

A: FTA views trolleys as buses. Thus, all the privately owned buses must be engaged in service and unavailable before a transit agency may lease its trolley. Alternatively, the transit agency could enter into an agreement with all registered charter providers in its geographic service area to allow it to provide trolley charter services.

(71) Q: How does a transit agency enter into an agreement with all registered charter providers in its geographic service area?

A: A public transit agency should send an email notice to all registered charter providers of its intent to provide charter service. A registered charter provider must respond to the email notice either affirmatively or negatively. The transit agency should also indicate in the email notification that failure to respond to the email notice results in concurrence with the notification.

(72) Q: Can a registered charter provider rescind its affirmative response to an email notification?

A: Yes. If after further consideration or a change in circumstances for the registered charter provider, a registered charter pro-

vider may notify the customer and the transit agency that it is no longer interested in providing the requested charter service. At that point, the transit agency may make the decision to step back in to provide the service.

(73) Q: What happens after a registered charter provider submits a quote for charter services to a customer? Does the transit agency have to review the quote?

A: Once a registered charter provider responds affirmatively to an email notification and provides the customer a commercially reasonable quote, then the transit agency may not step back in to perform the service. A transit agency is not responsible for reviewing the quote submitted by a registered charter provider. FTA recommends that a registered charter provider include in the quote an expiration date for the offer.

[73 FR 44931, Aug. 1, 2008]

APPENDIX D TO PART 604—TABLE OF POTENTIAL REMEDIES

Remedy Assessment Matrix:

Extent of Deviation from Regulatory Requirements

	Major	Moderate	Minor
Economic Benefit	\$25,000/violation to 20,000	\$19,999/violation to 15,000	\$14,999/violation to 11,000
	\$10,999/violation to 8,000	\$7,999/violation to 5,000	\$4,999/violation to 3,000
	\$2,999/violation to 1,500	1,499/violation to 500	\$499/violation to 100

FTA's Remedy Policy

— This remedy policy applies to decisions by the Chief Counsel, Presiding Officials, and final determinations by the Administrator.

— Remedy calculation is based on the following elements:

- (1) The nature and circumstances of the violation;
- (2) The extent and gravity of the violation ("extent of deviation from regulatory requirements");
- (3) The revenue earned ("economic benefit") by providing the charter service;
- (4) The operating budget of the recipient;
- (5) Such other matters as justice may require; and

(6) Whether a recipient provided service described in a cease and desist order after issuance of such order by the Chief Counsel.

[73 FR 44935, Aug. 1, 2008; 73 FR 46554, Aug. 11, 2008]

PART 605—SCHOOL BUS OPERATIONS

Subpart A—General

- Sec. 605.1 Purpose.
- 605.2 Scope.
- 605.3 Definitions.

§ 605.1

49 CFR Ch. VI (10–1–12 Edition)

605.4 Public hearing requirement.

Subpart B—School Bus Agreements

- 605.10 Purpose.
- 605.11 Exemptions.
- 605.12 Use of project equipment.
- 605.13 Tripper service.
- 605.14 Agreement.
- 605.15 Content of agreement.
- 605.16 Notice.
- 605.17 Certification in lieu of notice.
- 605.18 Comments by private school bus operators.
- 605.19 Approval of school bus operations.

Subpart C—Modification of Prior Agreements and Amendment of Application for Assistance

- 605.20 Modification of prior agreements.
- 605.21 Amendment of applications for assistance.

Subpart D—Complaint Procedures and Remedies

- 605.30 Filing a complaint.
- 605.31 Notification to the respondent.
- 605.32 Accumulation of evidentiary material.
- 605.33 Adjudication.
- 605.34 Remedy where there has been a violation of the agreement.
- 605.35 Judicial review.

Subpart E—Reporting and Records

- 605.40 Reports and information.

APPENDIX A TO PART 605

AUTHORITY: Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 *et seq.*); 23 U.S.C. 103(e)(4); 23 U.S.C. 142 (a) and (c); and 49 CFR 1.51.

SOURCE: 41 FR 14128, Apr. 1, 1976, unless otherwise noted.

Subpart A—General

§ 605.1 Purpose.

(a) The purpose of this part is to prescribe policies and procedures to implement section 109(a) of the National Mass Transportation Assistance Act of 1974 (Pub. L. 93–503; November 26, 1974; 88 Stat. 1565). Section 109(a) adds a new section 3(g) to the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(g)) and differs from section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)) in that section 3(g) applies to all grants for the construction or operation of mass transportation facilities and equipment under

the Federal Mass Transit Act, and is not limited to grants for the purchase of buses as is section 164(b).

(b) By the terms of section 3(g) no Federal financial assistance may be provided for the construction or operation of facilities and equipment for use in providing public mass transportation service to an applicant unless the applicant and the Administrator enter into an agreement that the applicant will not engage in school bus operations exclusively for the transportation of students and school personnel, in competition with private school bus operators.

§ 605.2 Scope.

These regulations apply to all recipients of financial assistance for the construction or operation of facilities and equipment for use in providing mass transportation under: (a) The Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 *et seq.*); (b) 23 U.S.C. 142 (a) and (c); and 23 U.S.C. 103 (e)(4).

§ 605.3 Definitions.

(a) Except as otherwise provided, terms defined in the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1604, 1608) are used in this part as so defined.

(b) For purposes of this part—

The Acts means the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 *et seq.*); 23 U.S.C. 142 (a) and (c); and 23 U.S.C. 103(e)(4).

Administrator means the Federal Mass Transit Administrator or his designee.

Adequate transportation means transportation for students and school personnel which the Administrator determines conforms to applicable safety laws; is on time; poses a minimum of discipline problems; is not subject to fluctuating rates; and is operated efficiently and in harmony with state educational goals and programs.

Agreement means a contractual agreement required under section 3(g) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(g)).

Applicant means applicant for assistance under the Acts.

Assistance means Federal financial assistance for the purchase of buses