

Order 2004-6-6
Served: June 10, 2004



**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 June, 2004**

Essential Air Service at

**LAUREL/HATTIESBURG,
MISSISSIPPI**

under 49 U.S.C. 41731 *et seq.*

Docket OST-2001-10685

ORDER REQUESTING PROPOSALS

Summary

By this order, the Department is requesting proposals from carriers interested in providing essential air service at Laurel/Hattiesburg, Mississippi, for the two-year period beginning July 1, 2004.

Background

By Order 2002-5-28, May 29, 2002, the Department selected Mesaba Aviation, Inc. (Mesaba), d/b/a Northwest Airlink, to provide subsidized essential air service at Laurel/Hattiesburg for the two-year period through June 30, 2004, by operating two nonstop round trips a day to Memphis, a total of thirteen round trips per week, with 34-seat, Saab 340 equipment, at an annual subsidy of \$1,056,991.¹

¹ See Appendix A for a map.

Request for Proposals

As the end of the current contract term approaches, we are requesting proposals from carriers interested in providing service at Laurel/Hattiesburg, with or without subsidy, for the two-year period beginning July 1, 2004. Carriers should file their proposals within 30 days of the date of service of this order. At the end of that period, our staff will docket the proposals, thereby making them public, and direct each carrier to serve a copy of its proposal on the civic parties and other applicants. Shortly afterwards, we will send a letter to the communities requesting them to submit their final comments.² We will give full consideration to all proposals that are timely filed.³

The preceding paragraph reflects streamlined carrier-selection procedures that we have recently introduced for the essential air service program generally. In the past, we have accepted *initial* carrier proposals, reviewed them, and then negotiated *final* proposals with each applicant before formally presenting the proposals to communities for their final comments. We found that a two-step process was generally necessary because, in most cases, the incumbent carrier was the only one interested. As a result, we were unable to rely on competition to discipline carrier subsidy requests, and communities had to wait on a protracted selection process. More recently, however, most orders requesting essential air service proposals have drawn interest from at least two carriers, and sometimes more. Under the circumstances, we expect that competition among multiple carriers will ensure reasonable subsidy requests, obviate the need for rate negotiations, and allow us to streamline the carrier-selection process.

Consequently, interested carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals.⁴ We retain the discretion to negotiate proposals with carriers when we deem it desirable; in such cases, of course, we will give all applicants the same opportunity. For example, we anticipate that we will continue to negotiate rates in cases where there is only a single interested carrier. We also retain the discretion to reject outright all unreasonable or unrealistic proposals, and to resolicit a new round of proposals. However, we anticipate that negotiation or rejection will be only occasional exceptions to the general rule.

² The communities of Laurel and Hattiesburg, Mississippi, are served through the Hattiesburg-Laurel Regional Airport. When directed, carriers should send copies of their proposals to both communities.

³ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

⁴ For this reason, we are allowing carriers 30 days to submit their proposals, rather than just 20 as in the past. Because the new procedures anticipate that a carrier's first proposal will also be its final proposal, we expect to enforce our filing deadlines more stringently than in the past. Carriers should not expect the Department to accept late filings. The additional 10 days will comfortably accommodate the additional time carriers may find necessary to prepare their proposals.

We are providing interested carriers with some basic information to serve as guidance when they prepare their proposals, but we will not prescribe a precise format for their proposals. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. The applicants can make their own judgments as to the level of detail they wish to present; however, they might want to include proposed schedules as well as supporting data for their subsidy requests, such as projected block hours, revenues and expenses. We strongly encourage clear, well-documented proposals that will facilitate their evaluation by affected communities and the Department. We do not anticipate any change in our selection criteria, nor in the general provisions governing subsidy payments for essential air service.⁵

With respect to Laurel/Hattiesburg specifically, we expect proposals consisting of service, at a minimum, with two-pilot, twin-engine, 15-seat or larger aircraft, and two or three round trips a day to Memphis. For proposals with 30-seat or larger aircraft, we would not be inclined to authorize subsidy for more than two round trips a day. Such service is generally consistent with what the community now receives, and fully satisfies Laurel/Hattiesburg's essential air service requirements.⁶ We encourage proposals that meet those requirements in an efficient manner. Carriers are also welcome to propose more than one service option, if they choose; they need not limit themselves to those requirements if they envision other, potentially more attractive service possibilities -- different hubs, for example -- with subsidy requirements that remain competitive.

