



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

Issued by the Department of Transportation  
on the **22nd day of July, 2004**

Essential Air Service at

**CHATHAM, ALASKA  
FUNTER BAY, ALASKA**

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

**Served: July 27, 2004  
DOCKET OST-1997-3134**

**ORDER TENTATIVELY RESELECTING CARRIER  
AND SETTING SUBSIDY RATE**

**Summary**

By this order, the Department is tentatively reselecting Ward Air, Inc., to provide essential air service at Chatham and Funter Bay, Alaska, for the period December 1, 2003, through September 30, 2006, at an annual subsidy of \$12,865.

**Background**

By Order 2001-12-16 the Department selected Ward Air to provide essential air service at Chatham and Funter Bay. Ward Air was selected to provide service to Juneau consisting of one round trip each week routed Juneau-Funter Bay-Juneau, with one flight each month also making a stop at Chatham, with Cessna 185 aircraft. Subsidy for that service was set at \$10,258 per year, and the carrier's contract expired November 30, 2003.

Under our normal procedures, when nearing the end of a carrier's contract, we either issue a request for proposals, or, as in this case, contact the carrier to determine whether it is interested in continuing service at the community and whether it will continue to require subsidy. If the carrier wishes to continue service with subsidy, we usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting the carrier for a new two-year rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative decision. Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order. If any such proposals are filed, we process them as a competitive case. Consistent with this practice, we invited Ward Air to submit a proposal for continuation of essential air service at Chatham and Funter Bay.

**Carrier Proposal**

Ward Air submitted a proposal to provide essential air service at Chatham and Funter Bay for a new two-year rate term. The carrier proposes to continue to provide the communities with its historical service of one flight each week routed Juneau-Funter Bay-Juneau, with one flight each month also making a stop at Chatham, with Cessna 185 or 206 aircraft. Ward Air requests an annual subsidy of \$12,865 for this service.

**Tentative Reselection**

Ward Air continues to provide Chatham and Funter Bay with reliable essential air service and we find that both the service and subsidy levels are reasonable. Therefore, we will tentatively reselect Ward Air to provide one flight each week routed Juneau-Funter Bay-Juneau, with one flight each month also making a stop at Chatham, with Cessna 185 or 206 aircraft. We will establish an annual subsidy rate of \$12,865 for Ward Air's service prospectively, through September 30, 2006. Because Ward Air's last contract expired November 30, we will also set the annual subsidy of \$12,865 retroactive to December 1, 2003.

**Responses to Tentative Decision**

We will give interested persons 30 days from the date of service of this order to show cause why we should not make final our tentative decision to reselect Ward Air to provide essential air service at Chatham and Funter Bay at the service and subsidy levels discussed above. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague or unsupported objections.

**Request for Proposals**

Competing proposals may contemplate service to Juneau or any other appropriate hub city. Service should consist of at least the level discussed above. In order to help carriers in their passenger and revenue forecasts, we have included historical O&D traffic data in Appendix D.

In the event any carrier other than the incumbent is interested in filing proposals, with or without subsidy requests, it should file them within 30 days of the date of service of this order. At the end of that period, our staff will notify the incumbent if a competing proposal has been filed, while keeping any such competing proposal confidential, and provide it 15 days to modify its proposal, if it so chooses. At the end of those 15 days, we will docket all proposals, thereby making them public for the first time, and direct each carrier, including the incumbent, to serve a copy of its proposal on the civic parties and other applicants. Shortly afterwards, we would provide a summary of the proposals to the community officials and ask them to submit their final comments, including ranking their preferences for the various options, while giving full consideration to all proposals that are timely filed.<sup>1</sup>

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<sup>1</sup> 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.

### **New Procedures**

The preceding paragraph reflects streamlined carrier-selection procedures that we have 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 the community and asking for their final comments. We had found that a negotiation process was generally necessary because, in most cases, the incumbent carrier was the only one interested. In this case, if another carrier wishes to submit a proposal, we will use the new procedures.

Consequently, interested carriers should prepare their proposals with every expectation that their initial proposals will also be their final and only proposals.<sup>2</sup> We retain the discretion to negotiate proposals with carriers when we deem it desirable; in such cases, of course, we would give all applicants the same opportunity. We also retain the discretion to reject outright all unreasonable or unrealistic proposals and resolicit a new round of proposals.

