

DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

JUSTIFICATION STATEMENT

Charter Service Operations

(OMB Control No. 2132-0543)

This justification statement is associated with a request for a revision of a currently approved information collection.

A. Justification

1. Circumstances that make the collection necessary.

49 U.S.C. Section 5323(d) provides protections for private intercity charter bus operators from unfair competition by Federal Transit Administration (FTA) recipients. 49 U.S.C. Section 5302(a)(1) as interpreted by the Comptroller General permits FTA recipients, but does not state that recipients have a right, to provide charter bus service with FTA-funded facilities and equipment only if it is incidental to the provision of mass transportation service. These statutory requirements have been implemented in FTA's charter regulation (Charter Service Rule), 49 C.F.R. Part 604. In 2008, FTA substantively amended its Charter Service Rule. The Charter Service Rule now contains five (5) provisions that impose information collection requirements on recipients of financial assistance from FTA for capital or operating expenses under 49 U.S.C. 5301 *et seq.* and 23 U.S.C. Sections 103(e)(4), 142(a), and 142(c).

First, 49 C.F.R. Section 604.4 requires all applicants for federal financial assistance under 49 U.S.C. 5301 *et seq.* and 23 U.S.C. Sections 103(e)(4), 142(a), and 142(c), unless otherwise exempted under 49 C.F.R. Section 604.2, to enter into a "Charter Service Agreement," contained in the Certifications and Assurances for FTA Assistance Programs. The Certifications and Assurances become a part of the Grant Agreement or Cooperative Agreement for federal assistance upon the receipt of federal funds. The rule requires that the submission of the Charter Service Agreement be a one-time submission per each year the applicant intends to apply for the federal financial assistance specified above.

Second, 49 C.F.R. Section 604.14 requires a recipient of federal funds under 49 U.S.C. 5301 *et seq.* and 23 U.S.C. Sections 103(e) (4), 142(a), and 142(c), unless otherwise exempt, to provide email notification to all registered charter providers in the recipient's geographic service area upon receiving a request for charter service that the recipient is interested in providing. The recipient must provide e-mail notification each time such the recipient receives such a request.

Third, 49 C.F.R. Section 604.12 requires a recipient, unless otherwise exempt under 49 C.F.R. Part 604.2, to submit records of all instances that the recipient has provided charter service

permitted under one or more of the exceptions under Subpart B of 49 C.F.R. Section 604 on a quarterly basis. Submission of records must be done through the FTA charter registration Website. In addition, a recipient who has provided charter service permitted under the exceptions in Subpart B of Part 604 must maintain the required notices and records electronically for a minimum of three years from the date of the service or lease of FTA funded equipment and/or drivers.

Fourth, 49 C.F.R. Section 604.13 requires a private charter operator to register on FTA's charter registration website in order to qualify as a registered charter provider and receive email notifications by recipients that are interested in providing a requested charter service under 49 C.F.R. Section 604.9. When registering on the Website, the private charter operator must submit the following information:

- (1) Company name, address, phone number, e-mail address, and facsimile number;
- (2) Federal and, if available, state motor carrier identifying number;
- (3) 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) Number of buses or vans the private charter operator owns;
- (5) A certification that the private charter operator has valid insurance; and
- (6) Willingness to provide free or reduced rate charter services to registered qualified human service organizations.

The rule requires that a registered charter provider must update its information on the charter registration Website at least once every two years. FTA estimates that a total of approximately 592 private charter operators will register as registered charter providers per every two years.

Fifth, 49 C.F.R. Section 604.7 permits recipients to provide charter service to Qualified Human Service Organizations (QHSO) under limited circumstances. 49 C.F.R. Section 604.15(a) requires QHSOs that do not receive federal funding under programs listed in Appendix A to Section 604 and seek to receive free or reduced rate services from recipients to register on FTA's charter registration Website.

2. How, by whom, and for what purpose the information is to be used.

The charter service agreement in 49 C.F.R. Section 604.4 is necessary to satisfy the provision in 49 U.S.C. Section 5323(d), which requires all applicants to enter into a charter bus agreement with the Secretary of Transportation (delegated to the Administrator of FTA in 49 C.F.R. Section 1.51).

