



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

Issued by the Department of Transportation
on the 16th day of March, 2023

Essential Air Service at

CHADRON, NEBRASKA
(FAIN 69A3452360503)¹

under 49 U.S.C. § 41731 *et seq.*

DOT-OST-2000-8322

ORDER SELECTING AIR CARRIER

Summary

By this Order, the U.S. Department of Transportation (the Department) is selecting Southern Airways Express, LLC (Southern) to provide Essential Air Service (EAS) at Chadron, Nebraska, using 9-seat King Air 200 (KA-200) or Pilatus PC-12 (PC-12) aircraft, for the two-year term from June 1, 2023, through May 31, 2025. Southern will provide 12 weekly round trips to Denver International Airport (DEN) at a first-year annual subsidy amount of \$3,559,096, and a second-year annual subsidy of \$3,648,073.²

Background

By Order 2021-4-6 (April 7, 2021), the Department selected Southern to provide EAS at Chadron using 9-seat King Air 200 aircraft, for the two-year term from June 1, 2021, through May 31, 2023, at an annual subsidy of \$2,737,716 in year one, and a subsidy of \$2,806,159 in year two. In anticipation of the end of the current rate term, the Department issued Order 2022-11-17 (November 9, 2022), soliciting proposals from air carriers to provide EAS, with or without subsidy, at Chadron for a new contract period.³ In response to the Department's request, Southern submitted a proposal for consideration, which is summarized below.

¹ FAIN = Federal Award Identification Number.

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

³ Order 2022-11-17 also solicited proposals for EAS at Alliance, Nebraska, which is being addressed in a separate order.

Summary of Air Carrier Proposals

Southern										
<u>Service Option</u>	<u>Annual Subsidy (Year 1)</u>	<u>Annual Subsidy (Year 2)</u>	<u>Annual Subsidy (Year 3)</u>	<u>Annual Subsidy (Year 4)</u>	<u>Community Support?</u>	<u>Hub(s)</u>	<u>Round Trips per Week</u>	<u>Aircraft</u>	<u>Seats</u>	<u>Interline/Codeshare</u>
A	\$3,109,828	\$3,187,574	\$3,267,263	\$3,348,945	Yes	DEN	12	C-208	8-9	Yes
B	\$3,559,096	\$3,648,073	\$3,739,275	\$3,832,757	Yes	DEN	12	KA-200 or PA-12	8-9	Yes

The complete public file, including air carrier proposals, for EAS at Chadron 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.

Community and State Comments

In a letter dated January 18, 2023, Mr. Tom Menke, Interim City Manager for the City of Chadron, states: “The City of Chadron would recommend that you accept [Southern] as the Essential Air Service carrier for Chadron. Furthermore, we will ask for [Department EAS staff] to make the recommendation for which option would work best taking into consideration the availability of pilots and aircraft.” The Department also received Resolution Number 2023-05 from the City Council of Chadron affirming the city government’s decision to support Southern’s proposal for EAS.

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:⁴ (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 its EAS to the community. 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, 2023, Pub. L. No. 117-328 (December 29, 2022), authorizes the Department to consider the relative subsidy requirements of the applicant air carriers. As stated in the support letter from Mr. Menke, the community asked the Department to weigh the available options in Southern’s proposal and select the one deemed most appropriate. After thoughtful consideration, the Department selects Option B in Southern’s proposal.

Although Southern’s Option B requires a slightly higher subsidy than Option A, the Department considered that the somewhat higher subsidy amount was offset by the performance of the KA-200 and PC-12 aircraft. Chadron’s geographic region is known for inclement weather in the winter months, as described by community officials to DOT EAS program staff, and the

4 The Department did not receive any proposals to provide EAS at Chadron without subsidy.

pressurized cabin features of the two aircraft types allow the aircraft to operate in a wider variety of altitudes.

Southern's 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 Southern for a new, two-year term.

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, do not apply for Fiscal Year 2023, by the Consolidated Appropriations Act, 2023, Pub L. No. 117-328 (December 29, 2022).⁵ However, unless waived by Congress for future fiscal years, compliance with these eligibility requirements will resume at the beginning of Fiscal Year 2024 (October 1, 2023).

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. Chadron 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 nearest large- or medium-hub airport. Chadron 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, must have had an average subsidy per passenger of less than \$1,000 during the most recent fiscal year, regardless of the distance to the nearest large- or medium-hub airport.⁶

The Department expects Southern and Chadron 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 fit, willing, and able to provide reliable service before the Department may subsidize it to provide EAS.

