



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

Issued by the Department of Transportation
on the 11th day of September, 2024

Essential Air Service at

EAU CLAIRE, WISCONSIN
(FAIN 69A3452560221)¹

DOT-OST-2009-0306

under 49 U.S.C. § 41731 *et seq.*

ORDER SELECTING AIR CARRIER

Summary

By this Order, the U.S. Department of Transportation (the Department) selects SkyWest Airlines, Inc., marketed as United Express (SkyWest), to provide Essential Air Service (EAS) at Eau Claire, Wisconsin, for the three-year term from December 1, 2024, through November 30, 2027. SkyWest will provide Eau Claire with 12 nonstop round trips per week to Chicago O'Hare International Airport (ORD), using 50-seat Bombardier CRJ-200 (CRJ-200) aircraft, at the annual subsidy rates below:²

| <u>Term</u> | <u>Subsidy</u> |
|-------------|----------------|
| Year One | \$5,906,038 |
| Year Two | \$6,319,461 |
| Year Three | \$6,761,823 |

Background

By Order 2022-7-7 (July 13, 2022), the Department selected MN Airlines, LLC d/b/a Sun Country Airlines (Sun Country) to provide EAS at Eau Claire for the two-year period from December 1, 2022, through November 30, 2024. Additionally, by that order, the Department granted Chippewa Valley Regional Airport's request for a limited-time waiver from 49 U.S.C § 41732(b)(1)(A), which allowed Sun Country to provide Eau Claire with fewer than two daily round trips, six days a week, for the current contract term ending on November 30, 2024.

Under Order 2022-7-7, Sun Country provided Eau Claire with a total of four weekly round trips consisting of two round trips per week to Minneapolis–Saint Paul International Airport (MSP)

¹ FAIN = Federal Award Identification Number.

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

and an average of two round trips per week to either Orlando International Airport (MCO), Harry Reid International Airport (LAS), or Southwest Florida International Airport (RSW), using 186-seat Boeing 737-800 aircraft, at an annual subsidy of \$6,460,988.³

In anticipation of the end of the current contract term, the Department issued Order 2024-5-9 (May 16, 2024), soliciting proposals for a new term to provide EAS at Eau Claire, with or without subsidy. In response, Sun Country and SkyWest submitted proposals for consideration.

Summary of Air Carrier Proposals

| Eau Claire EAS Proposals | | | | | | | | | | | |
|--------------------------|-------------------------|-------------------------|-------------------------|-------------------------|----------------------|--------------------|----------|-------|----------------|---------------------|-------------------|
| Air Carrier (Option) | Annual Subsidy (Year 1) | Annual Subsidy (Year 2) | Annual Subsidy (Year 3) | Annual Subsidy (Year 4) | Round Trips per Week | Hub(s) | Aircraft | Seats | Marketing Plan | Interline/Codeshare | Community Support |
| SkyWest | \$ 5,906,038 | \$ 6,319,461 | \$ 6,761,823 | N/A | 12 | ORD | CRJ-200 | 50 | Yes | United Codeshare | Yes |
| Sun Country | \$ 6,745,819 | \$ 6,948,194 | \$ 7,156,640 | \$6,361,881* | 5 | MSP, RSW, MCO, LAS | 737-800 | 186 | Yes | None | No |

*Year 4 would constitute of a 10-month period (Dec 2027 – Sep 2028), coinciding with the sunset of the 2024 FAA Reauthorization Act for routes 650+ miles

The complete public file, including air carrier proposals, for EAS at Eau Claire may be accessed online through the Federal Docket Management System at www.regulations.gov by entering the community’s docket number in the “Search” field.

Community and State Comments

On June 20, 2024, the Department requested community comments regarding this air carrier selection case. In response, by letter dated July 8, 2024, Ms. Charity Zich, Chippewa Valley Airport Director, stated:

The Chippewa Valley Regional Airport Commission would like to express their support for the SkyWest Airlines proposal which the Commission believes will provide the best opportunity to serve the maximum amount of passengers over the next three years. The SkyWest proposal is an exciting opportunity to return to daily scheduled service with a regional carrier providing a network codeshare agreement with United Airlines.

Industry reports suggest that nationwide business travel has returned to 95% of pre-pandemic levels while demand for leisure travel appears to be softening. With SkyWest Airlines no longer constrained by the previous shortage of pilots, their proposal will allow us to capture some of both the returning business travel market and serve those with continued interest in leisure travel.

³ MSP, MCO, and LAS are large hub airports. RSW is a medium hub airport. https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy20-commercial-service-enplanements.pdf. Large hub airports receive one percent or more of the annual U.S. commercial enplanements. Medium hub airports receive 0.25 to 1.0 percent of the annual U.S. commercial enplanements. https://www.faa.gov/airports/planning_capacity/categories/.

