



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

Issued by the Department of Transportation
on the 27th of February, 2020

Essential Air Service at

**THIEF RIVER FALLS, MINNESOTA (FAIN
69A3452060483)¹**

DOCKET DOT-OST-2001-10642

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), at Thief River Falls, Minnesota (TVF), for the two-year term from June 1, 2020, through May 31, 2022. DAC will provide Thief River Falls with 12 weekly nonstop round trips to Minneapolis-St. Paul International Airport (MSP) with 30-seat Dornier 328 jet aircraft or 50-seat Embraer ERJ-145LR regional jet aircraft at a first-year annual subsidy of \$3,956,517, and a second-year annual subsidy of \$4,035,647.²

Background

By Order 2018-1-17 (January 29, 2018), the Department selected Boutique Air, Inc. (Boutique) to provide EAS at Thief River Falls from June 1, 2018, through May 31, 2020, at an annual subsidy rate of \$3,350,312 for the first year and \$3,434,069 for the second year. Under the terms of that Order, Boutique provides Thief River Falls with 18 weekly nonstop round trips to MSP, using 8 or 9-seat Pilatus PC-12 aircraft.

As the end of the current contract approached, the Department issued Order 2019-10-6 (October 10, 2019), requesting proposals from interested air carriers for a new term. In response to that Order, Multi-Aero, Inc. d/b/a Air Choice One, Boutique, DAC, and Southern Airways Express, LLC submitted proposals for consideration.

¹ Federal Award Identification Number.

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

Summary of Proposals

Air Choice One, 19-seat Beechcraft 1900 w/9-seats		Two or Four-Year Selection				
	Hub	Weekly Round Trips	Year 1	Year 2	Year 3	Year 4
	Minneapolis	18	\$3,758,409	\$3,871,161	\$3,987,296	\$4,106,915
· Allocating \$50k annually for marketing						
· Has full-time marketing department to ensure visibility across social networks and news outlets						
Note: Proposed Alternate EAS but community did not apply for it.						
Boutique Air, 8/9-seat Pilatus PC-12 aircraft						
	Hub	Weekly Round Trips	Year 1	Year 2		
	Minneapolis	18	\$3,517,843	\$3,605,789		
· Allocating \$20k annually for marketing						
· Interline agreements with American and United						
· Connection in place with GDSs (Sabre, Worldspan, etc.) and OTAs (Expedia, Travelocity, etc.)						
Denver Air Connection, 30-seat Dornier 328 jet or 50-seat ERJ-145 jet						
	Hub	Weekly Round Trips	Year 1	Year 2		
	Minneapolis	12	\$3,956,517	\$4,035,647		
· Allocating \$20k annually for marketing						
· Interline agreement with United						
· Connection in place with GDSs (Sabre, Worldspan, etc.) and OTAs (Expedia, Travelocity, etc.)						
Southern Airways Express, 9-seat Cessna Caravan aircraft						
	Hub	Weekly Round Trips	Year 1	Year 2		
Option A	Minneapolis	18	\$3,395,821	\$3,497,696		
Option B	Minneapolis	21	\$3,613,852	\$3,722,268		
· Allocating \$50k annually for marketing including using its marketing budget to promote its service on all major distribution channels (Sabre, Worldspan, etc.) and OTAs (Expedia, Travelocity, etc.)						
· Interline agreements with American, Condor, and Alaska Airlines						

The detailed proposals, as well as the community’s entire docket, may be accessed online at www.regulations.gov by entering “DOT-OST-2001-10642” in the search field.

Community Comments

On November 13, 2019, the Department solicited comments regarding this air carrier selection case. In a letter to the Department dated December 12, 2019,³ Mr. Joe Hedrick, Airport Manager of Thief River Falls Regional Airport, expressed support for DAC. Mr. Hedrick listed the factors the Department considers while making an EAS air carrier selection, citing reliability as being the most important for the Airport Authority, and stating, “[a]s experienced with the community’s previous airlines, without reliability - qualities such as aircraft type, frequency, interline arrangements, or the subsidy required - are meaningless.”

³ The full letter can be accessed at: <https://www.regulations.gov/document?D=DOT-OST-2001-10642-0139>.

Mr. Hedrick further stated that Boutique managed 90 percent reliability for the current calendar year (2019) and that 82 percent of the cancellations were the result of a controllable situation (mechanical, pilot supply, etc.). For 2018, Mr. Hedrick stated that Boutique performed marginally better at 91 percent completion, with 86 percent of the cancellations due to circumstances within Boutique's control. In a separate letter dated July 29, 2019, the Thief River Falls Airport Authority also expressed its concerns over Boutique's completion rate and cancellations and other issues of concern, which the Authority states were acknowledged, but not adequately addressed, by Boutique.

