

Chapter 7 - Transportation Service Operations

INTRODUCTION

If you have a Section 5310 vehicle, or receive Section 5310 funding to operate or maintain vehicles, this chapter applies to you. This chapter presents the following Federal and State requirements related to operating transportation services that are funded by the Section 5310 program:

- **Coordinated Operations** - Your Section 5310-funded project must be derived from a locally developed, coordinated public transit-human services transportation plan, and must coordinate to the maximum extent feasible with transportation services assisted by other Federal sources.
- **Charter Service Restrictions** - You are prohibited from using FTA-funded vehicles and facilities to provide charter services, and must contact MTA before engaging in any service revisions so MTA can determine if the revised services meet the charter definitions.
- **School Bus Restrictions** - You are prohibited from using FTA-funded vehicles and facilities to provide school bus service.
- **Monitoring Purchased Transportation Contracts** - If you contract for service operations in lieu of in-house operations, you are responsible for ensuring that the contractor complies with all Federal and State requirements related to the grant. As a reminder, the contract has to be procured in a Federally-compliant manner (see Chapter 4 for procurement requirements).
- **Fares** - If you plan or do charge a fee or fare for use of your transportation services, you are responsible for properly notifying your client base of the fares, applying the fares in an equitable manner and securely collecting and accounting for the fares collected.

Note that operating requirements related to non-discrimination (including compliance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act) are covered in Chapter 3 of this manual.

COORDINATED OPERATIONS

FTA Requirements Related to Coordinating Services

As described in Chapter 2 of this manual, projects funded under the Section 5310 program (as well as the prior JARC and New Freedom programs) must be derived from a “locally developed, coordinated public transit-human services transportation plan.”

Coordination is required at the planning level, but should not stop with the completion of the planning process. For the Section 5310 program, FTA requires that “private for-profit transportation providers are provided an opportunity to participate to the maximum extent feasible, and that the program provides for maximum feasible coordination of transportation services assisted under Section 5310 with transportation services assisted by other Federal sources.” Subrecipients meet this requirement when they submit their 5310 grant applications.

Coordination is therefore strongly encouraged at the operational level in order to use limited resources efficiently and effectively. Coordinated planning provides a foundation for coordinating service and is explained by the subrecipient as part of their 5310 application.

Among the criteria for evaluating applications for Section 5310 funding, 40% of the total score an application can receive is allocated to Coordination and Cooperation.

Appendix 7.A provides more information on transportation coordination.

CHARTER SERVICE RESTRICTIONS

The use of FTA-funded vehicles and facilities to provide charter services is prohibited except under specific circumstances defined in FTA’s Charter Service rule, 49 CFR Part 604 <http://edocket.access.gpo.gov/2008/pdf/08-86.pdf>. The purpose of the FTA Charter Service rule is to protect private bus operators from unfair competition from transportation operators who have access to Federal and State funds for purchasing buses and to Federal funds for their operation.

All applicants for FTA funding sign a Charter Service Agreement as part of the Certifications and Assurances in the grant application to MTA. The Certifications and Assurances become part of your Grant Agreement. Under the Charter Service Agreement, the applicant agrees that the applicant (as well as its subrecipients or third party contractors who use FTA-funded vehicles) will not provide charter services using equipment or facilities acquired with Federal transit assistance except in compliance with FTA charter regulations.

What is Charter Service?

Charter service is defined as transportation provided by the subrecipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The third party pays for the use of the vehicle, and it collects any fares from the passengers. Charter service is not part of a subrecipient's regularly scheduled services, or it is offered for a limited time period. The third party determines the origin and destination of the charter trip as well as the schedule.

Transportation provided by the subrecipient to the public for events or functions that occur on an irregular basis or for a limited duration is also considered a charter when a premium fare is charged that is greater than the usual and customary fixed-route fare, and/or the service is paid for in whole or in part by a third party.

Charter service does not include demand responsive service to the individuals you normally serve.

Section 5310 capital or operating funding may not be used in the provision of charter services. Should a 5310 subrecipient intend to engage in any change in its services while receiving FTA/MTA funding or operating an FTA/MTA-funded vehicle, it must contact MTA before engaging in its revised services so MTA can determine if the revised services meet the charter definitions.

