Order: 2018-9-14
Served: September 14, 2018

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

Issued by the Department of Transportation
on the 14th day of September, 2018

Essential Air Service at **LEBANON, NEW HAMPSHIRE** (FAIN 69A3451960175)[1] under 49 U.S.C. 41731 *et seq.*	**DOT-OST-2003-14822**

ORDER RESELECTING AIR CARRIER

Summary
By this Order, the United States Department of Transportation (the Department) is reselecting Hyannis Air Service, Inc. d/b/a Cape Air (Cape Air) to provide Essential Air Service (EAS) at Lebanon, New Hampshire, to Boston Logan International Airport (BOS) and Westchester County Airport (HPN) in White Plains, New York, using 9-passenger Cessna 402 aircraft *or* 9-passenger Tecnam P2012 Traveller (Tecnam) aircraft for the four-year contract term from December 1, 2018, through November 30, 2022. The annual subsidy rates are as follows:[2]

Year	LEB-BOS Annual Subsidy	LEB-HPN Annual Subsidy	Total Annual Subsidy
1	$2,126,633	$1,476,034	$3,602,667
2	$2,190,432	$1,520,316	$3,710,748
3	$2,256,145	$1,565,925	$3,822,070
4	$2,323,829	$1,612,903	$3,936,732

Background
By Order 2014-11-6, issued on November 7, 2014, the Department re-selected Cape Air to provide EAS at Lebanon to BOS and HPN using 9-seat Cessna 402 aircraft for the four-year term from December 1, 2014, through November 30, 2018. The annual subsidy rates were as follows:

[1] FAIN = Federal Award Identification Number.
[2] Such subsidy is calculated and distributed on a fiscal year basis, subject to the availability of funds.

Year	Lebanon-Boston Annual Subsidy	Lebanon-White Plains Annual Subsidy	Total Annual Subsidy
1	$1,719,211	$1,253,507	$2,972,718
2	$1,787,979	$1,303,648	$3,091,627
3	$1,859,499	$1,355,793	$3,215,292
4	$1,933,879	$1,410,025	$3,343,904

As the expiration of the current contract approached, the Department issued Order 2018-5-20 on May 15, 2018, requesting proposals from air carriers for a new contract term. In response to that Order, Cape Air was the only air carrier to submit a proposal.

Cape Air's proposal and the community comments may be accessed online at www.regulations.gov by entering docket number DOT-OST-2003-14822 in the search block.

Proposal of Cape Air
Cape Air submitted two-year or four-year options to serve Lebanon using 9-passenger Cessna 402 aircraft or soon-to-be delivered Tecnam aircraft to BOS and HPN. Cape Air proposes to maintain is current service level, with 4 daily nonstop round trips to BOS (28 per week) and 2 daily nonstop round trips to HPN (14 per week). With regard to its annual subsidy request, Cape Air states in its bid that, in order to align revenue with operating costs over time, the airline has incorporated an escalating annual subsidy for each year of the EAS contract.

Cape Air's proposed annual subsidy rates are summarized below:

Two-Year reselection	LEB-BOS Annual Subsidy	LEB-HPN Annual Subsidy
Year 1	$2,174,916	$1,509,546
Year 2	$2,240,163	$1,544,833
Four-Year reselection		
Year 1	$2,126,633	$1,476,034
Year 2	$2,190,432	$1,520,316
Year 3	$2,256,145	$1,565,925
Year 4	$2,323,829	$1,612,903

Community Comments
On June 13, 2018, the Department requested comments from the community regarding this EAS air carrier selection case. In response, the Department received an e-mail from Rick Dyment, Airport Manager for Lebanon Regional Airport, reporting the decision by the Lebanon City Council at its July 18, 2018, meeting to support Cape Air's proposal to provide EAS at Lebanon for a new, four-year contract term.

