534
		2	293	281	574
		3	401	424	825
		4	436	441	877
		5	464	452	916
		6	453	493	946
2022 Total		2325	2347	4672	

Example of General Terms and Conditions for Essential Air Service

The air 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 air 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 air 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 air 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 air carrier to provide service on these routes. The air 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 air 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 air 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 may not be available for performance under this Order beyond [DATE]. The Government's obligation for performance under this Order beyond [DATE], 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 [DATE], until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond [DATE], the Department will provide notice in writing to the air 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 31st; August claims must be submitted by November 30th, and so on.