

Authority to Conduct Part 135 Operations



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Are you thinking about putting your company aircraft to use as an additional source of revenue, possibly to offset the expense of the aviation department? The process is not easy or quick. Attorney Troy A. Rolf explains what Board members need to know about operating a business aircraft for hire and reward.

Operations of corporate aircraft are subject to a wide variety of laws and regulations, including Parts 91 and 135 of the Federal Aviation Regulations. Part 91 contains the general operating rules applicable to private, non-commercial operations, and Part 135 contains additional rules governing charter operations.

Generally speaking (and subject to a few limited exceptions, which are beyond the scope of this article), an aircraft operator operating under Part 91 is prohibited from accepting compensation of any kind for the provision of transportation services to anyone. This prohibition applies with equal force to transportation provided to the aircraft operator's own shareholders, directors, officers and employees as it does to transportation provided to third-parties.

If the operator desires to be compensated for the costs and expenses of a particular flight (and if none of the aforementioned exceptions apply), the flight must be operated under Part 135. However, in order to conduct operations under Part 135, an aircraft operator must first obtain authority to do so from both the Federal Aviation Administration (FAA) and the U.S. Department of Transportation (DOT).

FAA authority is generally referred to as "Safety Authority" and consists of an Air Carrier Certificate and Operations Specifications, while DOT authority is generally referred to as "Economic Authority".

Obtaining Economic Authority from the DOT is a fairly simple process for applicants who intend to conduct on-demand charter operations using aircraft having an original design capacity of 60 or



WHAT DOES IT TAKE TO OBTAIN A FAR PART 135 CERTIFICATE ?

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fewer seats, or a payload capacity of 18,000 pounds or less ("small aircraft" in DOT parlance but not in the lexicon of the FAA).

The process of obtaining Safety Authority from the FAA is a far more time consuming and expensive task. Consequently, most owners of U.S. registered business jet aircraft eschew the regulatory process entirely, and instead opt to contract out the operations of their aircraft to a management company that already possesses all necessary Economic and Safety Authority to operate the aircraft under Part 135. This is particularly true for those who own only a single aircraft and/or who do not intend to go into the on-demand charter business on a full-time basis.

For those companies contemplating embarking on the path to obtaining their own Economic and Safety Authority, the balance of this briefing will provide an overview of the regulatory process.

ECONOMIC AUTHORITY

As mentioned above, obtaining Economic Authority is a fairly simple process for applicants who intend to conduct on-demand charter operations using typical, purpose-built business aircraft (as opposed to business aircraft originally designed as airliners). Such applicants are exempt from the vigorous DOT regulatory process that governs air carriers using large aircraft. Thus, such an applicant may obtain Economic Authority simply by paying a nominal fee and filing with the DOT an OST Form 4507 Air Taxi Operator and Commuter Air Carrier Registration.

SAFETY AUTHORITY

An applicant seeking Safety Authority from the FAA must progress through the following five phases of the regulatory process:

- 1) Pre-Application Phase;
- 2) Formal Application Phase;

- 3) Document Compliance Phase;
- 4) Demonstration and Inspection Phase; and
- 5) Certification Phase.

Each of the above phases requires careful preparation and interaction with the FAA. In addition, in order to obtain Safety Authority an applicant must have exclusive use of at least one aircraft.

The entire certification process will likely take a minimum of six months to complete, although a year or longer is more common. However, the process may be streamlined somewhat for certain classifications of operators, namely those classified as either "Single Pilot Operators", "Single Pilot-in-Command" or "Basic 135 Operator". However, the amount of streamlining that may be accomplished varies from FAA Flight Standards District Office (FSDO) to FSDO.

Regardless of whether an applicant for Safety Authority goes through the entire process, or a streamlined process applicable to one of the above-described classes of small operators, the FSDO will likely require that the bulk of the work be completed personally by the person (or persons) who will actually manage the applicant's day-to-day flight operations and aircraft.

From this brief overview, Directors can see that obtaining the necessary authorities and certifications needed to provide for-hire services with the company aircraft is a sophisticated and lengthy process. For companies seeking a means to generate revenue from their aviation assets, even if only to defray expenses, placing the company aircraft with a management company is a more viable alternative to becoming a certified air carrier.

Do you have any questions or opinions on the above topic? Get them answered/published in World Aircraft Sales Magazine. Email feedback to: Jack@avbuyer.com