Additionally, the Airport Authority indicated that it has heard from numerous members of the community that they will not fly on the current airline until its reliability improves. The community's largest employer, Digi-Key Corporation, informed the Department and the Airport Authority that it no longer recommends their vendors, suppliers, or employees fly in or out of TVF because of concerns about Boutique's reliability. Passenger numbers have increased since May 2019; however, the Airport Authority attributes the increase to a reduction in fare price, which the Airport Authority argues likely benefited leisure passengers who are price sensitive and more flexible should the flight get delayed or cancelled.

Mr. Hedrick also stated:

DAC on the other hand has a proven reliability of 99.6% and an on-time rate of 94%. Their service has been highly recommended by the communities they serve, and those communities served by DAC have attested to the reliability emphasized by the airline. Furthermore, as the only bidder with a regional jet, the Airport Authority believes that the aircraft's robust systems will ensure that a high reliability is met, especially in the harsh climate of northern Minnesota.

The Department also received support for DAC from the President/Chief Operating Officer of Digi-Key Electronics. The letter states that: "[d]ue to eroding confidence in the service levels experienced by [Boutique] over the last 2 years, we have recommended that travelers utilize [other] airport facilities which has impacted passenger travel in and out of TVF and caused numerous visits to be aborted altogether. We have multiple unfortunate experiences of international travelers whose itineraries have been disrupted due to delays and cancellations."

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 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

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 codifying a factor that has been considered since the inception of the program.

After carefully reviewing the proposals submitted for consideration and taking into account community feedback, the Department selects DAC for a two-year contract term, with 12 weekly nonstop round trips to MSP, at an annual subsidy rate of \$3,956,517 for the first year, and \$4,035,647 for the second year. DAC meets all the selection criteria the Department must consider when selecting an air carrier to provide subsidized EAS. DAC received community support, has an interline agreement with United, and has provided reliable service at other EAS communities. In addition, with more seats available than other proposals, DAC has the potential of increasing passenger usage. DAC is allocating \$20,000 toward marketing its service and will be matched by the Thief River Falls Regional Airport marketing budget of \$23,000.

The Department finds the subsidy reasonable for the service proposed by DAC.

Service Transition

The Department expects Boutique and DAC to work together to make a smooth transition at Thief River Falls with no service hiatus. Before Boutique suspends service, the Department expects the air carrier to notify all passengers holding reservations for travel after the suspension date, to assist those passengers in making alternate air transportation arrangements, or to provide a full refund of the ticket price, without penalty, if requested.

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.

The Department expects the air carrier and the community to work together to ensure that the community will remain eligible for EAS. 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. 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 air carrier's fitness. The Department therefore concludes that DAC is reliable and fit to conduct the operations proposed here.

This Order is issued under authority delegated 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 Thief River Falls, Minnesota, from June 1, 2020, through May 31, 2022, and establishes the subsidy rate as described in Appendix C;
2. This Order is contingent upon the Department's receipt of properly-executed certifications from the air carrier 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 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 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, continues to be fit, willing, and able to operate as a commuter air carrier, and capable of providing reliable Essential Air Service at Thief River Falls, Minnesota;
5. This docket will remain open until further Order of the Department; and
6. The Department will serve this Order on the Mayor of Thief River Falls, Minnesota, the Airport Manager of Thief River Falls Regional Airport, Key Lime Air Corp. d/b/a Denver Air Connection, Multi-Aero, Inc. d/b/a Air Choice One, Boutique Air Inc., and Southern Airways Express, LLC.

By:

