

§ 605.31

§ 605.31 Notification to the respondent.

On receipt of any complaint under § 605.30, or on his own motion if at any time he shall have reason to believe that a violation may have occurred, the Administrator will provide written notification to the grantee concerned (hereinafter called "the respondent") that a violation has probably occurred. The Administrator will inform the respondent of the conduct which constitutes a probable violation of the agreement.

§ 605.32 Accumulation of evidentiary material.

The Administrator will allow the respondent not more than 30 days to show cause, by submission of evidence, why no violation should be deemed to have occurred. A like period shall be allowed to the complainant, if any, during which he may submit evidence to rebut the evidence offered by the respondent. The Administrator may undertake such further investigation, as he may deem necessary, including, in his discretion, the holding of an evidentiary hearing or hearings.

§ 605.33 Adjudication.

(a) After reviewing the results of such investigation, including hearing transcripts, if any, and all evidence submitted by the parties, the Administrator will make a written determination as to whether the respondent has engaged in school bus operations in violation of the terms of the agreement.

(b) If the Administrator determines that there has been a violation of the agreement, he will order such remedial measures as he may deem appropriate.

(c) The determination by the Administrator will include an analysis and explanation of his findings.

§ 605.34 Remedy where there has been a violation of the agreement.

If the Administrator determines, pursuant to this subpart, that there has been a violation of the terms of the agreement, he may bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment.

49 CFR Ch. VI (10-1-07 Edition)

§ 605.35 Judicial review.

The determination of the Administrator pursuant to this subpart shall be final and conclusive on all parties, but shall be subject to judicial review pursuant to title 5 U.S.C. 701-706.

Subpart E—Reporting and Records

§ 605.40 Reports and information.

The Administrator may order any grantee or operator for the grantee, to file special or separate reports setting forth information relating to any transportation service rendered by such grantee or operator, in addition to any other reports required by this part.

APPENDIX A TO PART 605

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, DC, December 7, 1966.

DEAR MR. WILSON: The enclosure with your letter of October 4, 1966, concerns the legality of providing a grant under the Federal Mass Transit Act of 1964 to the City of San Diego, (City), California. The problem involved arises in connection with the definition in subsection 9(d)(5) of the Act, 49 U.S.C. 1608(d)(5), excluding charter or sightseeing service from the term "mass transportation."

It appears from the enclosure with your letter that the City originally included in its grant application a request for funds to purchase 8 buses designed for charter service. Subsequently the City amended its application by deleting a request for a portion of the funds attributable to the charter bus coaches. However, in addition to the 8 specially designed charter buses initially applied for, the City allegedly uses about 40 of its transit type buses to a substantial extent for charter-type services. In light of these factors surrounding the application by the City, the enclosure requests our opinion with regard to the legality of grants under the Act as it applies to certain matters (in effect questions), which are numbered and quoted below and answered in the order presented.

Number one:

"The grant of funds to a City to purchase buses and equipment which are intended for substantial use in the general charter bus business as well as in the Mass Transportation type business."

The Federal Mass Transit Act of 1964 does not authorize grants to assist in the purchase of buses or other equipment for any service other than urban mass transportation service. Section 3(a) of the Act limits the range of eligible facilities and equipment to "* * * buses and other rolling stock, and