Service and Traffic History

Prior to September 11, 2001, Laurel/Hattiesburg was served without subsidy for many years to Memphis by Mesaba. Based on a review of the historical traffic using the Hattiesburg – Laurel Regional Airport, the number of local passengers appears to have been growing every year through 2000, reaching a peak of 12,412 annual enplanements – about 40 passenger enplanements a service day. Since then, enplanements averaged 37, 33, and 36 per day for 2001, 2002, and 2003, respectively.⁷

⁵ In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (1) service reliability; (2) contractual and marketing arrangements with a larger carrier at the hub; (3) interline arrangements with a larger carrier at the hub; and (4) community views. In addition, we have always given weight to the applicants' relative subsidy requirements. As in the past, the general provisions governing essential air service will be included in the selection order as part of the Department's authorization of subsidy for the selected service. Appendix D of this order shows those provisions.

⁶ The community's essential air service determination, set by Order 94-5-6, requires two nonstop or one-stop round trips per day to either Atlanta, Memphis, or New Orleans with a minimum of 44 seats each day in each direction with 15-seat or larger aircraft.

⁷ See Appendix C for historical traffic data.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁸ Consequently, all carriers receiving Federal subsidy for essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. Because the Department is prohibited from paying subsidy to carriers that do not submit these documents, all carriers that plan to submit proposals involving subsidy should be aware that the selected carrier will be expected to complete the required certifications. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053.⁹

Community and State Comments

The communities and state are welcome to submit comments on the proposals at any time. As noted earlier, however, we will provide a summary of the proposals to the civic parties and ask them to submit their final comments shortly after the end of the 30-day period for carrier proposals.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We request that carriers interested in providing essential air service at Laurel/Hattiesburg, Mississippi, submit their proposals, with or without subsidy requests, no later than 30 days after the date of service of this order. The proposals should be sent to the EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street S.W., Washington, DC 20590, with the title "Proposal to Provide Essential Air Service at Laurel/Hattiesburg, Mississippi, Docket OST-2001-10685";¹⁰
2. This docket will remain open until further order of the Department; and

⁸ 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; and (3) 49 CFR Part 29 -- Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

⁹ The certifications are also available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

¹⁰ Questions regarding filings in response to this order may be directed to Mike Waters at (202) 366-6494.

3. We will serve copies of this order on the Mayors of Laurel and Hattiesburg, Mississippi; the airport manager of the Hattiesburg-Laurel Regional Airport; Mesaba Aviation, Inc., d/b/a Northwest Airlink; and the persons listed in Appendix C.

By:

KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available
on the World Wide Web at <http://dms.dot.gov>*

Area Map of Laurel/Hattiesburg, Mississippi



ESSENTIAL AIR SERVICE AT LAUREL/HATTIESBURG, MISSISSIPPI
Historical Passenger Data¹

| | Annual Passenger Enplanements | Average Enplanements Per Service Day ² |
|------------------------------|----------------------------------|---|
| 1997 | 9,358 | 29.9 |
| 1998 | 10,580 | 33.8 |
| 1999 | 11,399 | 36.4 |
| 2000 | 12,412 | 39.5 |
| 2001 | 11,435 | 36.5 |
| 2002 | 10,361 | 33.1 |
| 2003 | 11,146 | 35.6 |
| 1 st Quarter 2004 | 1,586 | 20.3 |

¹ Source: Department of Transportation, Bureau of Transportation Statistics from air carriers on Form 41 and Form 298C.

² Annual enplanements divided by 313 effective annual service days, except for 2000, a leap year, when 314 effective annual service days are used. For the 1st quarter of 2004, also a leap-year, 78 effective service days are used.

SERVICE LIST FOR THE STATE OF MISSISSIPPI

Air Midwest, Inc.
Amerijet International, Inc.
Atlantic Southeast Airlines, Inc.
Corporate Airlines, Inc.
Cotton Belt Aviation, Inc.
Delta Connection
Exec Express II, Inc.
Express Airlines I, Inc.
Flagship Airlines Inc.
Gulfstream International Airlines, Inc.
L'Express, Inc.
Metroflight, Inc.
Midwest Express Airlines, Inc.
Multi Aero, Inc.
Northwest Airlink
Tropical Helicopter Airways, Inc.
Walker's International
Westward Airways, Inc.

Chester Anderson
Ken Bannon
Richard Thomas Clarke
Sabrina Cranor
E.B. Freeman
A. Edward Jenner
Dan Katzka
Wes Marden
John McFarlane
Reece Paterson
Bob Phillips
Wayne Trawick
Danny Wright

GENERAL TERMS AND CONDITIONS
FOR ESSENTIAL AIR SERVICE

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 plan 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 these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured 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 agreed amounts or at the agreed service levels, the 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 parties to this order 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.