We are hereby 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 aircraft type, flight frequencies, projected block hours, passengers, revenues and expenses, completion factor, intermediate stops (if any), and whether or not upline service is contemplated. We strongly encourage clear, well-documented proposals that will facilitate their evaluation by the affected community and the Department. We do not anticipate any change in our selection criteria, or in the general provisions governing subsidy payments for essential air service.<sup>3</sup>

We encourage proposals that meet the needs of the communities in an efficient manner. Carriers are also welcome to propose more than one service option, if they choose, and they need not limit themselves in any way if they envision other, potentially more attractive service possibilities -- different hubs or aircraft, for example -- with subsidy requirements that remain competitive.

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<sup>2</sup> For this reason, we will allow carriers 30 days to submit their proposals, rather than just 20 as in the past. Also, it is incumbent on each carrier to discuss with the communities their preferences before it submits its proposals.

<sup>3</sup> 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. Appendix C contains the general provisions governing essential air service; as in the past, these provisions will be included in the selection order as part of the Department's authorization of subsidy for the selected service.

### **Other Carrier Requirements**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.<sup>4</sup> Consequently, all carriers receiving Federal subsidy to support 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. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. 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. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

### **Community and State Comments**

The communities and State are welcome to submit comments at any time.<sup>5</sup> In any event, if proposals are filed, we will provide a summary of them to the civic parties and ask them to file their final comments.

### **Carrier Fitness**

49 U.S.C. 41737(b) and 41738 require that we find an air carrier fit, willing and able to provide reliable service before we may compensate it for essential air service. We last reviewed the fitness of Ward Air when we selected it to provide essential air service at Chatham and Funter Bay in Order 2001-12-16. Ward Air remains subject to the Department's continuing fitness monitoring. No information has come to our attention that would lead us to conclude that Ward Air does not continue to be fit. The Federal Aviation Administration states that it knows of no reason to question Ward Air's fitness. We therefore conclude that the carrier remains fit to conduct the operations proposed here.

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<sup>4</sup> 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).

<sup>5</sup> Civic parties should file an original and five copies of their comments in Docket OST-1997-3134. Comments should be addressed to: Dockets Operations and Media Management Division, M-30, Office of the Secretary, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, S.W., Washington D.C. 20590.

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

**ACCORDINGLY,**

1. We tentatively reselect Ward Air, Inc., to provide essential air service at Chatham and Funter Bay, Alaska, as described in Appendix B, for the period from December 1, 2003, through September 30, 2006;
2. We tentatively set the final rate of compensation for Ward Air, Inc., for the provision of essential air service at Chatham and Funter Bay, Alaska, as described in Appendix B, for the period from December 1, 2003, through September 30, 2006, payable as follows: for each month during which essential air service is provided, the amount of compensation shall be subject to the monthly ceiling set forth in Appendix B, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by \$100.51;<sup>6</sup>
3. We direct Ward Air, Inc., to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed, whichever comes first. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;
4. We find that Ward Air, Inc., continues to be fit, willing and able to operate as a certificated air carrier and capable of providing reliable essential air service at Chatham and Funter Bay, Alaska;
5. We direct interested parties having objections to the selection of Ward Air, Inc., to provide essential air service as described in ordering paragraph 1 above, at the rate set forth in ordering paragraph 2 above, to file such objections or competing service proposals no later than 30 days from the date of service of this order;<sup>7</sup>
6. If we receive objections or competing proposals within the 30-day period, Ward Air, Inc., will be compensated at the subsidy rate set forth in ordering paragraph 2 above as a final rate, effective December 1, 2003, until all objections are resolved;

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<sup>6</sup> See Appendix C for the calculation of Ward Air's subsidy rate, which assumes the use of the aircraft designated. If the carrier reports a significant number of aircraft substitutions, revision of this rate may be required.

<sup>7</sup> Objections should be filed with the Dockets Operations and Media Management Division, M-30, Office of the Secretary, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, S.W., Washington D.C. 20590. Proposals to provide essential air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7<sup>th</sup> Street, S.W. Washington, DC 20590. Questions regarding filings in response to this order may be directed to John McCamant at (202) 366-1060.

