

DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
JUSTIFICATION STATEMENT

Charter Bus Service Operations

(OMB Control No. 2132-0543)

ABSTRACT

This supporting statement is associated with a request for an extension of a currently approved information collection. FTA's Charter Service Operations (Charter Service Rule), which implements 49 U.S.C. 5323(d), protects private charter operators from unauthorized competition from FTA grant recipients (local transit providers). The Charter Service Operations was unchanged with the passing of the Fixing America's Surface Transportation Act (FAST) however, this information collection request reflects an increase of 711 additional respondents from the total reported in 2017 which is changed from 1,469 to 2,180. The 711 respondents are made up of new FTA recipients and private bus registrants that have entered into the program since 2017. The increase in the respondents of private bus registrants occurred in mid-April of 2020. This was the result of a virtual charter bus industry association meeting, where the organizer recommended all participants register on FTA's charter website to ensure those participants were made aware of any potential charter bus business opportunities in the future.

Explain the circumstances that make information collection necessary

Pursuant to 49 U.S.C. Section 5323(d), FTA recipients may only provide charter bus service with FTA-funded facilities and equipment if the charter service is incidental to the provision of transit service. This provision protects charter service providers from unauthorized competition by Federal Transit Administration (FTA) recipients.

The requirements of 49 U.S.C. Section 5323(d) are implemented in FTA's charter regulation (Charter Service Rule) at 49 C.F.R. Part 604. In 2008, the Charter Service Rule was amended to include five (5) provisions that impose information collection requirements on FTA recipients of financial assistance under Federal Transit Law.¹

First, 49 C.F.R. Section 604.4 requires all applicants for Federal financial assistance under Federal Transit Law, unless otherwise exempted under 49 C.F.R. Section 604.2, to enter into a "Charter Service Agreement," contained in the Certifications and Assurances for FTA Assistance Programs. The Certifications and Assurances become a part of the Grant Agreement or Cooperative Agreement for Federal financial assistance upon receipt of Federal funds. The rule requires each applicant to submit one Charter Service Agreement for each year that the applicant intends to apply for the Federal financial assistance.

Second, 49 C.F.R. Section 604.14(3) requires a recipient of Federal funds under Federal Transit Law, unless otherwise exempt, to provide email notification to all registered charter service providers in the recipient's geographic service area each time the recipient receives a request for charter service that the recipient is interested in providing.

¹ For purposes of the Charter Service Rule, "Federal Transit Law" means 49 U.S.C. 5301 et. seq. and includes provisions of Chapter 23 U.S.C. when used to provide Federal financial assistance to transit agencies for purchasing buses and vans.

Third, 49 C.F.R. Section 604.12(c) requires a recipient, unless otherwise exempt under 49 C.F.R. Part 604.2, on a quarterly basis to submit records of all instances that the recipient provided charter service permitted under one or more of the exceptions under Subpart B of 49 C.F.R. Section 604. Submission of records must be done through the FTA Charter Registration Website. In addition, a recipient who provided charter service permitted under an exception must maintain electronic records of the required notices and records for a minimum of three years from the date of the service or lease of FTA-funded equipment.

Fourth, 49 C.F.R. Section 604.13 requires a private charter service provider to register on FTA's Charter Registration Website in order to qualify as a registered charter service provider and receive email notifications by recipients that are interested in providing a requested charter service. When registering on the Website, the private charter service provider must submit the following information:

- (1) Company name, address, phone number, e-mail address, and facsimile number;
- (2) Federal and, if available, state motor carrier identifying number;
- (3) Geographic service areas of public transit agencies, as identified by the transit agency's zip code, in which the private charter provider intends to provide charter service;
- (4) Number of buses or vans the private charter provider owns;
- (5) A certification that the private charter provider has valid insurance; and
- (6) Willingness to provide free or reduced rate charter services to registered qualified human service organizations.

The rule requires that a registered charter service provider must update its information on the Charter Registration Website at least once every two years.

Fifth, 49 C.F.R. Section 604.7 permits recipients to provide charter service to Qualified Human Service Organizations (QHSO) under limited circumstances. QHSOs that do not receive Federal funding under programs listed in Appendix A to Part 604 and seek to receive free or reduced rate services from recipients must register on FTA's Charter Registration Website. 49 C.F.R. Section 604.15(a).

1. Indicate how, by whom, and for what purpose the information is to be used

The Charter Service Agreement required under 49 C.F.R. Section 604.4 is necessary to implement the provision in 49 U.S.C. Section 5323(d) which requires all applicants to enter into a Charter Service Agreement.

The e-mail notification requirement in 49 C.F.R. Section 604.14 is necessary to ensure that private charter bus providers who register on FTA's Charter Registration Website are given the first opportunity to provide charter bus service that a recipient is interested in providing pursuant to 49 C.F.R. Section 604.9.

The charter registration requirement in 49 C.F.R. Section 604.13 provides both FTA and recipients with a record of the private charter service providers willing to provide charter service, and allows private charter service providers to express their interest in providing charter service in a specific geographic location by registering on the Charter Registration Website.

The registration requirement in 49 C.F.R. Section 604.15, applicable to a QHSO who seeks to receive free or reduced rate services from recipients and does not receive Federal funding under programs listed in

Appendix A to Section 604, ensures that the organization meets the criteria of a QHSO and is serving the elderly, individuals with disabilities, or low-income individuals.