Appendix 7.B provides more information about FTA charter service regulations.

SCHOOL BUS RESTRICTIONS

The use of FTA-funded vehicles and facilities to provide school transportation is prohibited by FTA's School Bus Operations regulations, 49 CFR Part 605 (http://www.fta.dot.gov/legislation_law/12923_4440.html), with certain exceptions. The purpose of the FTA School Bus Operations regulations are to protect private school bus operators from unfair competition from transit operators who have access to Federal and State funds for purchasing buses, and to Federal funds for their operation.

All applicants for FTA funding sign a School Transportation Agreement as part of the Certifications and Assurances in the grant application to MTA. The Certifications and Assurances become part of your Grant Agreement. Under the School Transportation Agreement, the applicant agrees that the applicant (as well as its subrecipients or third party contractors who use FTA-funded vehicles) will not provide school transportation services using equipment or facilities acquired with Federal transit assistance.

What does FTA Consider School Bus Service?

School bus operations are defined in the FTA regulations as transportation by bus exclusively for school students, personnel and equipment in school bus type vehicles.

The prohibition against school bus service applies to both transportation for home-to-school and transportation for school-sponsored activities or trips.

The FTA considers Head Start to be a social service program rather than a school program, and as such the prohibition against providing school bus service does not apply to transporting children who are participating in Head Start programs.

Section 5310 subrecipients may not use 5310 program funds or equipment to engage in school bus service of any kind. Call your MTA representative if you have any questions or refer to Appendix 7.C. In any case, you may not transport children to school services or functions without prior written MTA approval.

MONITORING PURCHASED TRANSPORTATION CONTRACTS FOR COMPLIANCE AND SERVICE QUALITY

Subrecipients who contract for service operations in lieu of in-house operations are responsible for ensuring that the contractor complies with all Federal and State requirements related to the grant. Further, the contractor should be monitored to ensure that an acceptable quality of service is provided.

Compliance Monitoring

Chapter 4 of this manual describes the clauses that must be included in third-party contracts using FTA funds. The subrecipient's responsibility does not stop at the inclusion of the clauses in the signed contract. You must take steps to monitor that they are doing what they agreed to do in the contract, including:

- providing services in a nondiscriminatory manner (as described in Chapter 3 of this manual).
- using your organization's vehicles (if part of the contract) only as allowed in the contract (e.g., not using FTA-funded equipment to operate charter or school bus service as described in Chapter 7 of this manual).
- maintaining your organization's vehicles (if part of the contract) to meet minimum preventive maintenance and safety standards (described in Chapter 6 of this manual).

- testing their safety-sensitive employees for drug use and alcohol misuse as would apply to your organization (as described in Chapter 8 of this manual).

Quality Control

As discussed in Chapter 4, your contract should include quality control safeguards to ensure satisfactory performance of the contractor, with penalties if performance standards are not met. Setting minimum requirements for driver training and preventive maintenance is essential. Performance from a reliability standard should also be addressed. For example, incidents where the contractor exceeds an allowed window of lateness (such as more than 15 minutes late for a pickup) or where a scheduled trip is not delivered should result in a fee being deducted from the contractor's invoice.

For service operations contracts, it is important to establish customer complaint reporting and resolutions procedures. For example, you may want customers to direct their complaints initially to the contractor, and if they are not resolved to the customer's satisfaction by the contractor, the customer should then contact your agency. On the other hand, you may want customers to contact you directly so that you have a better indication of the kinds of problems your customers are experiencing. However, this approach is likely to involve more staff time in your agency.

If the contractor collects fares, you will need to require adequate cash handling procedures and documentation to ensure that all fares collected are credited to your program.

As a recommended practice, your organization may wish to conduct spot checks on your vehicles on a periodic, unannounced basis. Note that MTA also conducts spot checks at any time to ensure that FTA/MTA-funded vehicles are well-maintained and used for their intended purpose.

SUMMARY

Under Chapter 7 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or programs:

- A locally developed coordinated human services transportation plan. This plan will be submitted with your grant application.
- A certification that the subrecipient will not engage in charter services. This certification is provided as part of the grant application/agreement process.
- A certification that the subrecipient will not engage in school transportation services. This certification is provided as part of the grant application/agreement process.