



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

Issued by the Department of Transportation
on the 13th day of February, 2017

Essential Air Service at

KAMUELA, HAWAII

Under 49 U.S.C. § 41731 *et seq.*

Docket DOT-OST-1997-2833

ORDER REQUESTING PROPOSALS

Summary

By this Order, the United States Department of Transportation (the Department) is requesting proposals from air carriers interested in providing Essential Air Service (EAS) at Kamuela, Hawaii, for a new contract term, with or without subsidy support, beginning October 1, 2017. (See Appendix A for a map). Proposals are due by 11:59 P.M. Eastern Standard Time on March 23, 2017.

Background

By Order 2013-7-3, issued on July 2, 2013, the Department selected Mokulele Flight Services, Inc. d/b/a Mokulele Airlines (Mokulele) to provide EAS at Kamuela for a four-year period.¹ Under the terms of that contract, Mokulele was selected to provide Kamuela with 12 nonstop round trips each week to Honolulu International Airport (HNL) or Kahului Airport (OGG), using 9-seat Cessna 208 Caravan aircraft, for a total four-year subsidy rate of \$1,758,400 (\$494,291 for the first year, \$434,411 for the second year, \$417,310 for the third year, and \$412,389 for the fourth year).

That Order, as well as the complete public file for EAS at Kamuela, may be accessed online through the Federal Docket Management System at: <http://www.regulations.gov>, by entering "DOT-OST-1997-2853" in the "SEARCH for: Rules, Comments, Adjudications or Supporting Documents:" field.

Request for Proposals

As the end of the current contract approaches, the Department is requesting proposals from air carriers interested in providing EAS at Kamuela, with or without subsidy support, for a new contract term. Air carriers should file their proposals no later than March 23, 2017. After that

¹ By Order 2013-8-6, issued on August 19, 2013, the Department specified the service dates for Mokulele to provide EAS at Kamuela from September 21, 2013, through September 30, 2017.

date, all proposals will be made public in the docket. Shortly thereafter, the Department will provide a summary of the proposals to community officials and ask them to submit their formal comments. The Department will give full consideration to all proposals filed in a timely manner.²

Interested air carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals. The Department retains the discretion to negotiate proposals with air carriers when the Department deems it desirable; in such cases, the Department will give all viable applicants the same opportunity. The Department also retains the discretion to reject outright all unreasonable or unrealistic proposals and solicit a new round of proposals. However, negotiation or rejection are only occasional exceptions to the rule.

The Department is providing in this Order some basic information to help interested air carriers prepare proposals, but a precise format for those proposals will not be prescribed. The applicants can make their own judgments as to the level of detail they wish to present; however, air carriers may want to include proposed schedules as well as supporting data for subsidy requests, such as projected block hours, revenues and expenses. The Department strongly encourages clear, well-documented proposals that will facilitate their evaluation by the affected community and the Department.³ The Department expects proposals to adequately describe the service being proposed and the annual amount of subsidy being requested.

The Department will formally solicit the community's views on any service options the Department receives 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.

The Department encourages proposals that meet these requirements in an efficient manner. Air 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

² Air carriers should not expect the Department to accept late filings. In cases where an air carrier proposes to provide EAS without subsidy and the Department determines that service can be reliably provided without such compensation, the Department typically does not proceed with the carrier-selection case. Instead, the Department typically relies on that carrier's subsidy-free service as proposed.

³ In selecting an air carrier to provide subsidized EAS for an eligible place not in Alaska, 49 U.S.C. § 41733(c)(1) directs the Department to consider five factors: (A) service reliability; (B) contractual and marketing arrangements with a larger air carrier at the hub; (C) interline arrangements with a larger air carrier at the hub; (D) community views, giving substantial weight to the views of the elected officials representing the users of the service; and (E) whether the air carrier has included a plan in its proposal to market the service. In addition, the Consolidated Appropriations Act, 2016, Public Law No. 114-113, provides that when selecting a carrier to provide EAS, the Department may consider the relative subsidy requirements, thus codifying a factor that has been considered since the inception of the program. Interested air carriers should also be aware that the general provisions governing EAS will be included in the selection Order as part of the Department's authorization of subsidy for the selected service. Appendix C of this Order contains those general provisions.

competitive. The Department expects proposals consistent with what the community currently receives, namely 12 round trips to a large- or medium-hub airport.