Decision
Cape Air was the only air carrier to submit a proposal to serve Lebanon, and Cape Air's proposal meets all five factors the Department must consider when selecting a carrier to provide subsidized EAS. When making an air carrier selection decision outside of Alaska, 49 U.S.C. §

41733(c)(1) directs the Department to consider: (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 actual and potential users of the service; and (E) whether the air carrier has included a plan in its proposal to market the service.

The Lebanon City Council voted to express their support for Cape Air's reselection for a four-year contract term, and Cape Air has earned an excellent reputation for providing reliable service at all the EAS communities it serves. Furthermore, Cape Air has interline agreements with most major air carriers and it included in its proposal a marketing plan to promote its service.

The Department makes this reselection contingent upon its receiving properly-executed certifications from Cape Air 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]

Reminder About EAS Eligibility
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. Locations in Alaska and Hawaii, and communities that are more than 175 driving miles from the nearest large or medium hub airport, are exempt from this requirement. Lebanon is within 175 miles of BOS, a large-hub airport, and is subject to this requirement.

Further, the Department of Transportation and Related Agencies Appropriations Act, 2000, Pub. L. No. 106-69, prohibits the Department from subsidizing EAS to communities located within the 48 contiguous States with a subsidy per passenger subsidy amount exceeding $200, unless the community is located more than 210 miles from the nearest large- or medium-hub airport. The FAA Modernization and Reform Act of 2012, Pub L. No. 112-95, provides that the Secretary of Transportation may waive the $200 subsidy cap, subject to the availability of funds, on a case-by-case basis, for a limited period of time. Lebanon is subject to the $200 subsidy cap.

Finally, 49 U.S.C. § 41731(a)(1)(C) states that, to be eligible for EAS, a community must have an average subsidy per passenger of less than $1,000 during the most recent fiscal year, as determined by the Secretary of Transportation, or face termination of subsidy eligibility, regardless of distance to the nearest hub airport. The $1,000 subsidy per passenger limit applies to all EAS communities outside of Alaska and Hawaii.

In order to be compliant with the above requirements, the Department expects the air carrier and the community to work together to ensure Lebanon will remain eligible for EAS.

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

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. Cape Air 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. The Department has contacted the Federal Aviation Administration, and it has raised no concerns that would negatively affect our fitness findings. The Department therefore concludes that Cape Air is reliable and fit to conduct the operations proposed at Lebanon and .

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

ACCORDINGLY,
1. The Department reselects Hyannis Air Service, Inc. d/b/a Cape Air to provide Essential Air Service at Lebanon, New Hampshire, and establishes the annual subsidy rates as described in Appendix C;

2. The Department makes this re-selection contingent upon its receiving properly-executed certifications from Hyannis Air Service, Inc. d/b/a Cape Air 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. The Department directs Hyannis Air Service, Inc. d/b/a Cape Air 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 service 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. The Department finds that Hyannis Air Service, Inc. d/b/a Cape Air is fit, willing, and able to operate as a commuter air carrier, and capable of providing reliable Essential Air Service at Lebanon, New Hampshire;

5. This docket will remain open pending further Department action; and

6. The Department will serve a copy of this Order on the Mayor of Lebanon, New Hampshire, the Airport Manager for Lebanon Regional Airport, and Hyannis Air Service, Inc. d/b/a Cape Air.

By:

Joel Szabat
Deputy Assistant Secretary
for Aviation and International Affairs

(SEAL)

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

AREA MAP

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Cape Air's proposal

Drivers

	Route	
	BOS-LEB	LEB-HPN
Stage (naut. miles)	97	164
Seats per Dpt	9	9
Sched. RTs/Day	4.0	2.0
Annual Actual Dpts	2,832	1,416
PDEW	18.9	10.5
Pax/Dpt	4.9	5.4
Load Factor	54%	60%
Annual Passengers	13,765	7,647
Avg. Net Fare	$54	$111
Passenger Rev	$746,945	$846,456