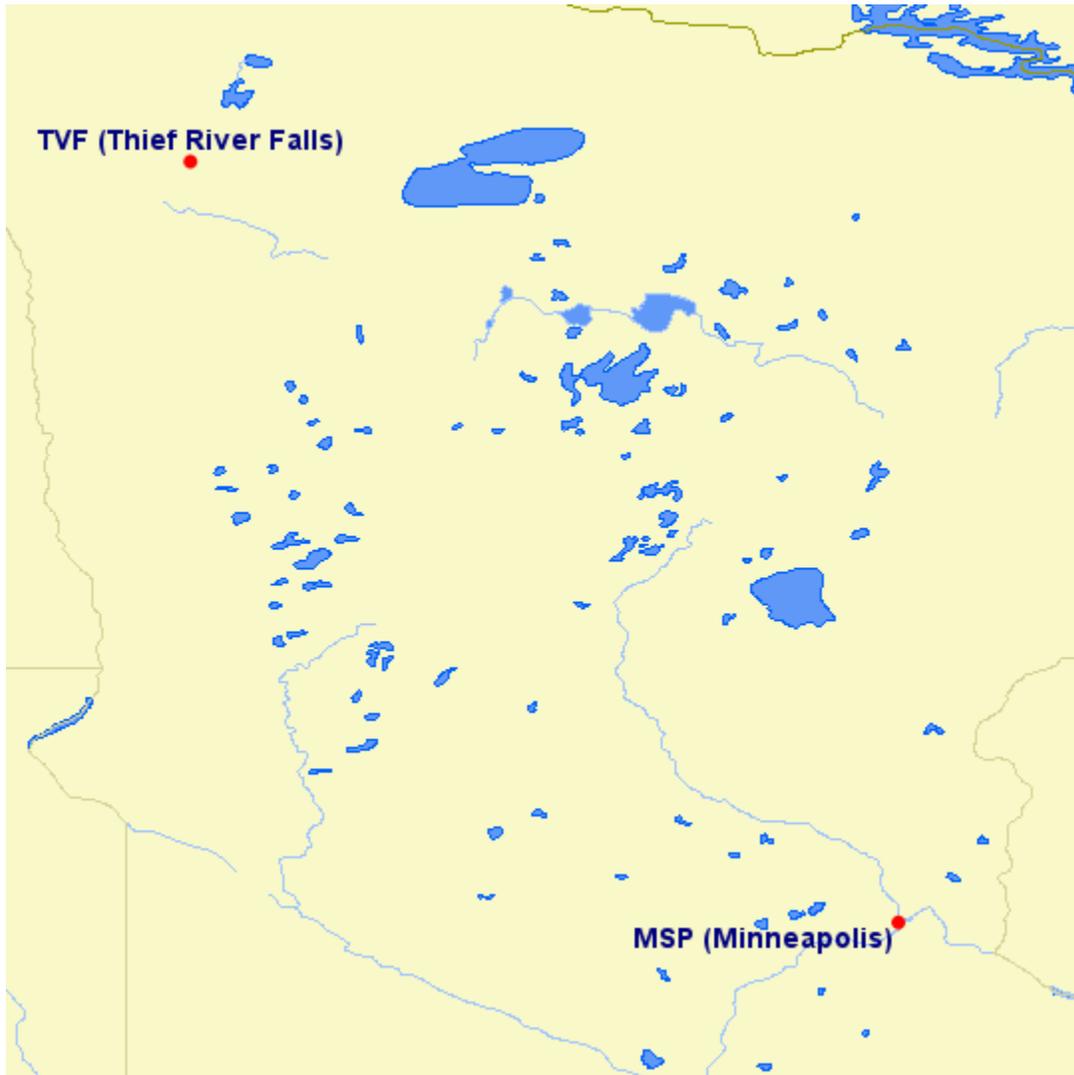
David E. Short
Deputy Assistant Secretary
Aviation and International Affairs

(SEAL)

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

⁵ The certifications are internet accessible at: <https://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

AREA MAP



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Key Lime Air Corp. d/b/a Denver Air Connection proposal

	<u>Thief River Falls to MSP</u>
Number of round trips per week	12
Aircraft Data	
	ERJ 145LR/Dornier 328-Jet
Block Hours	1,565
Available Seats	62,400
Load Factor	22%
Passenger Revenue	
Passengers	13,728
Average Fare	<u>99.00</u>
Revenue	1,359,072
Expenses	
Aircraft Lease	480,000
Crew Cost	799,561
Maintenance	701,775
Insurance	264,000
MSP Operating Expense	378,321
TVF Operating Expense	444,684
Deice and Catering	87,125
Marketing	20,000
Set-Up	15,000
Fuel Cost	<u>1,872,000</u>
Total Expense	5,062,466
Annual Subsidy Requirement	
Operating Income	(3,703,394)
Profit (5%)	<u>253,123</u>
Total Subsidy	3,956,517
Effective Subsidy Rates	
Subsidy per Trip (98% completion)	3,235
Subsidy per Passenger	288

- [2% SUBSIDY ESCALATION FOR YEAR TWO.](#)

**Key Lime Air Corp. d/b/a Denver Air Connection
Essential Air Service to be provided at Thief River Falls, Minnesota
DOT-OST-2001-10642**

<u>Annual Subsidy and</u>	Year 1 (June 1, 2020, through May 31, 2021): \$3,956,517
<u>Contract Term:</u>	Year 2 (June 1, 2021, through May 31, 2022): \$4,035,647
<u>Hub:</u>	Minneapolis St. Paul International Airport (MSP)
<u>Scheduled Service:</u>	12 nonstop round trips per week
<u>Aircraft:</u>	30-seat Dornier 328 jet or 50-seat jet aircraft (ERJ-145)
<u>Rate per Eligible Flight:</u>	Year 1, \$3,235 ¹ ; Year 2, \$3,300
<u>Weekly Ceiling:</u>	Year 1, \$77,640 ² ; Year 2, \$79,200

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 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.

¹ Year 1 annual compensation of \$3,956,517 divided by 1,223 annual departures (24 weekly departures x 52 weeks x 98 percent completion). Year 2 annual compensation of \$4,035,647 divided by 1,223 annual departures (24 weekly departures x 52 weeks x 98 percent completion).

² Year 1: 24 flights per week x \$3,235 per flight. Year 2: 24 flights per week x \$3,300 per flight.

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 31st, August claims must be submitted by November 30th, and so on.