The e-mail notification requirement in 49 C.F.R. Section 604.14 is necessary to ensure that private charter bus operators who register on FTA's charter registration Website are given the

first opportunity to provide a charter bus service that a recipient is interested in providing pursuant to 49 C.F.R. Section 604.9. The charter registration requirement in 49 C.F.R. Section 604.13 provides both FTA and recipients with a record of the private charter bus operators willing to provide charter bus service, and allows private charter bus operators to express their interest in providing charter bus service in a specific geographic location by registering on the charter registration Website.

The registration requirement in 49 C.F.R. Section 604.15, applicable to a QHSO who seeks to receive free or reduced rate services from recipients and does not receive federal funding under programs listed in Appendix A to Section 604, ensures that the organization meets the criteria of a QHSO and is serving the elderly, individuals with disabilities, or low-income individuals as required.

The requirement that a recipient must submit records of all instances that it has provided charter service permitted under one or more of the exceptions under Subpart B of Section 604 are necessary for FTA to ensure that recipients are properly providing charter services only as permitted by the rule.

If this collection of information is not conducted, FTA will not be able to ensure that FTA recipients are complying with the protections for private intercity charter bus operators under 49 U.S.C. Section 5323(d) and that FTA-funded facilities and equipment are used in a manner that does not interfere with or detract from their public transportation purposes per 49 U.S.C. Section 5302(a)(10).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; and describe any consideration of using information technology to reduce the burden.

All recipients of FTA funds are required to use FTA's Transportation Electronic Award Management (TEAM) system from the initial application stage through post award management. Recipients, registered charter providers, and certain QHSOs are required to use the charter registration Website. The use of Internet technology is designed to improve communications and reduce long-term costs associated with the charter service regulations.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2.

FTA has attempted to identify whether the information that is required to be submitted to FTA is collected by other federal agencies. Our research indicates that it is not collected by other agencies.

FTA does not believe that information similar to that which is required is available.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize the burden.

Since the requirements are minimal and are not burdensome, no special methods are used for small entities.

6. Describe the consequences to federal program or policy activities if the information is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

An applicant has to comply with 49 C.F.R. Section 604.4 and enter into a charter service agreement once annually per each year that the recipient seeks federal funds under 49 U.S.C. 5301 *et seq.*, and 23 U.S.C. Sections 103(e)(4), 142(a), and 142(c). If this collection were done less frequently, the requirement in 49 U.S.C. Section 5323(d) for a charter service agreement would not be satisfied.

A recipient must comply with the e-mail notification requirement in 49 C.F.R. Section 604.14 only when the recipient is interested in providing charter service operations pursuant to 49 C.F.R. Section 604.9. Recipients that provide such service must also submit records of providing charter service pursuant to Subpart B of 49 C.F.R. Section 604 on a quarterly basis. If this information collection was conducted less frequently, registered charter providers and FTA could not ensure that registered charter providers are being protected from unfair competition by FTA recipients. In addition, FTA would not be able to ensure that FTA-funded equipment and facilities are being used to provide charter services in a manner consistent with the statutory provision on public transportation.

Private charter operators are required to register on the FTA charter registration Website once every two years under 49 C.F.R. Part 604.13 in order to attain the status of and remain a registered charter provider. If this information collection requirement were conducted less frequently, recipients and FTA could not ensure that only eligible private charter operators in a recipient's geographic region are receiving notice of existing charter service requests.

Certain QHSOs must comply with the registration requirement in 49 C.F.R. Section 604.15 in order to be eligible to receive free or reduced rate services from recipients. These QHSOs must register and update their information on a bi-annual basis. If this information collection requirement were conducted less frequently, registered charter providers and FTA could not ensure that only eligible QHSOs are receiving free or reduced rate services from recipients.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 C.F.R. Section 1320.5(d)(2).

The information collection requirements are consistent with 5 C.F.R. Section 1320.5(d) (2).