Expenses

Two-year term; discount for 4-year term, preferred, is noted below

		BOS-LEB	LEB-HPN
	Fuel	$690,469	$543,524
	Maintenance	$829,372	$639,292
	Pilots	$181,933	$144,947
	Ownership	$255,907	$134,611
	Stations	$648,435	$369,989
	Marketing	$42,663	$22,337
	De-icing	$15,544	$7,772
	General & Admin./Other	$111,445	$375,732
	Operating Expense	$2,775,768	$2,238,203
	Return of 5%	$146,093	$117,800
	Economic Expense	$2,921,861	$2,356,003
	Passenger Revenue	$746,945	$846,456
	Profit	($2,174,916)	($1,509,546)
Year 1	**Subsidy Required**	**$2,174,916**	**$1,509,546**
	Per Departure	**$768**	**$1,066**
	Per Passenger	**$158**	**$197**
	4-Year discount		
Year 1	**Subsidy Required**	**$2,126,633**	**$1,476,034**
	Per Departure	**$751**	**$1,042**
	Per Passenger	**$154**	**$193**

4-year option preferred

Cape Air
We're Your Wings

Note: See escalation factors subsequent slide

To align revenue with costs, Cape Air proposes escalation factors

Annual subsidy including escalation

		BOS-LEB	LEB-HPN
	Two-year reselection		
	Year 1	$2,174,916	$1,509,546
	Year 2	$2,240,163	$1,554,833
	Four-year reselection		
Preferred	Year 1	$2,126,633	$1,476,034
Preferred	Year 2	$2,190,432	$1,520,316
Preferred	Year 3	$2,256,145	$1,565,925
Preferred	Year 4	$2,323,829	$1,612,903

Cape Air
We're Your Wings

Hyannis Air Service, Inc. d/b/a Cape Air
Essential Air Service to be provided at Lebanon, New Hampshire
DOT-OST-2003-14822

Contract Term: December 1, 2018, through November 30, 2022

Hubs: Boston Logan International Airport (BOS)
Westchester County Airport (HPN)

Scheduled Service: 28 nonstop round trips per week to BOS
14 nonstop round trips per week to HPN

Aircraft: 9-passenger Cessna 402 or Tecnam P2012 Traveller

Annual Subsidy:

Effective Period	**BOS**	**HPN**
December 1, 2018 – November 30, 2019	$2,126,633	$1,476,034
December 1, 2019 – November 30, 2020	$2,190,432	$1,520,316
December 1, 2020 – November 30, 2021	$2,256,145	$1,565,925
December 1, 2021 – November 30, 2022	$2,323,829	$1,612,903

Rate per Flight

Effective Period	**BOS**[1]	**HPN**[2]
December 1, 2018 – November 30, 2019	$753	$1,045
December 1, 2019 – November 30, 2020	$775	$1,077
December 1, 2020 – November 30, 2021	$799	$1,109
December 1, 2021 – November 30, 2022	$823	$1,142

Weekly Ceiling

Effective Period	**BOS**[3]	**HPN**[4]
December 1, 2018 – November 30, 2019	$42,168	$29,260
December 1, 2019 – November 30, 2020	$43,400	$30,156
December 1, 2020 – November 30, 2021	$44,744	$31,052
December 1, 2021 – November 30, 2022	$46,088	$31,976

Further, see "Note," Appendix C, page 2.

[1] Annual compensation divided by 2,825 annual departures (56 weekly departures x 52 weeks x 97 percent completion).
[2] Annual compensation divided by 1,412 annual departures (28 weekly departures x 52 weeks x 97 percent completion).
[3] 56 weekly departures multiplied by rate per flight.
[4] 28 weekly departures multiplied by rate per flight.

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 plans 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 the 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 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 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 stipulated service levels, the carrier may cease to provide service to that specific location without regards 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 carrier do not constitute a total or partial reduction or cessation of payment.

Subsidy contract 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 September 30, 2018. The Government's obligation for performance under this Order beyond September 30, 2018, 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 September 30, 2018, until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond September 30, 2018, 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 31; August claims must be submitted by November 30, and so on.