



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

Issued by the Department of Transportation  
on the 4<sup>th</sup> day of January, 2013

Essential Air Service at

**MACON, GEORGIA**

Under 49 U.S. C. 47131 *et seq.*

**DOCKET DOT-OST-2007-28671**

**ORDER REQUESTING PROPOSALS**

**Summary**

By this Order, the Department of Transportation is requesting proposals from air carriers interested in providing EAS at Macon for a new contract, with or without subsidy. (See Appendix A for a map). Proposals are due by January 31, 2013.

**Background**

The Department's FY 2012 appropriation (P.L. 112-55) limited eligibility in the EAS program in the lower 48 states to certain communities, including those that received subsidized EAS "at any time between September 30, 2010, and September 30, 2011, inclusive." Macon is eligible for subsidized service because it was receiving service on a subsidized basis from Pacific Wings through January 24, 2011, and subsidy-free service starting January 25, 2011. However, on April 26, 2012, Pacific Wings filed a 90-day notice of its intent to terminate its unsubsidized service at Macon, which triggered a carrier-selection case.

Pacific Wings' proposed termination of service at Macon would have left the community with no scheduled air service whatsoever. As a result, the Department issued Order 2012-5-25, on May 24, 2012, which prohibited Pacific Wings from terminating service for 30 days beyond the end of the 90-day notice period, *i.e.* August 25, 2012, and requested proposals from air carriers interested in providing EAS at Macon, with or without subsidy. In response to that Order, we received two proposals.

By Order 2012-9-6, issued on September 6, 2012, the Department selected Sun Air Express, LLC d/b/a Sun Air International ("Sun Air") to provide subsidized EAS at Macon for a two-year contract. However, on December 20, 2012, Sun Air sent an e-mail to the Department withdrawing from the case and encouraging the re-solicitation of proposals for EAS at Macon. Sun Air explained that it is undergoing an aggressive expansion, experiencing challenges in completing pilot recruiting and training, and establishing maintenance bases in Texas, Maryland, and Pennsylvania has proven more difficult than anticipated. In response to Sun Air's

notification, we contacted the community and it supports our issuance of a new request for proposals. As a result, we will now solicit proposals from carriers interested in providing service to Macon.

### **Legislative Changes Which May Affect Future EAS Eligibility at Macon**

The FAA Modernization and Reform Act of 2012 (Public Law No: 112-95) amended 49 U.S.C. § 41731(a)(1)(B) to change the definition of “eligible place” for the purpose of receiving EAS. The amendment states that to be eligible, a community must maintain an average of 10 enplanements or more per service day, as determined by the Secretary, during the most recent fiscal year beginning after September 30, 2012.<sup>1</sup> The legislation exempts locations in Alaska and Hawaii and communities that are more than 175 driving miles from the nearest large or medium hub airport. As Macon is only about 81 miles from the Atlanta airport, the community must meet the 10-enplanement-a-day threshold for EAS to continue after FY2013, barring a waiver from the Secretary.

In the most recent fiscal year for which data are available, FY2012 (October 2011-September 2012), Pacific Wings generated a total of 1,389 passengers (inbound and outbound), or an average of fewer than three enplanements per day.<sup>2</sup> The Department will continue to monitor Macon’s eligibility to receive EAS in light of these new requirements throughout the life of any executed contract. The Department may terminate a contract for any community receiving EAS if enplanements remain below 10 per day during FY2013, barring a waiver from the Secretary.

Additionally, communities are not eligible for subsidized air service if their per passenger subsidy exceeds \$1,000.<sup>3</sup> The Department strongly encourages the community and any air carrier proposing to serve Macon, to work together to increase enplanements and maintain a reasonable subsidy per passengers level in order to avoid termination of eligibility for subsidy under the EAS program. We will monitor both the subsidy per passenger rate and the 10-enplanement threshold during this upcoming contract to ensure compliance with the statute.

### **Request for Proposals**

We are here requesting proposals from air carriers interested in providing service at Macon, with or without subsidy support, for a new two-year period. Air carriers should file their proposals no later than January 31, 2013. After that date, our staff will docket all proposals, thereby making them public, and direct each air carrier to serve a copy of its proposal on the civic parties and other applicants. Shortly thereafter, we will provide a summary of the proposals to community officials and ask them to submit their final comments. We will give full consideration to all proposals filed in a timely manner.<sup>4</sup>

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1 The Secretary also has authority to waive the 10 passenger requirement, on an annual basis, if the community can demonstrate that the reason the location averages fewer than 10 passengers per day is due to a temporary decline in enplanements. *See* 49 U.S.C. § 41731(e).