8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A 60-day Federal Register notice was published on December 20, 2010, page 79438, soliciting comments prior to submission to the Office of Management and Budget (OMB). No comments were received from that notice. A 30-day Federal Register notice was published on February 25, 2011, pages 10634 and 10635.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift is made to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to recipients for the information that they provide under the regulation. The information is intended for the public.

11. Provide additional justification for any questions of a sensitive nature.

No sensitive information is required. A recipient is permitted to exclude specific origin and destination information in the recipient's quarterly report for safety and security reasons under 49 C.F.R. Section 604.12(d).

12. Provide estimates of the hour burden of the collection of information and annualized cost to respondents.

<u>Requirements</u>	604.4	604.12 604.14	604.13	604.15	Total
No. of Respondents	852	852	592	64	2360
No. of Responses per Respondent	1	1	1	1	--
Annual	852	852	592	64	--
Hours	.05	1.70	0.5	0.5	--
Total	42.6	1448.4	296	32	1819

FTA estimates the burden to recipient respondents under 49 C.F.R. Section 604.4, which requires that every applicant for financial assistance under 49 U.S.C. 5301 *et seq.*, and 23 U.S.C. Sections 103(e)(4), 142(a), 142(c), enter into a charter service agreement is approximately three minutes per respondent. The charter service agreement is contained in the Certifications and Assurances for FTA Assistance Programs (Certifications and Assurances) that becomes a part of the Grant Agreement or Cooperative Agreement for federal assistance upon the recipient's receipt of federal funds. The applicant needs only complete the Certifications and Assurances in order to satisfy 49 C.F.R. Sections 604.4. The respondent and the respondent's attorney must sign the Certifications and Assurances. FTA estimates that the average salary of the respondent, typically the Chief Executive Officer (CEO), and the CEO's attorney is equivalent to a GS-15 or approximately \$59.30 per hour. Thus, the annual cost is estimated as follows:

$$(852 \text{ annual respondents} \times 0.05 \text{ hours}) \times \$59.30 = \$ 2,526.18 \text{ per year for Section 604.4.}$$

FTA's estimate of the burden associated with the e-mail notification requirement in 49 C.F.R. Section 604.14, and the reporting requirement in 49 C.F.R. Section 604.12, is one hour and forty-two minutes (1.70 hours). Of this time, approximately one-half hour is spent on e-mail notifications to registered charter providers in the recipient's geographic service area. This includes searching on FTA's charter registration Website for the registered charter providers in the recipient's geographic service area, and typing and sending the e-mail notification. One hour and fifteen minutes is the estimated annual time spent on the reporting requirement, or approximately 18-20 minutes per quarter. FTA estimates that the salary of the preparer would be equivalent to a GS-11 or approximately \$29.93 per hour. Thus, the annual cost is estimated as follows:

$$(852 \text{ annual respondents} \times 1.70 \text{ hours}) \times \$29.93 \text{ per hour} = \$ 43,350.61 \text{ for Sections 604.12, 604.14.}$$

FTA estimates that the registration requirement in 49 C.F.R. Part 604.13 takes approximately one-half hour (0.5 hours) to fill out the on-line registration form. FTA expects there to be approximately 592 private charter operators registering or re-registering on FTA's charter registration Website at any given year.

Using the same wage rates as above, the total annual cost to respondents is:

$$(592 \text{ annual respondents} \times 0.5 \text{ hours}) \times \$29.93 \text{ per hour} = \$ 8,859.28 \text{ for Section 604.13.}$$

FTA estimates that the registration requirement for certain QHSOs in 49 C.F.R. Section 604.15 imposes a one-half hour (0.5 hour) burden per QHSO. FTA expects approximately sixty-four (64) QHSOs to register on FTA's charter registration Website annually. Using the same wage rates as above, the total annual cost to QHSO respondents is:

$$(64 \text{ annual respondents} \times 0.5 \text{ hours}) \times \$29.93 \text{ per hour} = \$ 957.76 \text{ for Section 604.15.}$$

The overall estimated total cost to all of the above respondents is:

Section 604.4	\$ 2,526.18
Sections 604.12, 604.14	43,350.61
Section 604.13	8,859.28
Section 604.15	957.76
Total Cost	\$ 55,693.83

13. Estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (not including the cost of any hour burden shown in items 12 and 14).

