

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT

ADMINISTRATION JUSTIFICATION

STATEMENT

Charter Service Operations

(OMB Control No. 2132-0543)

Background

FTA's Charter Service Operations (Charter Service Rule), which implements 49 U.S.C. 5323(d), protects private charter operators from unauthorized competition from FTA grant recipients.

Summary of Changes in this Collection from Previous Collection

This justification statement is associated with a request for an extension with change, of a currently approved information collection. The change is a decrease in respondents, thus reducing burden hours and costs. The current estimated number of annual respondents is 1,428, a decrease of 932 respondents from the previous justification statement approved in 2011, which reflected an estimated 2,360 respondents. This change is a result of a decrease in the number of recipients who have reported providing charter service. Because the number of respondents is more accurately reflected and has decreased, there is also a decrease in the number of burden hours, from 1,819 hours in the previous justification statement to 369.7 hours in this justification statement for a total decrease of 1,449.3 hours. Moreover, as a result of the more accurate estimation of respondents, the costs to FTA have also decreased from the last submission of \$14,983.68 to \$4,931.34.

1. Explain the circumstances that make information collection necessary

Pursuant to 49 U.S.C. Section 5323(d), FTA recipients may only provide charter bus service with FTA-funded facilities and equipment if the charter service is incidental to the provision of transit service. This provision protects charter service providers from unauthorized competition by Federal Transit Administration (FTA) recipients.

The requirements of 49 U.S.C. Section 5323(d) are implemented in FTA's charter regulation (Charter Service Rule) at 49 C.F.R. Part 604. In 2008, the Charter Service Rule was amended to include five (5) provisions that impose information collection requirements on FTA recipients of financial assistance under Federal Transit Law.¹

First, 49 C.F.R. Section 604.4 requires all applicants for Federal financial assistance under Federal Transit Law, 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

¹ For purposes of the Charter Service Rule, "Federal Transit Law" means 49 U.S.C. 5301 et. seq. and includes provisions of Chapter 23 U.S.C. when used to provide Federal financial assistance to transit agencies for purchasing buses and vans.

Federal financial assistance upon receipt of Federal funds. The rule requires each applicant to submit one Charter Service Agreement for each year that the applicant intends to apply for the Federal financial assistance.

Second, 49 C.F.R. Section 604.14(3) requires a recipient of Federal funds under Federal Transit Law, unless otherwise exempt, to provide email notification to all registered charter service providers in the recipient's geographic service area each time the recipient receives a request for charter service that the recipient is interested in providing.

Third, 49 C.F.R. Section 604.12(c) requires a recipient, unless otherwise exempt under 49 C.F.R. Part 604.2, on a quarterly basis to submit records of all instances that the recipient provided charter service permitted under one or more of the exceptions under Subpart B of 49 C.F.R. Section 604. Submission of records must be done through the FTA Charter Registration Website. In addition, a recipient who provided charter service permitted under an exception must maintain electronic records of the required notices and records for a minimum of three years from the date of the service or lease of FTA-funded equipment.

Fourth, 49 C.F.R. Section 604.13 requires a private charter service provider to register on FTA's Charter Registration Website in order to qualify as a registered charter service provider and receive email notifications by recipients that are interested in providing a requested charter service. When registering on the Website, the private charter service provider 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 provider intends to provide charter service;
- (4) Number of buses or vans the private charter provider owns;
- (5) A certification that the private charter provider 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 service provider must update its information on the Charter Registration Website at least once every two years. Currently, there are a total of 192 registered private charter service providers. Registration has consistently decreased over the years.

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

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

The Charter Service Agreement required under 49 C.F.R. Section 604.4 is necessary to implement the provision in 49 U.S.C. Section 5323(d) which requires all applicants to enter into a Charter Service Agreement.

The e-mail notification requirement in 49 C.F.R. Section 604.14 is necessary to ensure that private charter bus providers who register on FTA's Charter Registration Website are given the first opportunity to provide 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 service providers willing to provide charter service, and allows private charter service providers to express their interest in providing charter 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.