In order to assist air carriers in developing traffic and revenue projections for their proposals, the Department has summarized historical passenger levels in Appendix B. During the 12-month period ended September 30, 2016, Kamuela generated 8,733 total inbound and outbound passengers.

Special Discussion Concerning Kamuela

The Consolidated Appropriations Act, 2016, Public Law No. 114-113, states, “[T]hat none of the funds in this Act or any other Act shall be used to enter into a new contract with a community located less than 40 miles from the nearest small hub airport before the Secretary has negotiated with the community over a local cost share.” As Kamuela is located fewer than 40 miles from Kona International Airport at Keāhole (KOA), a small-hub as measured by the most recent data published by the Department (CY2015 FAA’s Enplanements at Commercial Service Airports report), the Department is required to negotiate a local cost share with the community of Kamuela before entering into a new contract.

Prospective air carriers should be aware of this provision when discussing service proposals with the community and officials in Kamuela should be aware of the provision and be prepared to negotiate with the Department on a local cost share after proposals are received and before the Department issues a carrier selection Order in response to this request for proposals.

Filing Procedures

Air carrier proposals should be submitted to the Department with all materials merged into a single document. In addition, because the document will be published on www.Regulations.gov, each page should be formatted to be viewed online.

Air Carrier Requirements

The Department is responsible for implementing various federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination. 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.⁴

⁴ The regulations applicable to these areas are: (1) 49 CFR Part 20 – 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) 2 CFR Part 1200 – Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants). The certifications are available on the web at: <https://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports>.

Community Comments

Civic officials and the State are welcome to submit comments at any time. The Department encourages prospective applicants to contact the community before they submit their proposals so that they can tailor them to the community's needs, as they will not be able to amend them after the due date. As noted earlier, the Department will provide a copy of the proposals to the civic parties and ask them to submit their final comments shortly after March 23, 2017, the due date for air carrier proposals.

This Order is issued under authority delegated in 49 CFR 1.25a(b)(6)(ii)(D) and re-delegated to the Director, Office of Aviation Analysis.

ACCORDINGLY,

1. The Department requests that air carriers interested in providing Essential Air Service at Kamuela, Hawaii, submit their proposals, with or without subsidy requests, no later than March 23, 2017. The proposals should be emailed to: Scott.Faulk@dot.gov bearing the title "Proposal to Provide EAS at Kamuela, HI,"⁵
2. Docket DOT-OST-1997-2833 will remain open until further Order of the Department; and
3. The Department will serve copies of this Order on the civic officials of Kamuela and the service list for this docket.

Persons entitled to petition the Department for review of this Order under the Department's Regulations, 14 CFR Part 385.31(a), must file such petitions within seven (7) 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:

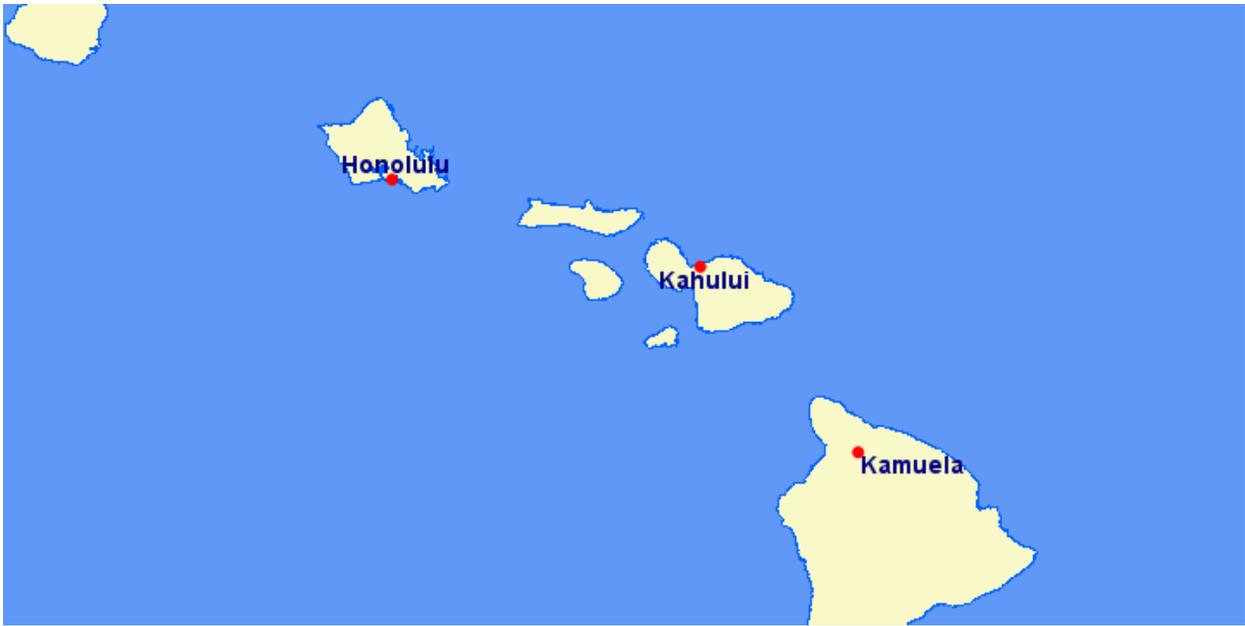
TODD M. HOMAN
Director
Office of Aviation Analysis

