

§ 604.11

49 CFR Ch. VI (10–1–07 Edition)

(e) Any charter service that a recipient provides under any of the exceptions in this part must be incidental charter service.

[52 FR 11933, Apr. 13, 1987, as amended at 53 FR 53355, Dec. 30, 1988; 58 FR 36899, July 9, 1993; 58 FR 52685, Oct. 12, 1993; 59 FR 51134, Oct. 7, 1994]

§ 604.11 Procedures for determining if there are any willing and able private charter operators.

(a) To determine if there is at least one private charter operator willing and able to provide the charter service that the recipient desires to provide, the recipient must complete a public participation process:

(1) At least 60 days before it desires to begin to provide charter service if it is not doing so on May 13, 1987; or

(2) Not more than 90 days after May 13, 1987 if the recipient is providing charter service on May 13, 1987 and desires to continue to provide charter service.

(b) The public participation process must at a minimum include:

(1) Placing a notice in a newspaper, or newspapers, of general circulation within the proposed geographic charter service area;

(2) Sending a copy of the notice to all private charter service operators in the proposed geographic charter service area and to any private charter service operator that requests notice;

(3) Sending a copy of the notice to the United Bus Owners of America, 1300 L Street, NW., suite 1050, Washington, DC 20005, and the American Bus Association, 1100 New York Avenue, NW, Suite 1050, Washington, DC 20005-3934.

(c) The notice must:

(1) State the recipient's name;

(2) Describe the charter service that the recipient proposes to provide limited to the days, times of day, geographic area, and categories of revenue vehicle, but not the capacity or the duration of the charter service.

(3) Include a statement providing any private charter operator desiring to be considered willing and able with at least 30 days from the date of the notice to submit written evidence to prove that it is willing and able;

(4) State the address to which the evidence must be sent.

(5) Include a statement that the evidence necessary for the recipient to determine if a private charter operator is willing and able includes only the following:

(i) A statement that the private operator has the desire and the physical capability to actually provide the categories of revenue vehicle specified; and

(ii) A copy of the documents to show that the private charter operator has the requisite legal authority to provide the proposed charter service and that it meets all necessary safety certification, licensing and other legal requirements to provide the proposed charter service.

(6) Include a statement that the recipient shall review only that evidence submitted by the deadline, shall complete its review within 30 days of the deadline, and within 60 days of the deadline shall inform each private operator that submitted evidence what the results of the review are.

(7) Include a statement that the recipient shall not provide any charter service using equipment or facilities funded under the Acts to the extent that there is at least one willing and able private charter operator unless the recipient qualifies for one or more of the exceptions in 49 CFR 604.9(b).

(d) Any recipient that desires to continue to provide charter service using FTA funded equipment or facilities shall follow the procedures in 49 CFR 604.11 (b) and (c) annually during the month in which it published its first newspaper notice to redetermine the extent to which there is at least one willing and able private charter operator.

(e) Any recipient, including the State in State administered programs, may elect to comply with this procedure for all of its subrecipients, or delegate this responsibility to the subrecipients, or delegate this responsibility to only some of its subrecipients.

(Approved by the Office of Management and Budget under Control No. 2132-0543)

[52 FR 11933, Apr. 13, 1987, as amended at 55 FR 34932, Aug. 27, 1990; 59 FR 43778, Aug. 25, 1994]