



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

**Order 2004-7-19**

Issued by the Department of Transportation  
on the 22<sup>nd</sup> day of July, 2004

**COMMUNITY FLEXIBILITY PILOT PROGRAM**

**and the**

**ESSENTIAL AIR SERVICE PROGRAM**

**Served: July 27, 2004  
Docket OST-2000-8556 *et al.*<sup>1</sup>**

**ORDER REQUESTING COMMUNITY APPLICATIONS**

**Summary**

By this order, the Department is requesting applications from communities interested in participating in the Community Flexibility Pilot Program in which communities can forgo their Essential Air Service (EAS) for a period of 10 years in exchange for a grant equal to no more than two years' EAS subsidy. Applications are due no later than 60 days after the date of service of this order.

**Background**

On December 12, 2003, the President signed into law Vision 100 -- Century of Aviation Reauthorization Act, P.L. 108-176. Section 405 of the new law establishes, among other things, a Community Flexibility Pilot Program, under which as many as 10 communities whose scheduled services are now subsidized under the Department's EAS program may obtain federal grants by agreeing to forgo their subsidized services for a period of 10 years.<sup>2</sup>

The value of each community's grant would be equal to twice the compensation paid to subsidize its service during the most recent 12-month period. The community may use the grant for any project that (a) is eligible for assistance under, and complies with the requirements of, the Airport Improvement Program, (b) is located on airport property, or (c) will improve airport facilities in a way that will enhance their usage for general aviation. The law directs that community applications must contain, at a minimum, (a) a statement of the amount of the grant being sought, and (b) a description of how the grant will be used.

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<sup>1</sup> See Appendix A for a full list of currently subsidized communities and their corresponding docket numbers.

<sup>2</sup> See Appendix B for the statutory language.

## **Request for Applications**

Communities interested in obtaining grants in lieu of subsidy-supported service should submit their applications within 60 days of the date of service of this order. Applications must contain, at a minimum, the amount of the grant being sought and how it will be used. Grant values will be based on subsidy payments made during the most recent 12-month period -- i.e., the year ended June 30, 2004.<sup>3</sup> In cases where subsidy payments were made under a single subsidy rate covering service at more than one community, the value of a community's grant will be determined by dividing the subsidy payment between or among the communities in proportion to the relative levels of subsidized service authorized for each of the communities covered by the rate. Following are two examples:

- Communities A, B and C are covered by a single rate authorizing 12 round trips a week at each community, and payments totaling \$1,500,000 were made during the year ended June 30, 2004. Each community's subsidy share is \$500,000, and each is thus eligible for a grant of \$1,000,000.
- Communities A and B are covered by a single rate authorizing 12 round trips a week at Community A but 18 round trips a week at Community B, and payments totaling \$2,400,000 were made during the year ended June 30, 2004. Community A's subsidy share is  $12/30 \times \$2,400,000 = \$960,000$ , whereas Community B's share is  $18/30 \times \$2,400,000 = \$1,440,000$ . Community A is thus eligible for a grant of \$1,920,000, and Community B for a grant of \$2,880,000.

Interested communities should submit an original and four copies of their applications, bearing the title "Application under the Community Flexibility Pilot Program" as well as the name of the community, the legal sponsor of the affected airport, and the appropriate docket number as shown in Appendix A to this order, to the Docket Operations and Media Management Division, M-30, Room PL-401, U.S. Department of Transportation, 400 7th Street S.W., Washington DC 20590.<sup>4</sup>

## **Department Review of Applications**

As noted earlier, the Department may make up to 10 such grants under the new program. We will consider late applications only if we award fewer than 10 grants out of the initial pool of timely-filed applications. If more than 10 applications are filed on a timely basis, we must limit the number of grants to no more than 10. We are prepared to consider any compelling factors that communities may wish to include in their applications, and proposals should be in sufficient detail that we can be assured that the proposal comports with the statute. However, one of the

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<sup>3</sup> If a community's service was subsidized for only part of the most recent 12-month period, its grant value will be based on the payments actually made during that part of the period. In such cases, grant sizes will not be determined by annualizing the actual subsidy payments.