Although recipient respondents are required to maintain the notices and records for a minimum of three years from the date of the service or lease of FTA funded equipment and/or drivers under 49 C.F.R. Section 604.12(a), FTA expects the cost burden to be minimal because the notices and records must only be maintained electronically.

14. Estimate of annualized cost to the federal government.

The estimated annual cost to the federal government of processing the Charter Service Agreement requirement under 49 C.F.R. Section 604.4 is \$ 4,208.88. FTA employees review the Certifications and Assurances that contain the Charter Service Agreement to ensure that the recipient has complied with 49 C.F.R. Section 604.4. FTA estimates that the review takes approximately two minutes per FTA employee. The review process involves three different FTA employees with average grades of GS-12.5, GS-14.5, and GS-14, with corresponding hourly wage rates of \$40.66, \$57.13, and \$50.41, and \$49.40 being the average of the three rates. Therefore, the estimated annual cost is:

$$(852 \text{ submissions} \times 0.1 \text{ hours per submission}) \times \$49.40 = \$4,208.88.$$

The estimated annual cost to the federal government of processing private charter operator registrations under the registration requirement in 49 C.F.R. Section 604.13 is approximately \$8,859.28. The FTA employee reviews, communicates with the private charter operator as needed, and approves or disapproves the registration. The estimated processing time is about one-half hour (0.50 hours) per registration. The average grade for the FTA employee reviewing the registration is GS-11. Thus, the estimated annual cost is:

$$(592 \text{ registrations} \times 0.5 \text{ hours}) \times \$29.93 = \$8,859.28.$$

The estimated annual cost to the federal government of processing QHSO registrations under the registration requirement in 49 C.F.R. Section 604.15 is approximately \$1,920.00. The FTA employee reviews, communicates with the QHSO as needed, and approves or disapproves the registration. The estimated processing time is about one hour per registration. The average

grade for the FTA employee reviewing the registration is GS-11. Thus, the estimated annual cost is:

$$(64 \text{ registrations} \times 1.00 \text{ hour}) \times \$29.93 = \$1,915.52.$$

Therefore, the overall estimated cost to FTA is:

Section 604.4	\$ 4,208.88
Section 604.13	8,859.28
Section 604.15	1,915.52
Total Cost	\$ 14,983.68

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

The number of annual respondents is 2,360, an increase of 704 responses from the previous request of 1,656 responses. This is due to program changes which occurred as a result of amendments to FTA's Charter Service regulations by Final Rule on January 14, 2008. In addition to recipient respondents, the Charter Service regulations now require private charter operators to register to become a registered charter provider and to receive e-mail notifications from FTA recipients of charter services that the recipient wishes to provide under 49 C.F.R. Section 604.13. Certain QHSOs that seek free or reduced rate services from recipients are also required to register under 49 C.F.R. Section 604.15. Recipient respondents are also required to retain notices and records electronically for the purpose of maintenance.

Although the number of respondents has increased, there is a decrease in the number of burden hours (from 1,984 hours in the previous request to 1,819 hours for this request, representing a decrease of 165 hours). This is because responses are now collected electronically through the FTA charter registration Website since its inception in 2008 when the Charter Service regulations, 49 C.F.R. Section 604, were amended. With the shift to electronic information collection, the estimated total annual burden hours has decreased slightly by 165 hours even with the increase in requirements.

The estimated annual reporting and recordkeeping cost burden to respondents has also been adjusted to reflect program changes due to the amendments to FTA's Charter Service regulations by Final Rule on January 14, 2008. The total annual cost increase is due to the increase in the number of respondents and the additional program requirements.

The total annual cost to FTA has increased due to the need for personnel to manage the charter registration Website and to provide assistance to respondents and it also reflects inflation.

16. Plans for tabulation and publication for collections of information whose results will be published.

FTA does not plan to publish the results of the information collected for statistical use.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There is no reason not to display the expiration date of OMB approval of the information collection.

18. Explain any exceptions to the certificate statement identified in Item 19 of OMB Form 83-I.

No exceptions are stated.