

FEDERAL PROGRAMS PROVIDING TRANSPORTATION ASSISTANCE—Continued

51 ...	Workforce Investment Act Adult Dislocated Worker Program.	Employment and Training Administration.	Department of Labor.
52 ...	Workforce Investment Act Youth Activities Program.	Employment and Training Administration.	Department of Labor.
53 ...	Homeless Veterans Re-integration Program.	Veterans Employment & Training Service.	Department of Labor.
54 ...	Veterans Employment Program.	Veterans Employment & Training Service.	Department of Labor.
55 ...	Elderly and Persons with Disability.	Federal Transit Administration.	Department of Transportation.
56 ...	New Freedom Program	Federal Transit Administration.	Department of Transportation.
57 ...	Job Access and Reverse Commute Program.	Federal Transit Administration.	Department of Transportation.
58 ...	Non-Urbanized Area Program.	Federal Transit Administration.	Department of Transportation.
59 ...	Capital Discretionary Program.	Federal Transit Administration.	Department of Transportation.
60 ...	Urbanized Area Formula Program.	Federal Transit Administration.	Department of Transportation.
61 ...	Automobiles and Adaptive Equipment.	Veterans Benefits Administration.	Department of Veterans Affairs.
62 ...	Homeless Provider Grants	Veterans Health Administration.	Department of Veterans Affairs.
63 ...	Veterans Medical Care Benefits.	Veterans Health Administration.	Department of Veterans Affairs.
64 ...	Ticket to Work Program	Social Security Administration.	Department of Veterans Affairs.

APPENDIX B TO PART 604—REASONS FOR REMOVAL

The following is guidance on the terms contained in section 604.26(d) concerning reasons for which FTA may remove a registered charter provider or a qualified human service organization from the FTA charter registration Web site.

What is bad faith?

Bad faith is the actual or constructive fraud or a design to mislead or deceive another or a neglect or refusal to fulfill a duty or contractual obligation. It is not an honest mistake. Black's Law Dictionary, Revised Fourth Edition, West Publishing Company, St. Paul, Minn., 1968.

For example, it would be bad faith for a registered charter provider to respond to a recipient's notification to registered charter providers of a charter service opportunity stating that it would provide the service with no actual intent to perform the charter service. It would also be bad faith if the registered charter provider fails to contact the customer or provide a quote for charter service within a reasonable time. Typically, if a registered charter provider fails to contact a

customer or fails to provide a price quote to the customer at least 14 business days before an event, then FTA may remove the registered charter provider from the registration Web site, which would allow a transit agency to step back in to provide the service because the registered charter provider's response to the email would no longer be effective because it is not registered.

Further, it would be bad faith for a registered charter provider to submit a quote for charter services knowing that the price is three to four times higher because of the distance the registered charter provider must travel (deadhead time). In those situations, FTA may interpret such quotes as bad faith because they appear to be designed to prevent the local transit agency from providing the service.

On the other hand, FTA would not interpret an honest mistake of fact as bad faith. For example, if a registered charter provider fails to provide charter service in response to a recipient's notification when it honestly mistook the date, place or time the service was to be provided. It would not be bad faith if the registered charter provider responded affirmatively to the email notification sent by the public transit agency, but then later

learned it could not perform the service and provided the transit agency reasonable notice of its changed circumstances.

What is fraud?

Fraud is the suggestion or assertion of a fact that is not true, by one who has no reasonable ground for believing it to be true; the suppression of a fact by one who is bound to disclose it; one who gives information of other facts which are likely to mislead; or a promise made without any intention of performing it. *Black's Law Dictionary*, Revised Fourth Edition, West Publishing Company, St. Paul, Minn., 1968.

Examples of fraud include but are not limited to: (1) A registered charter provider indicates that it has a current state or Federal safety certification when it knows that it does not in fact have one; (2) a broker that owns no charter vehicles registers as a registered charter provider; or (3) a qualified human service organization represents that it serves the needs of the elderly, persons with disabilities, or lower-income individuals, but, in fact, only serves those populations tangentially.

What is a lapse of insurance?

A lapse of insurance occurs when there is no policy of insurance in place. This may occur when there has been default in payment of premiums on an insurance policy and the policy is no longer in force. In addition, no other policy of insurance has taken its place. *Black's Law Dictionary*, Revised Fourth Edition, West Publishing Company, St. Paul, Minn., 1968.

What is a lapse of other documentation?

A lapse of other documentation means for example, but is not limited to, failure to have or loss or revocation of business license, operating authority, failure to notify of current company name, address, phone number, email address and facsimile number, failure to have a current state or Federal safety certification, or failure to provide accurate Federal or state motor carrier identifying number. *Black's Law Dictionary*, Revised Fourth Edition, West Publishing Company, St. Paul, Minn., 1968.

What is a complaint that does not state a claim that warrants an investigation or further action by FTA?

A complaint is a document describing a specific instance that allegedly constitutes a violation of the charter service regulations set forth in 49 CFR 604.23. More than one complaint may be contained in the same document. A complaint does not state a claim that warrants investigation when the allegations made in the complaint, without considering any extraneous material or matter, do not raise a genuine issue as to any

material question of fact, and based on the undisputed facts stated in the complaint, there is no violation of the charter service statute or regulation as a matter of law. Based on Federal Rules of Civil Procedure, Rule 56(c).

Examples of complaints that would not warrant an investigation or further action by FTA include but are not limited to: (1) A complaint against a public transit agency that does not receive FTA funding; (2) a complaint brought against a public transit agency by a private charter operator that is neither a registered charter provider nor its duly authorized representative; (3) a complaint that gives no information as to when or where the alleged prohibited charter service took place; or (4) a complaint filed solely for the purpose of harassing the public transit agency.

[73 FR 44931, Aug. 1, 2008]

APPENDIX C TO PART 604—FREQUENTLY ASKED QUESTIONS

(a) *Applicability (49 CFR Section 604.2)*

(1) Q: If the requirements of the charter rule are not applicable to me for a particular service I provide, do I have to report that service in my quarterly report?

A: No. If the service you propose to provide meets one of the exemptions contained in this section, you do not have to report the service in your quarterly report.

(2) Q: If I receive funds under 49 U.S.C. Sections 5310, 5311, 5316, or 5317, may I provide charter service for any purpose?

A: No. You may only provide charter service for “program purposes,” which is defined in this regulation as “transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and/or low income individuals) * * *” 49 CFR Section 604.2(e). Thus, your service only qualifies for the exemption contained in this section if the service is designed to serve the needs of targeted populations. Charter service provided to a group, however, that includes individuals who are only incidentally members of those targeted populations, is not “for program purposes” and must meet the requirements of the rule (for example, an individual chartering a vehicle to take his relatives including elderly aunts and a cousin who is a disabled veteran to a family reunion).

(3) Q: If I am providing service for program purposes under one of the FTA programs listed in 604.2(e), do the human service organizations have to register on the FTA Charter Registration Web site?

A: No. Because the service is exempt from the charter regulations, the organization does not have to register on the FTA Charter Registration Web site.