

49 CFR 604 Charter Service

§604.3 Definitions.

All terms defined in 49 U.S.C. 5301 et seq. are used in their statutory meaning in this part. Other terms used in this part are defined as follows:

- (c) "Charter service" means, but does not include demand response service to individuals:
 - (1) Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:
 - (i) A third party pays the transit provider a negotiated price for the group;
 - (ii) Any fares charged to individual members of the group are collected by a third party;
 - (iii) The service is not part of the transit provider's regularly scheduled service, or is offered for a limited period of time; or
 - (iv) A third party determines the origin and destination of the trip as well as scheduling; or
 - (2) Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
 - (i) A premium fare is charged that is greater than the usual or customary fixed route fare; or
 - (ii) The service is paid for in whole or in part by a third party.
- (d) "Charter service hours" means total hours operated by buses or vans while in charter service including:
 - (1) Hours operated while carrying passengers for hire, plus
 - (2) Associated deadhead hours.
- (h) "Exclusive" means service that a reasonable person would conclude is intended to exclude members of the public.
- (j) "Geographic service area" means the entire area in which a recipient is authorized to provide public transportation service under appropriate local, state, and Federal law.
- (k) "Government official" means an individual elected or appointed at the local, state, or Federal level.
- (l) "Interested party" means an individual, partnership, corporation, association, or other organization that has a financial interest that is affected by the actions of a recipient providing charter service under the Federal Transit Laws. This term includes states, counties, cities, and their subdivisions, and tribal nations.
- (o) "Program purposes" means transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and or low income individuals); this does not include exclusive service for other groups formed for purposes unrelated to the special needs of the targeted populations identified herein.
- (p) "Public transportation" has the meaning set forth in 49 U.S.C. 5302(a) (10).
- (q) "Qualified human service organization" means an organization that serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age. This term is used consistent with the President's Executive Order on Human Service Transportation Coordination (February 24, 2004).
- (r) "Recipient" means an agency or entity that receives Federal financial assistance, either directly or indirectly, including subrecipients, under the Federal Transit Laws. This term does not include third-party contractors who use non-FTA funded vehicles.
- (s) "Registered charter provider" means a private charter operator that wants to receive notice of charter service requests directed to recipients and has registered on FTA's charter registration Web site.
- (t) "Registration list" means the current list of registered charter providers and qualified human service organizations maintained on FTA's charter registration Web site.
- (v) "Violation" means a finding by FTA of a failure to comply with one of the requirements of this Part.

§ 604.4 Charter service agreement.

- (a) A recipient seeking Federal assistance under the Federal Transit Laws to acquire or operate any public transportation equipment or facilities shall enter into a "Charter Service Agreement" as set out in paragraph (b) of this section.
- (b) A recipient shall enter into a Charter Service Agreement if it receives Federal funds for equipment or facilities under the Federal Transit Laws. The terms of the Charter Service Agreement are as follows: "The recipient agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR 604, the terms and conditions of which are incorporated herein by reference."

(c) The Charter Service Agreement is contained in the Certifications and Assurances published annually by FTA for applicants for Federal financial assistance. Once a recipient receives Federal funds, the Certifications and Assurances become part of its Grant Agreement or Cooperative Agreement for Federal financial assistance.

Subpart B—Exceptions

§604.5 Purpose.

The purpose of this subpart is to identify the limited exceptions under which recipients may provide community-based charter services.

§604.6 Government officials on official government business.

(a) A recipient may provide charter service to government officials (Federal, State, and local) for official government business, which can include non-transit related purposes, if the recipient:

- (1) Provides the service in its geographic service area;
- (2) Does not generate revenue from the charter service, except as required by law; and
- (3) After providing such service, records the following:
 - (i) The government organization's name, address, phone number, and email address;
 - (ii) The date and time of service;
 - (iii) The number of passengers (specifically noting the number of government officials on the trip);
 - (iv) The origin, destination, and trip length (miles and hours);
 - (v) The fee collected, if any; and
 - (vi) The vehicle number for the vehicle used to provide the service.

(b) A recipient that provides charter service under this section shall be limited annually to 80 charter service hours for providing trips to government officials for official government business.