Decision

Title 49 U.S.C. § 41733(c)(1)⁴ directs the Department to consider, among other factors, five specific criteria when making an air carrier selection for a community not in Alaska where basic EAS will not be provided without compensation: (A) the demonstrated reliability of the applicant in providing scheduled air service; (B) the contractual, marketing, code-share, or interline arrangements the applicant has made with a larger air carrier serving the hub airport; (C) the preferences of the actual and potential users of air transportation at the eligible place, including the views of the elected officials representing the users; (D) whether the air carrier has included a plan in its proposal to market its services to the community; and (F) the total compensation proposed by the air carrier for providing scheduled air service under this section.⁵ In addition, for a place not in Alaska, section 41732(b)(1)(A) requires basic EAS to include at least two daily round trips six days a week, which totals to a minimum of 12 round trips per week.

Sun Country's proposal would provide for a total of only five round trips per week, which is fewer than the basic EAS minimum frequencies required by 49 U.S.C. § 41732(b)(1)(A). Consequently, for the Department to consider Sun Country's proposal, the community would need to request a waiver from the basic EAS requirements, as Eau Claire did for the prior contract term in 2022. Because the community is not requesting a waiver for this contract term, the Department will not consider Sun Country's proposal.

This leaves SkyWest's proposal as the sole proposal eligible for selection. SkyWest's proposal aligns with the air carrier selection criteria required for evaluation, and the Department finds its proposed service levels and subsidy request to be reasonable. The community supported SkyWest's proposal, and SkyWest's codeshare agreement with United will afford passengers access to the national air transportation system via United's ORD hub and extensive domestic and international network. Additionally, SkyWest included a plan to market its services within the community. SkyWest's proposal also requested a lower subsidy amount than Sun Country's proposal. Therefore, pursuant to the provisions outlined in Appendix B, the Department selects SkyWest to provide EAS at Eau Claire for a three-year term.

Service Transition

The Department expects SkyWest and Sun Country to work together to make a smooth transition at Eau Claire with no service hiatus. Before Sun Country 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. We note that many of the eligibility requirements, including those below, do not apply for Fiscal Year 2024, pursuant to the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42, March 9, 2024, 138 Stat 25, 303. However, unless Congress waives this eligibility criteria for future fiscal years, compliance will resume at the beginning of Fiscal Year 2025 (October 1, 2024).

⁴ As amended by the FAA Reauthorization Act of 2024, Pub L. No. 118-63 (May 16, 2024) ("FAA 2024").

⁵ Section 41733(c)(1)(E) only applies to EAS operations in Alaska.

Title 49 U.S.C. § 41731(a)(1)(B) provides that a community must maintain an average of 10 enplanements per service day, as determined by the Secretary of Transportation, during the most recent fiscal year, to remain eligible for EAS. Communities, such as Eau Claire, that are not more than 175 driving miles from the nearest large or medium hub airport are subject to this requirement under 49 U.S.C. § 41731(d).

As amended by FAA 2024, 49 U.S.C. § 41731(a)(1)(C)(iii)⁶ requires that EAS communities less than 175 miles from the nearest large or medium hub airport have an average subsidy per passenger, as determined by the Secretary, of less than \$650. Eau Claire is subject to this requirement, because it is fewer than 175 miles from the nearest large- or medium-hub airport.

EAS communities, except for those in Alaska and Hawaii, must have had an average subsidy per passenger of less than \$1,000 during the most recent fiscal year, regardless of the distance to the nearest large- or medium-hub airport.⁷ Effective October 1, 2026, this amount is reduced to \$850.⁸

Under 49 U.S.C. § 41731(e)(1), the Secretary may waive, on an annual basis, subsections (a)(1)(B) and (a)(1)(C)(iii) with respect to an eligible place if such place demonstrates to the Secretary's satisfaction that the reason the eligibility requirements of such subsections are not met is due to a temporary decline in demand. Limitations on these waivers begin October 1, 2026, when the Secretary may not provide a waiver for any community (a) in more than two consecutive fiscal years; or (b) in more than five fiscal years within 25 consecutive years.⁹

The Department expects SkyWest and Eau Claire to work together to ensure that the community will comply with the applicable requirements. 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. SkyWest 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. In addition, the Federal Aviation Administration has not raised concerns that would negatively affect the Department's fitness findings. The Department therefore concludes that SkyWest remains fit to conduct the operations proposed at Eau Claire.

This Order is issued under authority redelegated by the Under Secretary of Transportation for Policy in 49 CFR § 1.25a(b)(6)(ii)(D), as directed by the Assistant Secretary for Aviation and International Affairs under 49 CFR § 1.60(b).

⁶ Under 49 U.S.C. § 41731(c), this requirement does not apply to EAS eligible communities located in the states of Alaska and Hawaii.

⁷ See 49 U.S.C. § 41731(a)(1)(C)(i), as amended by FAA 2024.

⁸ See 49 U.S.C. § 41731(a)(1)(C)(ii), as amended by FAA 2024.

⁹ 49 U.S.C. § 41731(e), as amended by FAA 2024.

