



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

Issued by the Department of Transportation
on the 7th day of April, 2021

Essential Air Service at

ALLIANCE, NEBRASKA
(FAIN 69A3452160475)¹

DOT-OST-2000-8322

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 Key Lime Air Corp. d/b/a/ Denver Air Connection (DAC) to provide Essential Air Service (EAS) at Alliance, Nebraska, using 9-seat Fairchild Metroliner 23 aircraft, for the two-year term from June 1, 2021 through May 31, 2023. DAC will provide 12 weekly round trips to Denver International Airport (DEN) at a first-year annual subsidy amount of \$2,396,291, and a second-year annual subsidy of \$2,444,216.

Background

By Order 2019-3-6 (March 14, 2019), the Department selected DAC to provide EAS at Alliance for the two-year period from June 1, 2019, through May 31, 2021, using 9-seat Fairchild Metroliner 23 aircraft, at an annual subsidy rate of \$2,299,631. In anticipation of the end of the current rate term, the Department issued Order 2020-11-8 (November 16, 2020), soliciting proposals to provide EAS, with or without subsidy, at Alliance for a new contract period.² In response to the Department's request, Boutique Air, Inc., (Boutique), DAC, SkyWest Airlines (SkyWest), and Southern Airways Express, LLC (Southern) submitted proposals for consideration. Those proposals are summarized below.

¹ FAIN = Federal Award Identification Number.

² Order 2020-11-8 also solicited proposals for EAS at Chadron, Nebraska, which is being addressed in a separate Order.

Summary of Air Carrier Proposals

Boutique										
Service Option	Annual Subsidy (Year 1)	Annual Subsidy (Year 2)	Annual Subsidy (Year 3)	Annual Subsidy (Year 4)	Community Support?	Hub(s)	Round Trips per Week	Aircraft	Seats	Interline/Codeshare
1	\$2,366,482	\$2,413,811	\$2,462,087	\$2,511,328	No	DEN	12	PC-12	8-9	Yes
2	\$2,393,439	\$2,441,307	\$2,490,133	\$2,539,935	No	DEN/OMA	8-DEN / 4-OMA	PC-12	8-9	Yes
DAC										
Service Option	Annual Subsidy (Year 1)	Annual Subsidy (Year 2)	Annual Subsidy (Year 3)	Annual Subsidy (Year 4)	Community Support?	Hub(s)	Round Trips per Week	Aircraft	Seats	Interline/Codeshare
1	\$2,396,291	\$2,444,216	\$2,444,216	\$2,444,216	Yes	DEN	12	Metro 23	9	Yes
2	\$3,509,447	\$3,579,636	\$3,579,636	\$3,579,636	No	DEN	12	DO328 or ERJ-145	30/50	Yes
SkyWest										
Service Option	Annual Subsidy (Year 1)	Annual Subsidy (Year 2)	Annual Subsidy (Year 3)	Annual Subsidy (Year 4)	Community Support?	Hub(s)	Round Trips per Week	Aircraft	Seats	Interline/Codeshare
1	\$3,283,507	\$3,283,507	\$3,283,507	N/A	No	DEN	12	CRJ-200	50	Yes
Southern										
Service Option	Annual Subsidy (Year 1)	Annual Subsidy (Year 2)	Annual Subsidy (Year 3)	Annual Subsidy (Year 4)	Community Support?	Hub(s)	Round Trips per Week	Aircraft	Seats	Interline/Codeshare
1	\$2,576,467	\$2,640,879	N/A	N/A	No	DEN	12	King Air 200	9	Yes

Each air carrier included plans for marketing their service with the proposals.

The proposals, as well as the community’s entire docket, may be accessed online at www.regulations.gov by entering “DOT-OST-2000-8322” in the search field.

Community and State Comments

In a letter dated February 17, 2021, Ms. Lynn Placek, Airport Director for the City of Alliance, stated:

After careful consideration, we recommend to the DOT that Denver Air Connection be awarded the EAS contract for Alliance for the two-year period beginning June 1, 2021, at the option 1 (Twin Turbo Service) annual subsidy level. Denver Air Connection has demonstrated its commitment to quality small community service by working with us to promote flying Alliance. DAC will continue to provide Alliance with two dedicated aircraft, an optimum schedule, United ticket and bag agreement, and almost unlimited baggage capability. They have operated in Alliance with an amazing completion and on-time performance rates.

The letter was accompanied by Resolution 21-19 confirming this decision, which was signed by Mayor Mike Dafney of Alliance.

Decision

Title 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 EAS 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 EAS, 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 EAS. In addition, Section 41732(b)(1)(A) requires basic EAS to include at least two daily round trips six days a week for an eligible place not in Alaska. Finally, the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (December 27, 2020), authorizes the Department to consider the relative subsidy requirements of the applicant air carriers.

DAC's option one proposal meets the air carrier selection criteria the Department is required to consider, and the Department finds its service and subsidy levels reasonable. Therefore, the Department is selecting DAC for a new, two-year term.⁴

DAC serves several EAS communities and has earned a solid reputation for providing reliable EAS. DAC's interline agreement will provide Alliance passengers connectivity and access to the national air transportation system, and DAC commits \$20,000 to marketing the service at Alliance. Lastly, DAC's proposal is supported by the community's officials.