(c) A recipient may petition the Administrator for additional charter service hours only if the petition contains the following information:

- (1) Date and description of the official government event and the number of charter service hours requested;
- (2) Explanation of why registered charter providers in the geographic service area cannot perform the service (e.g., equipment, time constraints, or other extenuating circumstances); and
- (3) Evidence that the recipient has sent the request for additional hours to registered charter providers in its geographic service area.

(d) FTA shall post the request for additional charter service hours under this exception in the Government Officials Exception docket, docket number FTA-2007-0020 at <http://www.regulations.gov>. Interested parties may review the contents of this docket and bring questions or concerns to the attention of the Ombudsman for Charter Services. The written decision of the Administrator regarding the request for additional charter service hours shall be posted in the Government Officials Exception docket and sent to the recipient.

§604.7 Qualified human service organizations.

(a) A recipient may provide charter service to a qualified human service organization (QHSO) for the purpose of serving persons:

- (1) With mobility limitations related to advanced age;
- (2) With disabilities; or
- (3) With low income.

(b) If an organization serving persons described in paragraph (a) of this section receives funding, directly or indirectly, from the programs listed in Appendix A of this part, the QHSO shall not be required to register on the FTA charter registration Web site.

(c) If a QHSO serving persons described in paragraph (a) of this 2348 Federal Register/Vol. 73, No. 9/Monday, January 14, 2008/Rules and Regulations section does not receive funding from any of the programs listed in Appendix A of this part, the QHSO shall register on the FTA charter registration Web site in accordance with §604.15.

(d) A recipient providing charter service under this exception, whether or not the QHSO receives funding from Appendix A programs, and after providing such charter service, shall record:

- (1) The QHSO's name, address, phone number, and e-mail address;
- (2) The date and time of service;
- (3) The number of passengers;
- (4) The origin, destination, and trip length (miles and hours);
- (5) The fee collected, if any; and
- (6) The vehicle number for the vehicle used to provide the service.

§ 604.8 Leasing FTA funded equipment and drivers.

(a) A recipient may lease its FTA funded equipment and drivers to registered charter providers for charter service only if the following conditions exist:

- (1) The private charter operator is registered on the FTA charter registration Web site;
- (2) The registered charter provider owns and operates buses or vans in a charter service business;
- (3) The registered charter provider received a request for charter service that exceeds its available capacity either of the number of vehicles operated by the registered charter provider or the number of accessible vehicles operated by the registered charter provider; and
- (4) The registered charter provider has exhausted all of the available vehicles of all registered charter providers in the recipient's geographic service area.

(b) A recipient leasing vehicles and drivers to a registered charter provider under this provision shall record:

- (1) The registered charter provider's name, address, telephone number, and e-mail address;
- (2) The number of vehicles leased, types of vehicles leased, and vehicle identification numbers; and
- (3) The documentation presented by the registered charter provider in support of paragraphs (a) (1) through (4) of this section.

(c) In accordance with § 604.26, if a registered charter provider seeking to lease vehicles has filed a complaint requesting that another registered charter provider be removed from the FTA charter registration Web site, then the registered charter provider seeking to lease vehicles is not required to exhaust the vehicles from that registered charter provider while the complaint is pending before leasing vehicles from a recipient.

§604.9 When no registered charter provider responds to notice from a recipient.

(a) A recipient may provide charter service, on its own initiative or at the request of a third party, if no registered charter provider responds to the notice issued in §604.14:

- (1) Within 72 hours for charter service requested to be provided in less than 30 days; or
- (2) Within 14 calendar days for charter service requested to be provided in 30 days or more.

(b) A recipient shall not provide charter service under this section if a registered charter provider indicates an interest in providing the charter service set out in the notice issued pursuant to § 604.14 and the registered charter provider has informed the recipient of its interest in providing the service.

(c) After providing the service, a recipient shall record:

- (1) The group's name, address, phone number, and e-mail address;
- (2) The date and time of service;
- (3) The number of passengers;
- (4) The origin, destination, and trip length (miles and hours);
- (5) The fee collected, if any; and
- (6) The vehicle number for the vehicle used to provide the service.

§ 604.10 Agreement with registered charter providers.

(a) A recipient may provide charter service directly to a customer consistent with an agreement entered into with all registered charter providers in the recipient's geographic service area.

(b) If a new charter provider registers in the geographic service area subsequent to the initial agreement, the recipient may continue to provide charter service under the previous agreement with the other charter providers up to 90 days without an agreement with the newly registered charter provider.