Accordingly,

1. The Department selects SkyWest Airlines, Inc. to provide Essential Air Service at Eau Claire, Wisconsin, from December 1, 2024, through November 30, 2027, in accordance with the proposal set forth in Appendix A, and establishes the annual subsidy rate as described in Appendix B;
2. The Department makes this selection contingent upon receiving properly executed certifications from SkyWest Airlines, Inc that it is in compliance with the Department's regulations regarding drug-free workplaces and nondiscrimination, as well as the regulations concerning lobbying activities;¹⁰
3. The Department directs SkyWest Airlines, Inc 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 SkyWest Airlines, Inc. is fit, willing, and able to perform Essential Air Service at Eau Claire, Wisconsin;
5. This docket will remain open pending further Department action; and

¹⁰ The certifications are available online under "Reports and Publications" at <http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

6. The Department will serve this Order on the civic officials of Eau Claire, Wisconsin, the Airport Director of Chippewa Valley Regional Airport, MN Airlines, LLC d/b/a Sun Country Airlines, and SkyWest Airlines, Inc.

By:

CINDY A. BARABAN
Deputy Assistant Secretary
for Aviation and International Affairs

(SEAL)

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

SkyWest Airlines, Inc.
Annual Compensation Requirements for Essential Air Service at Eau Claire, Wisconsin

SkyWest Airlines
Essential Air Service Bid
6/18/2024

| | |
|--------------------------------|-------------|
| | ORD |
| | EAU |
| Number of round trips per week | 12.0 |
| Aircraft type | CRJ-50 Seat |

Passenger Revenue

| | |
|--------------|--------------|
| Passengers | 34,944 |
| Average fare | \$ 85.00 |
| Revenue | \$ 2,970,240 |

Block Time

| | |
|----------------------------|-------|
| Trip block time (minutes) | 79 |
| Total scheduled block time | 1,643 |
| Total completed block time | 1,594 |

RPMS

| | |
|--------------|-----------|
| Passengers | 34,944 |
| Stage length | 269 |
| Total RPMS | 9,399,936 |

ASMs

| | |
|----------------------|------------|
| Scheduled departures | 1,248 |
| Completed departures | 1,211 |
| Stage length | 269 |
| Available Seats | 50 |
| Total ASMs | 16,785,600 |

| | |
|---------------------------|----------------|
| Revenue | \$ 2,970,240 |
| Marketing Costs | \$ 20,000 |
| Direct operating expenses | \$ 5,122,574 |
| Departure related | \$ 3,154,583 |
| ASM related | \$ 156,442 |
| Total expenses | \$ 8,453,598 |
| Operating income (loss) | \$ (5,483,358) |
| 5% profit margin | \$ 422,680 |

| | |
|--|---------------------|
| Annual subsidy requirement (Year 1) | \$ 5,906,038 |
| Annual subsidy requirement (Year 2) | \$ 6,319,461 |
| Annual subsidy requirement (Year 3) | \$ 6,761,823 |

Effective Subsidy rate per unit

| | |
|-----------------------|------------|
| Subsidy per trip | \$ 4,879 |
| Subsidy per passenger | \$ 169 |
| Load factor | 56% |

SkyWest Airlines. Inc.
Essential Air Service to be provided at Eau Claire, Wisconsin
DOT-OST-2009-0306

| | |
|--|---|
| <u>Contract Term:</u> | December 1, 2024, through November 30, 2027 |
| <u>Year 1 Annual Subsidy¹:</u> | \$5,906,038 |
| <u>Year 2 Annual Subsidy:</u> | \$6,319,461 |
| <u>Year 3 Annual Subsidy:</u> | \$6,761,823 |
| <u>Hub:</u> | Chicago O'Hare International Airport (ORD) |
| <u>Scheduled Service:</u> | 12 round trips per week |
| <u>Aircraft/Seats:</u> | 50-seat CRJ200 |
| <u>Year 1 Subsidy Rate per Flight:²</u> | \$4,877 |
| <u>Year 2 Subsidy Rate per Flight:</u> | \$5,218 |
| <u>Year 3 Subsidy Rate per Flight:</u> | \$5,584 |
| <u>Year 1 Weekly Ceiling:³</u> | \$117,048 |
| <u>Year 2 Weekly Ceiling:</u> | \$125,232 |
| <u>Year 3 Weekly Ceiling:</u> | \$134,016 |

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 this rate, 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 service amounts, 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.

Funds may not be available for performance under this Order beyond September 30, 2024. The Government's obligation for performance under this Order beyond September 30, 2024, is subject to the availability of funds from which payment for

¹ Year 1=December 1, 2024, through November 30, 2025; Year 2=December 1, 2025, through November 30, 2026; Year 3=December 1, 2026, through November 30, 2027

² Annual compensation divided by 1,211 annual flights (1,248 flights multiplied by 97 percent completion).

³ 24 flights per week multiplied by rate per flight.

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, 2024, until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond September 30, 2024, the Department will provide notice in writing to the air 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 31; August claims must be submitted by November 30, and so on.