2 Source: Bureau of Transportation Statistics; Form 41, Schedule T-100. Daily averages are based on one-half of the O&D passengers, divided by 313 service days (314 during leap years).

3 *See* 49 USC §§ 41731(a)(1)(C).

4 Carriers should not expect the Department to accept late filings. In cases where a carrier proposes to provide Essential Air Service without subsidy and we determine that service can be reliably provided without such

Interested air carriers should prepare their proposal with every expectation that their initial proposal will also be their *final* and *only* proposal. We retain the discretion to negotiate proposals with air carriers when we deem it desirable; in such cases, of course, we will give all applicants the same opportunity. We also retain the discretion to reject outright all unreasonable or unrealistic proposals and solicit a new round of proposals. However, we anticipate that negotiation or rejection will remain only occasional exceptions to the rule.

We are here providing interested air 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 the affected communities and the Department.<sup>5</sup>

With specific respect to Macon, given the very low passenger levels, we ask that carriers submit proposals for two nonstop round trips per day (12 a week) to Atlanta with any sized aircraft. We will also entertain proposals to serve other hubs that provide access to the national air transportation system in order to give the Department and the community as broad an array of proposals as possible from which to choose. Of course, as always, we will formally solicit the community's views on any service options we receive before making a long-term, carrier-selection decision. The community and air carriers are encouraged to work together in advance of the due date for proposals to craft a service pattern that is desirable to the community and meets the operational needs of the airline interested in submitting a proposal.

We encourage proposals that meet these 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 length of contract, for example -- with subsidy requirements that remain competitive.

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compensation, we typically do not proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

5 In selecting an air carrier to provide subsidized EAS, 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, the Consolidated Appropriations Act, 2008, Public Law 110-161, provides that when selecting an air carrier to provide EAS, the Department may consider the relative subsidy requirements, thus codifying a factor that we have considered since the inception of the program. Interested carriers should also be aware that our general provisions governing EAS will be included in the selection Order as part of our authorization of subsidy for the selected service. Appendix C of this Order contains those general provisions.

In order to assist air carriers in developing traffic and revenue projections for their proposals, we have summarized historical passengers in Appendix B. In 2012, Macon generated 1,389 O&D passengers, averaging fewer than three enplanements a day.<sup>6</sup>

### **Other Air Carrier Requirements**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination.<sup>7</sup> Consequently, all air carriers receiving Federal subsidy to support EAS must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those air 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 air carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested air carriers requiring more detailed information regarding these requirements, as well as copies of the certifications, should contact the Office of Aviation Analysis at (202) 366-5903. The Department is prohibited from paying subsidy to air carriers that do not submit these documents.<sup>8</sup>

### **Community Comments**

Civic officials and the State are welcome to submit comments at any time. We encourage prospective applicants to contact the communities before they submit their proposals so that they can tailor them to the communities' needs, as they will not be able to amend them after the due date. As noted earlier, we will provide a copy of the proposals to the civic parties and ask them to submit their final comments shortly after January 31, 2013, the due date for air carrier proposals.

Finally, by separate Orders, we will continue to require Pacific Wings to continue to serve Macon pending the conclusion of this carrier-selection case.

This Order is issued under authority delegated in 49 CFR Part 1.56a(f) and re-delegated to the Director, Office of Aviation Analysis.

### **ACCORDINGLY,**

1. We request that air carriers interested in providing Essential Air Service at Macon, Georgia, submit their proposals, with or without subsidy requests, no later than January 31, 2013. The proposals should be emailed to: EAS@dot.gov with the title

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<sup>6</sup> See Appendix B for historical traffic data. Enplanements represent one-half of total origin-and-destination traffic, and average enplanements per day are based on weekdays and weekends each quarter, except as noted.

<sup>7</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>8</sup> The certifications are also available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

“Proposal to Provide Essential Air Service at Macon, Georgia (Docket DOT-OST-2007-28671);”<sup>9</sup>

2. The Department will serve copies of this Order on the civic officials of Macon, Georgia, Pacific Wings, L.L.C., d/b/a Georgia Skies, and the parties listed in Appendix D; and
3. Dockets DOT-OST-2007-28671 will remain open until further Order of the Department.

This Order will be effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

Persons entitled to petition the Department for review of this Order under the Department’s Aviation Economic Regulations, 14 CFR Part 385.50, must file such petitions within ten (10) days after the date of service of this Order.

This Order will be effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

By:

**TODD M. HOMAN**  
Director  
Office of Aviation Analysis

(SEAL)

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

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<sup>9</sup> Questions regarding filings in response to this Order should be directed to Mr. Scott Faulk at [scott.faulk@dot.gov](mailto:scott.faulk@dot.gov) or (202) 366-9967.