(c) Any of the parties to an agreement may cancel the agreement at any time after providing the recipient a 90-day notice.

§ 604.11 Petitions to the Administrator.

- (a) A recipient may petition the Administrator for an exception to the charter service regulations to provide charter service directly to a customer for:
- (1) Events of regional or national significance;
 - (2) Hardship (only for non-urbanized areas under 50,000 in population or small urbanized areas under 200,000 in population); or
 - (3) Unique and time sensitive events (e.g., funerals of local, regional, or national significance) that are in the public's interest.
- (b) The petition to the Administrator shall include the following information:
- (1) The date and description of the event;
 - (2) The type of service requested and the type of equipment;
 - (3) The anticipated number of charter service hours needed for the event;
 - (4) The anticipated number of vehicles and duration of the event; and
- (i) For an event of regional or national significance, the petition shall include a description of how registered charter providers were consulted, how registered charter providers will be utilized in providing the charter service, a certification that the recipient has exhausted all of the registered charter providers in its geographic service area, and submit the petition at least 90 days before the first day of the event described in paragraph (b) (1) of this section;
- (ii) For a hardship request, a petition is only available if the registered charter provider has deadhead time that exceeds total trip time from initial pickup to final drop-off, including wait time. The petition shall describe how the registered charter provider's minimum duration would create a hardship on the group requesting the charter service; or
- (iii) For unique and time sensitive events, the petition shall describe why the event is unique or time sensitive and how providing the charter service would be in the public's interest.
- (c) Upon receipt of a petition that meets the requirements set forth in paragraph (b) of this section, the Administrator shall review the materials and issue a written decision denying or granting the request in whole or in part. In making this decision, the Administrator may seek such additional information as the Administrator deems necessary. The Administrator's decision shall be filed in the Petitions to the Administrator docket, number FTA-2007-0022 at <http://www.regulations.gov> and sent to the recipient.
- (d) Any exception granted by the Administrator under this section shall be effective only for the event identified in paragraph (b) (1) of this section.
- (e) A recipient shall send its petition to the Administrator by facsimile to (202) 366-3809 or by e-mail to ombudsman.charterservice@dot.gov.
- (f) A recipient shall retain a copy of the Administrator's approval for a period of at least three years and shall include it in the recipient's quarterly report posted on the charter registration Web site.

§ 604.12 Reporting requirements for all exceptions.

- (a) A recipient that provides charter service in accordance with one or more of the exceptions contained in this subpart shall maintain the required notice and records in an electronic format for a period of at least three years from the date of the service or lease. A recipient may maintain the required records in other formats in addition to the electronic format.
- (b) In addition to the requirements identified in paragraph (a) of this section, the records required under this subpart shall include a clear statement identifying which exception the recipient relied upon when it provided the charter service.
- (c) Beginning on July 30, 2008, a recipient providing charter service under these exceptions shall post the records required under this subpart on the FTA charter registration Web site 30 days after the end of each calendar quarter (i.e., January 30th, April 30th, July 30th, and October 30th). A single document or charter log may include all charter service trips provided during the quarter.
- (d) A recipient may exclude specific origin and destination information for safety and security reasons. If a recipient excludes such information, the record of the service shall describe the reason why such information was excluded and provide generalized information instead of providing specific origin and destination information.

Subpart C—Procedures for Registration and Notification

§ 604.13 Registration of private charter operators.

- (a) Private charter operators shall provide the following information at http://www.fta.dot.gov/laws/leg_reg_179.html to be considered a registered charter provider:
- (1) Company name, address, phone number, e-mail address, and facsimile number;
 - (2) Federal and, if available, state motor Courier identifying number;
 - (3) The geographic service areas of public transit agencies, as identified by the transit agency's zip code, in which the private charter operator intends to provide charter service;

- (4) The number of buses or vans the private charter operator owns;
- (5) A certification that the private charter operator has valid insurance; and
- (6) Whether willing to provide free or reduced rate charter services to registered qualified human service organizations.
- (b) A private charter operator that provides valid information in this subpart is a "registered charter provider" for purposes of this part and shall have standing to file a complaint consistent with subpart F.
- (c) A recipient, a registered charter provider, or their duly authorized representative, may challenge, a registered charter provider's registration and request removal of the private charter operator from FTA's charter registration Web site by filing a complaint consistent with subpart F.
- (d) FTA may refuse to post a private charter operator's information if the private charter operator fails to provide all of the required information as indicated on the FTA charter registration Web site.
- (e) A registered charter provider shall provide current and accurate information on FTA's charter registration Web site, and shall update that information no less frequently than every two years.