7. We will afford full consideration to the matters and issues raised in any timely and properly filed objections and service proposals before we take further action.<sup>8</sup> If no objections or competing service proposals are filed, all further procedural steps will be deemed waived and this order shall become effective on the thirty-first day after its service date;

8. Docket OST 1997-3134 shall remain open until further order of the Department; and

9. We will serve copies of this order on the civic officials of Chatham and Funter Bay, the Alaska State Department of Transportation and Public Facilities, the Governor of Alaska, Ward Air, and the parties listed in Appendix E.

By:

**KARAN K. BHATIA**  
Assistant Secretary for Aviation  
and International Affairs

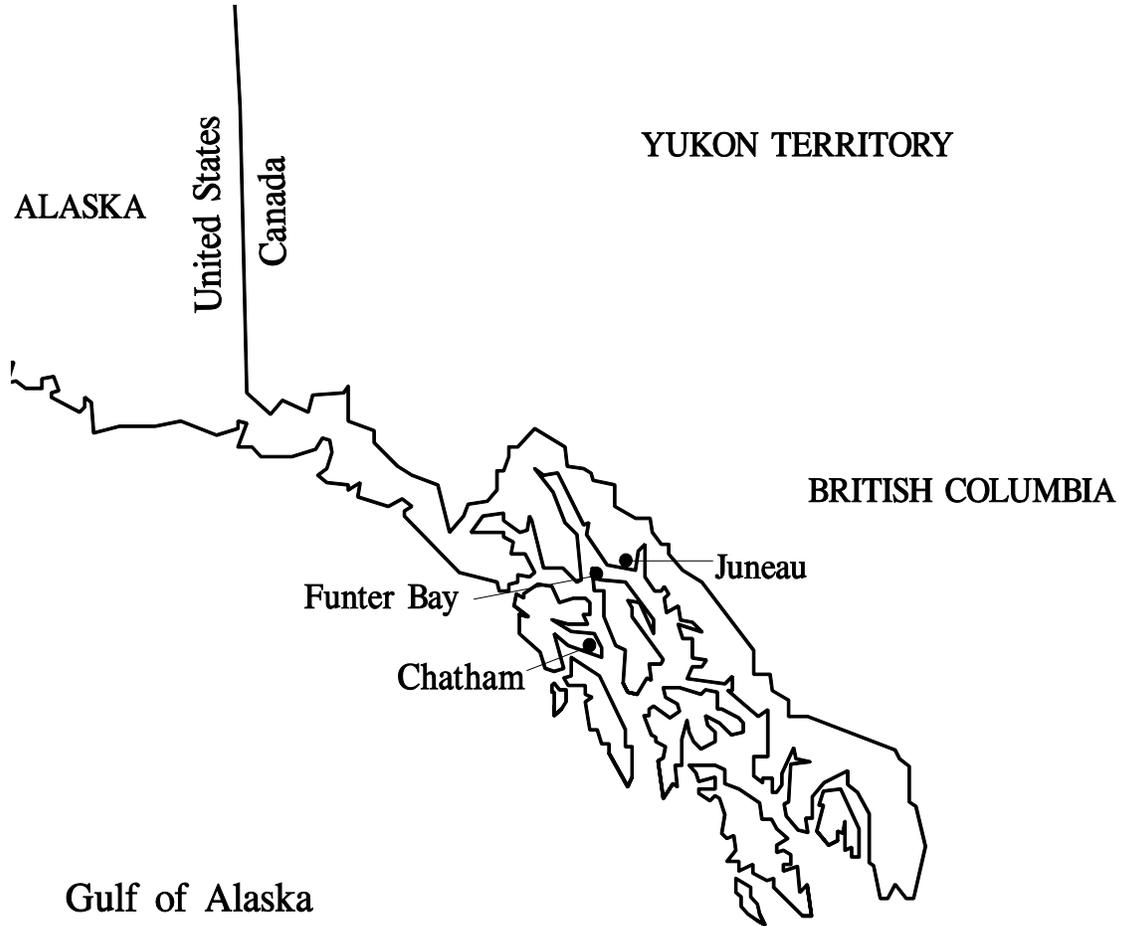
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*An electronic version of this document is available on the World Wide Web at*  
<http://dms.dot.gov>

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<sup>8</sup> Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