Reminder About EAS Eligibility

To remain eligible for EAS, communities must comply with all applicable EAS eligibility requirements. We note that many of the traditional eligibility requirements, including those below, were waived for Fiscal Years 2020 and 2021 by the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (December 27, 2020). However, unless waived by Congress for future fiscal years, compliance with these eligibility requirements will resume at the beginning of Fiscal Year 2022.

Title 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. Alliance is not subject to this requirement, because it is more than 175 miles from the nearest large or medium hub airport.

Further, the Department of Transportation and Related Agencies Appropriations Act, 2000, Pub. L. No. 106-69 (October 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

³ The Department did not receive any proposals to provide EAS at Alliance without subsidy.

⁴ Although DAC's option one proposal was for three years, we are only selecting DAC for two years.

nearest large or medium hub airport. Alliance is not subject to this requirement, because it is more than 210 miles from the nearest large or medium hub airport. EAS communities, except for those in Alaska and Hawaii, are subject to an additional \$1,000 subsidy per passenger cap, regardless of the distance to a hub airport.⁵

The Department expects DAC and Alliance to work together to ensure that the community will comply with the applicable 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 reliable, fit, willing, and able to provide reliable service before the Department may subsidize it to provide EAS. DAC 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 the Department's fitness findings. The Department therefore concludes that DAC is reliable and fit to conduct the operations proposed at Alliance.

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 Key Lime Air Corp. d/b/a/ Denver Air Connection to provide Essential Air Service at Alliance, Nebraska, from June 1, 2021 through May 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 Key Lime Air Corp. d/b/a/ Denver Air Connection that it is in compliance with the Department's regulations regarding drug-free workplaces and nondiscrimination, as well as the regulations concerning lobbying activities;⁶
3. The Department directs Key Lime Air Corp. d/b/a/ Denver Air Connection 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

⁵ See 49 U.S.C. § 41731(a)(1)(C).

⁶ The certifications are available online under "Reports and Publications" at <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

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 Key Lime Air Corp. d/b/a/ Denver Air Connection is fit, willing, and able to operate as a commuter air carrier, and capable of providing reliable Essential Air Service at Alliance, Nebraska;

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

6. The Department will serve this Order on the mayor of Alliance, Nebraska, the Airport Director of the City of Alliance, Key Lime Air Corp. d/b/a/ Denver Air Connection, Boutique Air, Inc., SkyWest Airlines, Inc., and Southern Airways Express, LLC.

By:

Joel Szabat
Deputy Assistant Secretary
for Aviation and International Affairs

(SEAL)

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



Bid Proposal - Alliance Option 1 (Twin Turbo Service)

This bid is for a dedicated aircraft based in Alliance, Nebraska. The proposal is for a two-year term with a four-year option. To incentivize the four-year option, years three and four will carry no subsidy increase.

EAS Alliance, NE	
December 31, 2020	
	<u>AIA-DEN</u>
Number of round trips per week	12
Aircraft Data	
	Metro 23
Block Hours	1,252
Load Factor	49%
Passenger Revenue	
Passengers	5,478
Average Fare	<u>65.00</u>
Revenue	356,070
Expenses	
Aircraft Lease	162,000
Crew Cost	826,329
Maintenance	172,299
Insurance	159,294
DEN Operating Expense	303,393
AIA Operating Expense	198,600
Overhead/Supplies/Staff	307,000
Deice, Catering and Misc.	26,221
Advertising	20,000
Fuel Cost	<u>446,160</u>
Total Expense	2,621,296
Annual Subsidy Requirement	
Operating Income	(2,265,226)
Profit (5%)	<u>131,065</u>
Subsidy Year 1	2,396,291
Subsidy Year 2	2,444,216
Subsidy Year 3	2,444,216
Subsidy Year 4	2,444,216
Effective Subsidy Rates	
Subsidy per Trip (98% completion)	1,959
Subsidy per Passenger	437

**Key Lime Air Corp. d/b/a/ Denver Air Connection
Essential Air Service to be provided at Alliance, Nebraska
DOT-OST-2000-8322**

<u>Annual Subsidy:</u>	\$2,396,291 (June 1, 2021 through May 31, 2022); \$2,444,216 (June 1, 2022 through May 31, 2023)
<u>Contract Term:</u>	Two years
<u>Scheduled Service:</u>	12 weekly round trips to Denver International Airport (DEN)
<u>Aircraft:</u>	Fairchild Metroliner 23 (9 seats)
<u>Rate per Flight:</u> ¹	\$1,959 (June 1, 2021 through May 31, 2022); \$1,999 (June 1, 2022 through May 31, 2023)
<u>Weekly Ceiling:</u> ²	\$47,016 (June 1, 2021 through May 31, 2022); \$47,976 (June 1, 2022 through May 31, 2023)

Note: 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 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 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 service amounts, 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 September 30, 2021. The Government's obligation for performance under this Order beyond September 30, 2021, 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, 2021 until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond September 30, 2021, 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 31; August claims must be submitted by November 30, and so on.

¹ Annual compensation of \$2,396,291 divided by 1,223 annual flights (24 flights per week x 52 weeks x 98% completion factor) in year one. \$2,444,216 divided by 1,223 annual flights (24 flights per week x 52 weeks x 98% completion factor) in year two.

² 24 flights per week multiplied by \$1,959 in year one; 24 flights per week multiplied by \$1,999 in year two.