<sup>4</sup> Communities wishing to obtain information about recent subsidy payments, or having any other questions regarding this order, should contact Dennis J. DeVany, Chief of the EAS & Domestic Analysis Division, at (202) 366-1053 or [dennis.devany@ost.dot.gov](mailto:dennis.devany@ost.dot.gov).

most important factors that we will consider is the savings to taxpayers through long-term spending reductions in the EAS program. Consequently, a principal selection criterion will be the amount of EAS program funding that would be saved by the discontinuation of subsidized service at the applicant communities, based on our review of the communities' current subsidy rates. In cases where multiple communities are covered by a single subsidy rate, calculating the program savings resulting from the discontinuation of subsidy for one community is more complex than the simple portioning that we will use to determine grant values. Each case is unique and many factors come into play, including the revenues generated by each community and the distances involved. We will need to evaluate each case on its own merits.

Each community awarded a grant will be expected to execute a grant agreement with the Department before it begins spending funds under a grant award. Applicants should therefore not assume they have received grants, nor obligate or spend local funds prior to receiving and fully executing grant agreements under this program. Funding from grants may not be used to pay for expenditures made prior to the execution of grant agreements. Communities should also be aware that numerous assurances are required to be made and honored when federal funds are awarded (such as non-discrimination, etc.), and acceptance of the responsibilities of those assurances is a requirement for receiving a grant under the program.<sup>5</sup>

#### **Payments to Communities and Availability of Funds**

It is very unlikely that EAS program funding will permit us to pay such grants in one-time lump sums. We expect to pay them over a two-year period, but retain the right to extend payments for more than two years if EAS program cash-flow considerations require it.

In order to receive a grant, a community must be eligible for EAS subsidy at the time that grant awards are made. It is important that communities understand that payments are subject to the communities' continued subsidy eligibility under the EAS program as well as the continued availability of funds. Furthermore, a community whose application is approved will receive grant payments only so long as it would otherwise remain eligible for EAS subsidy. If program funding does not allow us to make payments, we will reinstate the community in the EAS program, assuming it continues to meet the program's eligibility requirements, and request proposals from carriers interested in providing scheduled service. Because limited funding will have forced us to terminate grant payments in the first place, however, resumption of subsidizing the community's service may occur only if the required subsidy is substantially less than the grant payments we would otherwise be making.

This order is issued under authority delegated in 49 CFR 1.56a(f).

#### **ACCORDINGLY,**

1. Community applications for grants under the Community Flexibility Pilot Program should be submitted within 60 days after the date of service of this order;
2. These dockets will remain open until further order of the Department; and

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<sup>5</sup> The required certifications are available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

3. We will serve copies of this order on the parties to the dockets listed in Appendix A.

By:

**KARAN K. BHATIA**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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

CURRENTLY SUBSIDIZED COMMUNITIES	DOCKET #
Adak, AK	00-8556
Akutan, AK	00-7068
Alamogordo/HollomanAFB, NM	96-1901
Alamosa, CO	97-2960
Alliance, NE	97-3003
Altoona, PA	02-11446
Athens, GA	02-11348
Atka, AK	95-363
Augusta/Waterville, ME	97-2784
Bar Harbor, ME	97-2784
Beckley, WV	97-2761
Bluefield/Princeton, WV	97-2761
Brookings, SD	97-2785
Brownwood, TX	97-2402
Burlington, IA	01-8731
Cape Girardeau, MO	96-1559
Cape Yakataga, AK	96-2009
Carlsbad, NM	02-12802
Cedar City, UT	97-2706
Central, AK	98-3621
Chadron, NE	97-3003
Chatham, AK	97-3134
Chisholm/Hibbing, MN	03-15796
Circle, AK	98-3621
Clovis, NM	96-1902
Cordova, AK	98-4899
Cortez, CO	96-1900
Crescent City, CA	97-2649
Devils Lake, ND	97-2785
Decatur, IL	02-11859
Dickinson, ND	95-697
Dodge City, KS	98-3502
DuBois, PA	04-17617
El Dorado/Camden, AR	97-2935
Elfin Cove, AK	02-11586
Ely, NV	95-361
Enid, OK	97-2401
Ephrata/Moses Lake, WA	98-3344
Escanaba, MI	03-15128
Excursion Inlet, AK	03-12014
Fort Dodge, IA	01-10684
Fort Leonard Wood, MO	96-1167
Funter Bay, AK	97-3134
Garden City, KS	98-3503
Glasgow, MT	97-2605
Glendive, MT	97-2605
Grand Island, NE	02-13983
Great Bend, KS	98-3496
Greenbrier/White Sulphur Springs/Lewisburg, WV	03-15553
Gulkana, AK	95-492