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, is 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 charter service providers 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. See 9 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 service providers, and certain QHSOs are also required to use the Charter Registration Website <http://ftawebprod.fta.dot.gov/CharterRegistration/splash-charterregistration.aspx>. The use of internet technology by 100% of recipients has improved communications and reduced 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 elsewhere.

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 Federal Transit Law. 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 service providers and FTA could not ensure that registered charter service 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 and regulatory requirements.

Private charter providers are required to register on the FTA Charter Registration Website once every two years in order to attain the status of and remain a registered service charter provider. If this information collection requirement were conducted less frequently, recipients and FTA could not ensure that only eligible private charter service providers 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 service 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 February 6, 2014 (pages 7276 and 7277), soliciting comments prior to submission to the Office of Management and Budget (OMB). No comments were received.

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. 49 C.F.R. Section 604.12(d).

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

Requirements	Section 604.4	Section 604.12	Section 604.13	Section 604.14	Section 604.15	Total
Number of Respondents²	955	114	192	114	53	1,428
Number of Responses per Respondent	1	1	1	1	1	
Annual	955	114	192	114	53	1,428
Hours per Respondent	.05	1.25	.5	.5	.5	
Total Hours	47.75	142.5	96	57	26.5	369.7
Estimated Cost to Respondent per Response	\$59.30	\$29.93	\$29.93	\$29.93	\$29.93	
Estimated Annual Costs For All Respondents	\$2,831.57	\$4,265.02	\$2,873.28	\$1,706.01	\$793.14	\$12,193.28

FTA estimates the burden to recipient respondents under 49 C.F.R. Section 604.4, which requires that every applicant for Federal financial assistance under Federal Transit Law enters into a Charter Service Agreement, is approximately three minutes per respondent. The Charter Service Agreement is contained

² The requirements of Sections 604.4, 604.12, and 604.14 apply to FTA recipients. "Recipient" is defined in the Charter Service Rule to include subrecipients. 49 C.F.R. 604.3(r). However, the estimated numbers of respondents for these provisions in this submission do not include subrecipients. FTA does not have viable data on the number of current active subrecipients, as this information comes into FTA's Transportation Electronic Awards Management System (TEAM) via documents that are paper clipped to applications so the information is not queryable. Our general estimate is that we have 1,500 active subrecipients. Most of them are Section 5310, 5311, 5316, and/or 5317 subrecipients and are therefore not subject to the Charter Service Rule. 49 C.F.R. 604.2(e). FTA does not have a viable way to identify those subrecipients that do not receive any of these funds and would therefore be subject to the rule.

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: (955 annual respondents x 0.05 hours) x \$59.30 = \$2,831.57 per year.

FTA estimates that the burden associated with the reporting requirement in 49 C.F.R. Section 604.12, is approximately 18 minutes per reporting instance. FTA estimates that the salary of the preparer would be equivalent to a GS-11 or approximately \$29.93 per hour. Between 2010, when FTA last submitted this justification, and 2013, the number of recipients who reported providing charter service has consistently decreased. FTA has used the average number of respondents from this time period as the number of respondents for the calculations for this requirement. Thus, the annual cost is estimated as follows: (114 annual respondents x 1.25 hours) x \$29.93 per hour = \$4,265.02 per quarter.³

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. Currently, there are 192 registered charter service providers. 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: (192 annual respondents x 0.5 hours) x \$29.93 per hour = \$2,873.28 per year.

FTA's estimates that the burden associated with the e-mail notification requirement in 49 C.F.R. Section 604.14, is approximately one-half hour which is spent on e-mail notifications to registered charter service providers in the recipient's geographic service area. This includes searching on FTA's Charter Registration Website for the registered charter service providers in the recipient's geographic service area, and typing and sending the e-mail notification. FTA estimates that the salary of the staff would be equivalent to a GS-11 or approximately \$29.93 per hour. Recipients are not required to report to FTA the number of charter service requests that they receive under this provision, nor the number of emails that are sent out to charter service providers in their geographic area. Therefore, FTA has used the number of respondents who have reported providing charter service, explained above, as the number of respondents for the calculation of the burdens of this provision. Thus, the annual cost is estimated as follows: (114 annual respondents x .50 hours) x \$29.93 per hour = \$1,706.01 per year.