⁵ The same requirements to maintain eligibility for EAS also did not apply Fiscal Years 2020 and 2021 by the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (December 27, 2020), and for Fiscal Year 2022 by the Consolidated Appropriations Act, Pub L. No. 117-103 (March 15, 2022).

⁶ See 49 U.S.C. § 41731(a)(1)(C).

Southern 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 Federal Aviation Administration has not raised concerns that would negatively affect the Department's fitness findings. The Department therefore concludes that Southern remains fit to conduct the operations proposed at Chadron.

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 Southern Airways Express, LLC to provide Essential Air Service at Chadron, Nebraska, from June 1, 2023, through May 31, 2025, in accordance with the proposal set forth in Appendix A, and establishes the annual subsidy rate as described in Appendix B;
2. The Department makes this selection contingent upon receiving properly-executed certifications from Southern Airways Express, LLC that it is in compliance with the Department's regulations regarding drug-free workplaces and nondiscrimination, as well as the regulations concerning lobbying activities;⁷
3. The Department directs Southern Airways Express, LLC 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 Southern Airways Express, LLC is fit, willing, and able to perform Essential Air Service at Chadron, Nebraska;
5. This docket will remain open pending further Department action; and

⁷ The certifications are available online under "Reports and Publications" at <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

6. The Department will serve this Order on the mayor of Chadron, Nebraska, the Interim City Manager of the City of Chadron, and Southern Airways Express, LLC.

By:

Carol A. (Annie) Petsonk
Assistant Secretary
for Aviation and International Affairs

(SEAL)

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

Southern Airways Express – Proposals for Chadron, NE

	Option B
	KA-200 or PC-12
Weekly Round Trips	
CDR-DEN	12
Total	12
Operating Revenues	
CDR-DEN	\$533,250
Total Operating Revenues	\$533,250
Operating Expenses	
Flying Operations	\$1,284,742
Fuel and Into Plane	\$812,326
Maintenance	\$548,861
Aircraft	\$720,400
Indirect	\$531,142
Total Operating Expenses	\$3,897,472
Operating Loss	\$3,364,222
Profit Element (5%)	\$194,874
Compensation Required	\$3,559,096
Compensation per Departure	\$2,894
Annual Seats	11,070
Annual Passengers	6,750
Load Factor	61%
Departures	1,230
Average Fare	\$79
Completion Factor	98.50%
Compensation Required Year 1	\$3,559,096
Compensation Required Year 2	\$3,648,073
Compensation Required Year 3	\$3,739,275
Compensation Required Year 4	\$3,832,757

Southern Airways Express, LLC
Essential Air Service to be provided at Chadron, Nebraska
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<u>Annual Subsidy:</u>	\$3,559,096 (June 1, 2023, through May 31, 2024) \$3,648,073 (June 1, 2024, through May 31, 2025)
<u>Contract Term:</u>	Two years, as noted above
<u>Hub(s)</u>	Denver International Airport (DEN)
<u>Scheduled Service:</u>	12 weekly round trips
<u>Aircraft/Seats:</u>	King Air 200 or Pilatus PC-12 (8-9 seats) ¹
<u>Subsidy Rate per Flight:</u> ²	\$2,896 (June 1, 2023, through May 31, 2024) \$2,968 (June 1, 2024, through May 31, 2025)
<u>Weekly Ceiling:</u> ³	\$69,504 (June 1, 2023, through May 31, 2024) \$71,232 (June 1, 2024, through May 31, 2025)

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, 2023. The Government's obligation for performance under this Order beyond September 30, 2023, is subject to the availability of funds from which payment for

1 If Cessna Caravan C-208 aircraft are used on a substitute basis, those flights will be compensated at 50 percent of the rate per eligible flight. Southern should mark those flights as "0.5" in the claims payment system.

2 Annual compensation of \$3,559,096 divided by 1,229 annual flights (24 flights per week x 52 weeks multiplied by 98.5 percent completion) in year one. \$3,648,073 divided by 1,229 annual flights (24 flights per week x 52 weeks multiplied by 98.5 percent completion) in year two.

3 24 flights per week multiplied by \$2,896 in year one. 24 flights per week multiplied by \$2,968 in year two.

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, 2023, until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond September 30, 2023, 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.