



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

Issued by the Department of Transportation
on the 1st day of October, 2018

Essential Air Service at:

HAGERSTOWN, MARYLAND
(FAIN 69A3451960270)¹
LANCASTER, PENNSYLVANIA
(FAIN 69A3451960271)

DOT-OST-2006-25228
DOT-OST-2002-11450

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

**ORDER EXTENDING ESSENTIAL AIR SERVICE CONTRACT SUBJECT TO
COMMUNITIES' CONTINUED EAS ELIGIBILITY AND AVAILABILITY OF FUNDS**

Summary

By this Order, the U.S. Department of Transportation is extending the Essential Air Service (EAS) contract of Southern Airways Express, LLC (Southern) at Hagerstown, Maryland, and Lancaster, Pennsylvania, through March 31, 2019, subject to these communities' continued subsidy eligibility for EAS beyond September 30, 2018.

Background

In 1999, Congress enacted Public Law 106-69, which prohibited the Department from providing an EAS subsidy to any community that is located fewer than 70 miles from a large or medium hub airport, resulting in a loss of subsidy eligibility for Hagerstown and Lancaster. Subsequently, Congress effectively reinstated these communities' subsidy eligibility by enacting the Vision 100 – Century of Aviation Reauthorization Act, Pub. L. No. 108-176 (Dec. 12, 2003). On February 14, 2012, the President signed the FAA Modernization and Reform Act of 2012 (FAA 2012), Pub. L. No. 112-95 (February 14, 2012). FAA 2012, among other things, extended Hagerstown's and Lancaster's eligibility for subsidized EAS through September 30, 2015.² By Order 2012-8-9 (August 3, 2012), the Department selected Sun Air to provide subsidized EAS at Hagerstown and Lancaster through September 30, 2015, the date established by Congress when EAS-eligibility for Hagerstown and Lancaster would terminate.

In anticipation of a possible short-term extension of FAA 2012 (including Hagerstown's and Lancaster's EAS-eligibility), and in order to ensure continued, uninterrupted EAS for both

¹ FAIN – Federal Award Identification Number

² FAA 2012, § 431.

communities, the Department issued Order 2015-9-13 (September 18, 2015), extending the EAS contract of Sun Air at Hagerstown and Lancaster to March 31, 2016, subject to Congressional action to extend their continued subsidy eligibility. Congress subsequently did so by the passage of the Airport and Airway Extension Act of 2015 (Pub. L. No. 114-55, September 30, 2015). The 2015 Act, among other things, extended EAS-eligibility for Hagerstown and Lancaster through March 31, 2016.

On March 7, 2016, Southern announced that it had purchased Sun Air, and Southern subsequently took over operation of Sun Air's subsidized EAS communities, including Hagerstown and Lancaster.

Also on March 7, 2016, in order to ensure continued, uninterrupted EAS for the communities of Hagerstown and Lancaster in the event that Congress extended their subsidy eligibility beyond March 31, 2016, the Department issued Order 2016-3-14, extending the communities' EAS contract through March 31, 2017, subject to Congressional action to extend the communities' eligibility.

On July 15, 2016, the President signed the "FAA Extension, Safety, and Security Act of 2016" (Pub. L. No. 114-190). Among other things, this legislation extended the communities' EAS eligibility through September 30, 2017. By Order 2017-3-14 (March 22, 2017), the Department extended the communities' EAS contract through September 30, 2017.

On September 25, 2017, in order to ensure continued, uninterrupted EAS for the communities, the Department issued Order 2017-9-18 extending the communities' EAS contract through March 31, 2018, subject to Congressional action to extend the communities' eligibility.

On September 28, 2017, the President signed the "Disaster Tax Relief and Airport and Airway Extension Act of 2017" (Pub. L. No. 115-63). Among other things, the legislation extended the communities EAS eligibility through March 31, 2018. The Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), further extended FAA's funding and authority, and extended both communities' EAS eligibility once again, through September 30, 2018.

Decision

With the September 30, 2018, expiration date approaching, the Department will again extend the communities' EAS contract through March 31, 2019, subject to Congressional action to extend the communities' EAS eligibility.

Carrier Fitness

Title 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 subsidize it to provide EAS. Southern is subject to the Department's continuing fitness requirements, and no information has come to our attention that would cause us to question the carrier's fitness at this time. We have contacted the Federal Aviation Administration, and it has raised no concerns that would negatively affect our fitness finding. We therefore conclude that the carrier remains fit to conduct the operations proposed here.

Other Carrier Requirements

The Department makes the selection at Hagerstown and Lancaster contingent upon our receipt of properly-executed certifications from Southern that it is in compliance with the Department's

regulations regarding drug-free workplaces and nondiscrimination, as well as the regulations concerning lobbying activities.

This Order is issued under authority delegated in 49 CFR 1.25a(b)(6)(ii)(D).

ACCORDINGLY,

1. The Department extends the Essential Air Service contract of Southern Airways Express, LLC, at the subsidy rates described in Order 2012-8-9, at Hagerstown, Maryland, and Lancaster, Pennsylvania, through March 31, 2019, subject to the communities' continued subsidy eligibility for EAS beyond September 30, 2018.
2. If Congress does not extend these communities' subsidy eligibility for EAS beyond September 30, 2018, the EAS contract will automatically terminate on September 30, 2018, and Southern Airways Express, LLC may cease service at these communities.
3. The Department directs Southern Airways Express, LLC 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 from the date of this Order 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. This selection is contingent upon receiving 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;³
5. These Dockets will remain open until further Order of the Department; and
6. The Department will serve a copy of this Order the Mayor of Hagerstown, Maryland, LLC, the Airport Director of Hagerstown Regional Airport, the Mayor of Lancaster, Pennsylvania, the Airport Director of Lancaster Airport, and Southern Airways Express, LLC.

By:

Joel Szabat
Deputy Assistant Secretary
for Aviation and International Affairs

(SEAL)

An electronic version of this document is available online at:
<http://www.regulations.gov/>

³ The certifications are internet accessible at: <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.