§ 604.14 Recipient's notification to registered charter providers.

- (a) Upon receiving a request for charter service, a recipient may:
 - (1) Decline to provide the service, with or without referring the requestor to FTA's charter registration Web site [http://www.fta.dot.gov/laws/leg_reg_179.html];
 - (2) Provide the service under an exception provided in subpart B of this part; or
 - (3) Provide notice to registered charter providers as provided in this section and provide the service pursuant to §604.9.
- (b) If a recipient is interested in providing charter service under the exception contained in § 604.9, then upon receipt of a request for charter service, the recipient shall provide e-mail notice to registered charter providers in the recipient's geographic service area in the following manner:
 - (1) E-mail notice of the request shall be sent by the close of business on the day the recipient receives the request unless the recipient received the request after 2 p.m., in which case the recipient shall send the notice by the close of business the next business day;
 - (2) E-mail notice sent to the list of registered charter providers shall include:
 - (i) Customer name, address, phone number, and e-mail address (if available);
 - (ii) Requested date of service;
 - (iii) Approximate number of passengers;
 - (iv) Whether the type of equipment requested is (are) bus(es) or van(s); and
 - (v) Trip itinerary and approximate duration; and
 - (3) If the recipient intends to provide service that meets the definition of charter service under § 604.3(c) (2), the e-mail notice must include the fare the recipient intends to charge for the service.
- (c) A recipient shall retain an electronic copy of the e-mail notice and the list of registered charter providers that were sent e-mail notice of the requested charter service for a period of at least three years from the date the email notice was sent.
- (d) If a recipient receives an "undeliverable" notice in response to its e-mail notice, the recipient shall send the notice via facsimile. The recipient shall maintain the record of the undeliverable e-mail notice and the facsimile sent confirmation for a period of three years.

Subpart D—Registration of Qualified Human Service Organizations and Duties for Recipients With Respect to Charter Registration Web site

§ 604.15 Registration of qualified human service organizations.

- (a) Qualified human service organizations (QHSO) that seek free or reduced rate services from recipients, and do not receive funds from Federal programs listed in Appendix A, but serve individuals described in §604.7 (i.e., individuals with low income, advanced age, or with disabilities), shall register on FTA's charter registration Web site by submitting the following information:
 - (1) Name of organization, address, phone number, e-mail address, and facsimile number;
 - (2) The geographic service area of the recipient in which the qualified human service organization resides;
 - (3) Basic financial information regarding the qualified human service organization and whether the qualified human service organization is exempt from taxation under sections 501(c) (1), (3), (4), or (19) of the Internal Revenue Code, and whether it is a unit of Federal, State or local government;
 - (4) Whether the qualified human service organization receives funds directly or indirectly from a State or local program, and if so, which program(s); and
 - (5) A narrative statement describing the types of charter service trips the qualified human service organization may request from a recipient and how that service is consistent with the mission of the qualified human service organization. 23 50 Federal Register/Vol. 73, No. 9/Monday, January 14, 2008/Rules and Regulations
- (b) A qualified human service organization is eligible to receive charter services from a recipient if it:

- (1) Registers on the FTA Web site in accordance with paragraph (a) of this section at least 60 days before the date of the requested charter service; and
- (2) Verifies FTA's receipt of its registration by viewing its information on the FTA charter registration Web site {http://www.fta.dot.gov/laws/leg_reg_179.html}.
- (c) A registered charter provider may challenge a QHSO's status to receive charter services from a recipient by requesting removal of the QHSO from FTA's charter registration Web site by filing a complaint consistent with subpart F.
- (d) A QHSO shall provide current and accurate information on FTA's charter registration Web site, and shall update that information no less frequently than every two years.

§ 604.16 Duties for recipients with respect to charter registration Web site.

Each recipient shall ensure that its affected employees and contractors have the necessary competency to effectively use the FTA charter registration Web site.