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

(SEAL)

⁵ Questions regarding filings in response to this Order should be directed to Mr. Scott Faulk at scott.faulk@dot.gov.

AREA MAP



Historical Traffic at Kamuela, Hawaii¹

Year	Quarter	OpUniqueCarrierName	CityMarketName	InBound	OutBound	Grand Total	
2014	1	Mokulele Flight Services, Inc.	Kahului, HI	1,141	1,251	2,392	
		Mokulele Flight Services, Inc. Total		1,141	1,251	2,392	
	1 Total				1,141	1,251	2,392
	2	Mokulele Flight Services, Inc.	Kahului, HI	1,216	1,322	2,538	
		Mokulele Flight Services, Inc. Total		1,216	1,322	2,538	
	2 Total				1,216	1,322	2,538
	3	Mokulele Flight Services, Inc.	Kahului, HI	1,341	1,421	2,762	
		Mokulele Flight Services, Inc. Total		1,341	1,421	2,762	
	3 Total				1,341	1,421	2,762
	4	Mokulele Flight Services, Inc.	Kahului, HI	1,215	1,281	2,496	
		Mokulele Flight Services, Inc. Total		1,215	1,281	2,496	
	4 Total				1,215	1,281	2,496
	2014 Total				4,913	5,275	10,188
	2015	1	Mokulele Flight Services, Inc.	Kahului, HI	1,120	1,175	2,295
			Mokulele Flight Services, Inc. Total		1,120	1,175	2,295
		1 Total				1,120	1,175
2		Mokulele Flight Services, Inc.	Kahului, HI	1,488	1,486	2,974	
		Mokulele Flight Services, Inc. Total		1,488	1,486	2,974	
2 Total				1,488	1,486	2,974	
3		Mokulele Flight Services, Inc.	Kahului, HI	1,327	1,353	2,680	
		Mokulele Flight Services, Inc. Total		1,327	1,353	2,680	
3 Total				1,327	1,353	2,680	
4		Mokulele Flight Services, Inc.	Kahului, HI	1,308	892	2,200	
		Mokulele Flight Services, Inc. Total		1,308	892	2,200	
4 Total				1,308	892	2,200	
2015 Total				5,243	4,906	10,149	
2016		1	Mokulele Flight Services, Inc.	Kahului, HI	1,135	1,179	2,314
			Mokulele Flight Services, Inc. Total		1,135	1,179	2,314
		1 Total				1,135	1,179
	2	Mokulele Flight Services, Inc.	Kahului, HI	1,070	1,137	2,207	
		Mokulele Flight Services, Inc. Total		1,070	1,137	2,207	
	2 Total				1,070	1,137	2,207
	3	Mokulele Flight Services, Inc.	Kahului, HI	1,004	1,008	2,012	
		Mokulele Flight Services, Inc. Total		1,004	1,008	2,012	
	3 Total				1,004	1,008	2,012
	4	Mokulele Flight Services, Inc.	Kahului, HI	674	712	1,386	
		Mokulele Flight Services, Inc. Total		674	712	1,386	
	4 Total				674	712	1,386
	2016 Total				3,883	4,036	7,919

¹ Source: Bureau of Transportation Statistics: Schedule T-100. The fourth quarter of 2016 does not include December traffic data which is not available at the time of this Order's issuance.

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 may not be available for performance under this Order beyond [DATE]. The Government's obligation for performance under this Order beyond [DATE], is subject to the availability of 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 Order beyond [DATE], until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond [DATE], the Department will provide notice in writing to the 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 31st; August claims must be submitted by November 30th, and so on.