Gustavus, AK	98-4899
Hana, HI	99-6502
Harrison, AR	97-2935
Havre, MT	97-2605
Hays, KS	98-3497
Healy Lake, AK	98-3546
Hobbs, NM	02-12800
Hot Springs, AR	97-2935
Huron, SD	00-7138
Hydaburg, AK	99-6245
Icy Bay, AK	96-2009
Iron Mountain/Kingsford, MI	99-5175
Ironwood, MI/Ashland, WI	96-1266
Jackson, TN	00-7857
Jamestown, ND	97-2785
Johnstown, PA	02-11446
Jonesboro, AR	97-2935
Joplin, MO	04-17441
Kalaupapa, HI	00-6773
Kamuela, HI	97-2833
Kearney, NE	96-1715
Kingman, AZ	96-1899
Kirksville, MO	97-2515
Kodiak Bush Points, AK	00-6945
Laramie, WY	97-2958
Laurel/Hattiesburg, MS	01-10685
Lebanon, NH	03-14822
Lewistown, MT	97-2605
Liberal, KS/Guymon, OK	98-3498
Manhattan, KS	03-15483
Manistee/Ludington, MI	96-1711
Manley Hot Springs, AK	04-17563
Marion/Herrin, IL	00-7881
Mason City, IA	01-10682
Massena, NY	97-2842
May Creek, AK	96-2009
McCarthy, AK	96-2009
McCook, NE	97-3005
Merced, CA	98-3521
Miles City, MT	97-2605
Minto, AK	04-17563
Moab, UT	97-2827
Muscle Shoals, AL	00-7856
Nikolski, AK	96-363
North Platte, NE	99-5173
Ogdensburg, NY	97-2842
Oil City/Franklin, PA	97-2523
Owensboro, KY	00-7855
Page, AZ	97-2694
Pelican, AK	02-11586
Petersburg, AK	98-4899
Pierre, SD	01-10128

Plattsburgh, NY	03-14783
Ponca City, OK	97-2401
Ponce, PR	99-6592
Port Alexander, AK	99-6244
Prescott, AZ	96-1899
Presque Isle, ME	00-8012
Pueblo, CO	99-6589
Quincy, IL	02-14492
Riverton, WY	03-14536
Rock Springs, WY	97-2959
Rockland, ME	97-2784
Rutland, VT	97-2784
Salina, KS	02-11376
Saranac Lake, NY	00-8025
Scottsbluff, NE	03-14535
Show Low, AZ	98-4409
Sidney, MT	97-2605
Silver City/Hurley/Deming, NM	96-1903
Staunton, VA	02-11378
Thief River Falls, MN	01-10642
Vernal, UT	97-2706
Victoria, TX	03-14604
Watertown, NY	97-2842
Watertown, SD	01-10644
West Yellowstone, MT	03-14626
Wolf Point, MT	97-2605
Worland, WY	97-2981
Wrangell, AK	98-4899
Yakutat, AK	98-4899

49 U.S.C. 41745

**(b) COMMUNITY FLEXIBILITY PILOT PROGRAM-**

(1) **IN GENERAL-** The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

(2) **ELECTION-** Under the program, the sponsor of an airport serving an eligible place may elect to forego any essential air service for which compensation is being provided under this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

(3) **GRANT-** Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that--

(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

(B) is located on the airport property; or

(C) will improve airport facilities in a way that would make such facilities more usable for general aviation. . . .

**(d) APPLICATIONS-**

(1) **IN GENERAL-** An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) **REQUIRED INFORMATION-** At a minimum, the application shall include--

(A) a statement of the amount of compensation or assistance required; and

(B) a description of how the compensation or assistance will be used.

**(e) PARTICIPATION REQUIREMENTS-** An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

**(f) SUBSEQUENT PARTICIPATION-** A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

**(g) FUNDING-** Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.