# CHATHAM AND FUNTER BAY AREA MAP



**WARD AIR, INC.  
ESSENTIAL AIR SERVICE TO BE PROVIDED AT  
CHATHAM AND FUNTER BAY, ALASKA**

Effective Period: December 1, 2003, through September 30, 2006

Service: one flight each week routed Juneau-Funter Bay-Juneau,  
with one flight each month also making a stop at Chatham

Aircraft: Cessna 185 or 206

Subsidy Rate: Per year - \$12,865  
Per arrival from or departure to Juneau - \$100.51 <sup>1</sup>

Monthly  
Compensation Ceiling \$1,206.12 <sup>2</sup>

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<sup>1</sup> Annual compensation of \$12,865, divided by 128 annual arrivals and departures (104 at Funter Bay and 24 at Chatham).

<sup>2</sup> Calendar weeks that fall into separate calendar months will be treated as part of the latter month for the purpose of calculating both calendar weeks per month and the monthly compensation. For this reason, some months may have as many as five round trip flights. The monthly compensation ceiling is calculated using five flights with one of these flights making a stop at Chatham: (subsidy rate for each arrival/departure (\$100.51) multiplied by the maximum number of scheduled subsidy-eligible arrivals and departures per month (12)).

**Note:** 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 this 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 the agreement 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.

**Appendix C**

**WARD AIR, INC.  
SUBSIDY CALCULATION FOR SERVICE AT  
CHATHAM AND FUNTER BAY, ALASKA**

Block Hours: 38 1/  
 Routing: Juneau-Funter Bay-Juneau (40 round trips per year)  
 Juneau-Funter Bay-Chatham-Juneau (12 round trips per year)

Aircraft type: Cessna 185 or 206

	Passengers	Fare	
Funter Bay	48	\$ 55	\$2,640
Chatham	5	\$ 81	<u>405</u>
Total Pass. Rev.			\$ 3,045

	Cargo (lbs.)	Rate/lb.	
Funter Bay	600	\$ .20	\$ 120
Chatham	100	\$ .35	<u>35</u>
Total Cargo Rev.			\$ 155

Total Revenue \$ 3,200

Direct Expense

	<u>Rate/BL</u>	
Pilot	\$80.66	\$ 3,065
Fuel & Oil	\$52.92	2,011
Mail Pickup	\$24.20 (52 trips x .75 x 24.40)	944
Insurance	\$53.03	2,015
Maintenance	\$53.21	2,022
Depreciation	\$14.73	<u>560</u>
Total Direct Expense		\$ 10,617

Indirect Expense

Hangar	\$50.16	\$ 1,906
Overhead	\$69.30	<u>2,633</u>
Total Indirect Expense		\$ 4,539

Total Operating Cost \$15,156  
 Profit Element (6% of T.O.C.) 909

Total Economic Cost \$ 16,065

Compensation Requirement \$12,865

**Appendix D**

**CHATHAM AND FUNTER BAY, ALASKA  
HISTORICAL O & D TRAFFIC**

	<u>Psgrs.</u>	<u>Cargo (lbs.)</u>	<u>Mail (lbs.)</u>
<u>YE Dec. 1999</u>			
Chatham	14	132	1,166
Funter Bay	38	811	2,087
<u>YE Dec. 2000</u>			
Chatham	8	514	830
Funter Bay	58	199	1,928
<u>YE June 2001</u>			
Chatham	5	514	339
Funter Bay	51	70	1,826