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. Currently, there are approximately 53 QHSOs registered on FTA's Charter Registration. Using the same wage rates as above, the total annual cost to QHSO respondents is: (53 annual respondents x 0.5 hours) x \$29.93 per hour = \$793.14 per year.

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

³ The reporting requirement in section 604.12 is quarterly. However, for purposes of this exercise, FTA used the calculations for a recipient's one time quarterly submission to be the same as a yearly submission to be consistent with the calculations for the other requirements.

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

Requirements	604.4	604.12	604.13	604.14	604.15	Total
Number of Respondents	955	114	192	114	53	1,335
Number of Responses per Respondent	1	1	1 ⁴	1	1	
Annual	955		192		53	
FTA Review Hours Respondent	.01	N/A	.50	N/A	.50	
Total Hours	9.55	N/A	96	N/A	26.50	131.12
Estimated Cost to FTA per Review of Response	\$49.40	N/A	\$29.93	N/A	\$29.93	
Estimated Annual Costs to FTA For All Respondents	\$471.77	N/A	\$2,873.28	N/A	\$1,586.29	\$4,931.34

The estimated annual cost to the Federal government of processing the Charter Service Agreement requirement under 49 C.F.R. Section 604.4 is \$471.77. 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: (955 submissions x 0.01 hours per submission) x \$49.40 = \$471.77.

The estimated annual cost to the Federal government of processing private charter provider registrations under the registration requirement in 49 C.F.R. Section 604.13 is approximately \$2,873.28. The FTA employee reviews, communicates with the private charter provider 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: (192 registrations x 0.50 hours) x \$29.93 = \$2,873.28.

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

⁴ Note, private providers of charter service are only required to register once every two years. For purposes of consistency in the calculations for this submission, FTA has assumed that a response is provided once per year.

reviewing the registration is GS-11. Thus, the estimated annual cost is: (53 registrations x 1.00 hour) x \$29.93 = \$1,586.29.

Thus, the total cost to the federal government is: \$471.77 (cost of processing the Charter Service Agreement requirements) + 2,873.28 (cost of processing private charter provider registrations + \$1,586.29 (cost of processing QHSO registrations) = \$4,931.34

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

The current estimated number of annual respondents is 1,428, a decrease of 932 respondents from the previous justification statement approved in 2011, which reflected an estimated 2,360 respondents. This decrease is a result of FTA's attempt to more accurately reflect the number of respondents. In the 2011 justification statement, FTA listed the number of respondents for the requirements under Sections 604.12 and 604.14 as 852- the same number as the number of respondents under section 604.4. However, section 604.4 applies to all recipients and Sections 604.12 and 604.14 only apply to recipients who have received a request for charter service that they are interested in providing and to recipients who actually provide charter service pursuant to one of the exceptions. Since 2011, the number of recipients who have reported providing charter service has steadily decreased, with the average used in this submission being 114 respondents. This is significantly less than assuming that all recipients (852 in the previous submission) who could possibly have to comply with Sections 604.12 and Sections 604.14, will actually have to.

In a further attempt to more accurately reflect the burden of these requirements, FTA has listed the calculations for Sections 604.12 and 604.14 separately in their own columns. In the previous submission, there was one column for both Sections 604.12 and 604.14 which provided the same calculations for both requirements and counted this calculation once. Because, the requirements of Sections 604.12 and Sections 604.14 entail two separate information burdens on the recipient, FTA believes that separating out the requirements of these two sections more accurately reflects the burden associated with each.

Because the number of respondents is more accurately reflected and has decreased, there is also a decrease in the number of burden hours, from 1,819 hours in the previous justification to 369.7 hours in this justification for a total decrease of 1,449.3 hours. Moreover, as a result of the more accurate estimation of respondents, the costs to FTA have also decreased from the last submission of \$14,983.68 to \$4,931.34.

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.