## AREA MAP



## Historic Traffic at Macon, Georgia<sup>1</sup>

Fiscal Year	Quarter	Inbound Passengers	Outbound Passengers	Total
2010	1	223	224	447
2010	2	318	227	545
2010	3	463	376	839
2010	4	303	365	668
				2,499 Total

Fiscal Year	Quarter	Inbound Passengers	Outbound Passengers	Total
2011	1	259	236	495
2011	2	222	185	407
2011	3	252	219	471
2011	4	339	2763	615
				1,988 Total

Fiscal Year	Quarter	Inbound Passengers	Outbound Passengers	Total
2012	1	247	184	431
2012	2	197	153	350
2012	3	191	184	375
2012	4	126	107	233
				1,389 Total

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<sup>1</sup> Source: Bureau of Transportation Statistics: Schedule T-100

**Example of General Terms and Conditions for Essential Air Service**

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.

Funds are not currently available for performance under this Solicitation beyond March 31, 2013. The Government's obligation for performance under this Solicitation beyond March 31, 2013, is subject to the availability of appropriated 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 solicitation beyond March 31, 2013, until funds are made available to the Department for performance. If funds are not made available for performance beyond March 31, 2013, the Department will provide notice in writing to the air carrier.

All claims for payment must be submitted within 60 days of the last day of service provided under this Order.



Aero Twin, AACAA, Tony Cestnik	DHS, Randy Webb
Alaska Air Carriers Association, Joy Journeay	Northern Air Cargo, John Eckles
Alaska Airlines, Joe Sprague	Northern Air Cargo, Keven Schlosstein
Alaska Airlines, Sandy Sinick	Pacific Airways, Steve Montanus
Alaska Central Express, John Seamon	PenAir Consultant, Patrick Rizzi
Alaska Central Express, Mike Bergt	PenAir, Betty Gonzalez
Alaska Central Express, Steve Endlich	PenAir, Danny Seybert
Alaska DOT, Christine Klein	PenAir, Orin Seybert
Alaska DOT, Rebecca Cronkhite	PenAir, Robert Cohn
Alaska DOT-Medicaid Passenger Fares	PenAir, Scott Bloomquist
Alaska Seaplanes, Craig Loken	PM Air, d/b/a Promech, Marc Sessoms
Alsek Air, Les and Debra Hartley	RITA, Benard Stankus
Arctic Circle, Donald Singsaas	Servant Air, Wes Osowski
Arctic Circle, Kelly Harris	Skagway, Ben Lingle
Arctic Transportation Services (ATS), Wilfred Ryan	Smokey Bay Air, Claire McCann
Arctic Transportation Services, (ATS), Jim Hjelm	Spernak Airways, Mike Spernak
Baker Aviation, Marjorie Baker	Tanana Air Service, Brian Martin
Bering Air, Allen Haddadi	Taquan Air Service, Brien Salazaar
Bering Air, Jim Rowe	Taquan, Beckie Allen
Congressional, Murkowski, Arne Fuglvog	Tatonduk, Controller, Tina Paylor
Congressional, Begich, Amanda Clausen	Tatonduk, Marketing, Robert Ragar
Congressional, Young, Jeremy Price	Tatonduk, Owner, Robert Everts
Consultant, Hank Myers	USPS, Greg Garcia
Consultant, Ken Acton	USPS, Joel Rosen
Consultant, Norm Israelson	USPS, Mary Tobias
Ellis Air Taxi, Lynn Ellis	USPS, Meredith Chavez, Consultant
Era Aviation, Mike Lenorman	USPS, Steve Deaton
ERA, David M. Richards	USPS, Taylor, Mary T
Frontier Flying, Bob Hajducovich	USPS, Tina Campbell
Grant Aviation, Bruce McGlasson	USPS, William Jones
Hageland, Mike Hageland	Warbelows Air Ventures, Arthur Warbelow
Hageland, Patrick Thurston	Ward Air, Ed Kiesel
Hageland, Steve Wahrnke	Wings of Alaska, Bob Jacobsen
Harris Air, Fly Hackett	Wings of Alaska, Michelle Donohue
Harris Air, Scott	Wright Air Service, Bob Bursiel
Harris Air, Scott Harris	Yute, Tim Vottis
Homer Air, Andy Smircich	
Iliamna Air, Tim LaPorte	
Inland Aviation, Stephen Hill	
Island Air Service, Bob Stanford	
Katmai Air, Sonny Peterson	