## State of Alaska Service List

Aaron Air  
Aero Tech Flight Service, Inc.  
Air Excursions  
Air Lift Alaska  
Air Madura  
Alaska Airlines, Inc.  
Alaska Bush Carrier, Inc.  
Alaska Central Express, Inc.  
Alaska Coastal Airlines, Inc.  
Alaska Fly'N Fish Charters  
Alaska Flyers  
Alaska Helicopters, Inc.  
Alaska Island Air, Inc.  
Alaska Seair Adventures  
Alaska West Air, Inc.  
Aleutian Air, Ltd.  
Aleutian Specialty Aviation  
Allegheny Commuter airlines, Inc.  
Amerijet International, Inc.  
Arctic Air Alaska, Inc.  
Arctic Circle Air Service, Inc.  
Baker Aviation, Inc.  
Bellair, inc.  
Beluga Lake Float Plane Service  
Bering Air, Inc.  
Bran-Air & Branham Adventures  
Camai Air  
Canning Air Service  
Cape Smythe Air Service, Inc.  
Cassaron Turbo Helicopters  
Chugiak Aviation  
Clearwater Air, Inc.  
Coastal Helicopters, Inc.  
Cordova Air Service, Inc.  
CPA Air Service  
Customized Alaskan Adventures  
Delta Connection  
Denali air  
Egli Air Haul, Inc.  
Ellis Air Taxi, Inc.  
Ellison Air, Inc.  
ERA Aviation, Inc.  
F.S. Air Service, Inc.  
Fishing and Flying  
Fiskehawk Aero Service  
Forty (40)-Mile Air, Ltd.  
Frontier Flying Service, Inc.  
Golden Plover Air  
Grant Aviation, Inc.  
Great Northern Air Guides  
Gulf Air Taxi, Inc.  
Gulf Aviation, Inc.  
Gulkana Air Service, Inc.  
Hageland Aviation Services, Inc.  
Haines Airways, Inc.  
Heli-Lift, Inc.  
Homer Air  
Hudson Air Service, Inc.  
Iliamna Air Taxi, Inc.  
Island Air Service  
Island Wings Air Service  
Jim Air, Inc.  
K2 Aviation  
Kachemak Air Service, Inc.  
Kachemak Bay Flying Service, Inc.  
Katmai Air  
Kenai Air Alaska, Inc.  
Kenai Fjords Outfitters, Inc.  
Kenair  
Ketchikan Air Service, Inc.  
Ketchum Air Service, Inc.  
Kodiak Air Service  
Koyukon Air, Inc.  
Kupreanof Flying Service  
Kusko Aviation, Inc.  
L.A.B. Flying Service, Inc.  
Larry's Flying Service, Inc.  
Loken Aviation, Inc.  
Lone Star Airlines, Inc.  
Lone Wolf Aero Services, Inc.  
Maritime Helicopters, Inc.  
MarkAir, Inc.  
Metroflight, Inc.  
Midway Airlines, Inc.  
Midwest Express Airlines, Inc.  
Misty Fjords Air & Outfitting  
Mountain Aviation  
Mountain Helicopters  
Nash West Aviation, Ltd.  
Natron Air  
Nordic Air  
North Star Air Cargo, Inc.  
Northern Air Cargo, Inc.  
Northwest Airlink  
Olson Air Service, Inc.  
Pacific Wing, Inc.  
Peninsula Airways, Inc.  
Precision Valley Aviation, Inc.  
Promech, Inc.  
Ram Air, Inc.  
Ray Atkins Registered Guide  
Rediske Air, Inc.  
Reeve Aleutian Airways, Inc.  
Regal Air  
Reid Air  
Rust's Flying Service, Inc.  
Ryan Air Service, Inc.  
Scenic Mountain Air, Inc.  
Seaside Air Service  
Security Aviation, Inc.  
Seward Flying Service, Inc.  
Silver Bay Logging, Inc.  
Skagway Air Service, Inc.  
Soloy Helicopters, Inc.  
Southcentral Air, Inc.  
Specialized Air Service  
Spemak Airways  
Sunrise Aviation, Inc.  
Tamarack Air, Ltd.  
Tanana Air Service  
Taqan Air Service, Inc.  
Tatonduk Outfitters, Inc.  
Temsco Helicopters, Inc.  
Totem Air  
Trans-Alaska Helicopters, Inc.  
Trans-Porter Alaska, Inc.  
Tundra Copters, Inc.  
Umiat Enterprises, Inc.  
Uyak Air Service  
Vemair  
Warbelow's Air Ventures, Inc.  
Ward Air  
Wings of Alaska  
Woods Air Service, Inc.  
Wrangell Mountain Air, Inc.  
Wright Air Service, Inc.  
Yukon Helicopters  
Yutana Airlines, Inc.  
Yute Air Alaska, Inc.  
Alaska Juneau Aeronautics, Inc.  
Ken Bannon  
E. B. Freeman  
A. Edward Jenner  
John McFarlane  
Kevin Thomas  
Pat Dempsey  
P. Richard Steinman III