The requirement that a recipient must submit records of all instances that it has provided charter service permitted under one or more of the exceptions under Subpart B of Section 604, is necessary for FTA to ensure that recipients are properly providing charter services only as permitted by the rule.

If this collection of information is not conducted, FTA will not be able to ensure that FTA recipients are complying with the protections for private charter service providers under 49 U.S.C. Section 5323(d) and that FTA-funded facilities and equipment are used in a manner that does not interfere with or detract from their public transportation purposes. See 9 U.S.C. Section 5302(a)(10).

2. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; and describe any consideration of using information technology to reduce the burden

All recipients of FTA funds are required to use FTA's Transit Award Management System (TrAMS) from the initial application stage through post award management. Recipients, registered charter service providers, and certain QHSOs are also required to register on the Charter Registration Website <http://ftawebprod.fta.dot.gov/CharterRegistration/>. Additionally, FTA recipients can upload their reports at an FTA public website at <https://ftawebprod.fta.dot.gov/CharterReporting> which allows a public access point for individuals who wish to review charter reports. The use of internet technology by 100% of recipients has improved communications and reduced long-term costs associated with the charter service regulations.

3. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2

FTA has attempted to identify whether the information that is required to be submitted to FTA is collected by other Federal agencies. Our research indicates that it is not collected by other agencies. FTA does not believe that this information is similar to that which is required is available elsewhere.

4. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize the burden

Since the requirements are minimal and are not burdensome, no special methods are used for small entities.

5. Describe the consequences to Federal program or policy activities if the information is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden

An applicant has to comply with 49 C.F.R. Section 604.4 and enter into a Charter Service Agreement once annually per each year that the recipient seeks federal funds under Federal Transit Law. If this collection were done less frequently, the requirement in 49 U.S.C. Section 5323(d) for a charter service agreement would not be satisfied.

A recipient must comply with the e-mail notification requirement in 49 C.F.R. Section 604.14 only when the recipient is interested in providing charter service operations pursuant to 49 C.F.R. Section 604.9.

Recipients that provide such service must also submit records of providing charter service pursuant to Subpart B of 49 C.F.R. Section 604 on a quarterly basis. If this information collection was conducted less frequently, registered charter service providers and FTA could not ensure that registered charter service providers are being protected from unfair competition by FTA recipients. In addition, FTA would not be able to ensure that FTA-funded equipment and facilities are being used to provide charter services in a manner consistent with the statutory and regulatory requirements.

Private charter providers are required to register on the FTA Charter Registration Website once every two years in order to attain the status of and remain a registered service charter provider. If this information collection requirement were conducted less frequently, recipients and FTA could not ensure that only eligible private charter service providers in a recipient's geographic region are receiving notice of existing charter service requests.

Certain QHSOs must comply with the registration requirement in 49 C.F.R. Section 604.15 in order to be eligible to receive free or reduced rate services from recipients. These QHSOs must register and update their information on a bi-annual basis. If this information collection requirement were conducted less frequently, registered service charter providers and FTA could not ensure that only eligible QHSOs are receiving free or reduced rate services from recipients.

6. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 C.F.R. Section 1320.5(d)(2)

The information collection requirements are consistent with 5 C.F.R. Section 1320.5(d)(2).

7. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported

A 60-day Federal Register notice was published on July 9, 2020 Vol. 85 No. 132 (pages 41272-41273), soliciting comments prior to submission to the Office of Management and Budget (OMB). One comment was received however, that comment was not related to the IC but to the upcoming Presidential elections and has no relevance to the information collection request. A 30-day Federal Register notice was published on October 28, 2020. Vol. 85 No.206 (pages 68411-68412).

8. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees

No payment or gift is made to respondents.

9. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy

There is no assurance of confidentiality provided to recipients for the information that they provide under the regulation. The information is intended for the public.

10. Provide additional justification for any questions of a sensitive nature

No sensitive information is required. A recipient is permitted to exclude specific origin and destination information in the recipient's quarterly report for safety and security reasons. 49 C.F.R. Section 604.12(d).

11. Provide estimates of the hour burden of the collection of information and annualized cost to respondent

Estimated Annual Number of Respondents: 2,180

Estimated Total Annual Burden Hours: 579

Estimated Total Annual Cost: \$17,617.87

Requirements	Section 604.4	Section 604.12	Section 604.13	Section 604.14	Section 604.15	Total
Number of Respondents	1,676	90	287	90	37	2,180
Number of Responses per Respondent	1	1	1	1	1	
Annual	1,676	90	287	90	37	2,180
Hours per Respondent	.05	1.25	.5	.5	.5	
Total Hours	83.80	112.5	143.5	45	18.5	403.3
Estimated Cost to Respondent per Response	\$113.51	\$25.37	\$25.37	\$25.37	\$25.37	\$214.99
Estimated Annual Costs For All Respondents	\$9,512.14	\$2,854.13	\$3,640.60	\$1,141.65	\$469.35	\$17,617.87

FTA estimates the burden to recipient respondents under 49 C.F.R. Section 604.4, which requires that every applicant for Federal financial assistance under Federal Transit Law enters into a Charter Service Agreement, is approximately three minutes per respondent. The Charter Service Agreement is contained in the Certifications and Assurances for FTA Assistance Programs (Certifications and Assurances) that becomes a part of the Grant Agreement or Cooperative Agreement for Federal assistance upon the recipient's receipt of Federal funds. The applicant needs only complete the Certifications and Assurances in order to satisfy 49 C.F.R. Sections 604.4. FTA has determined that the respondent to this information request would typically be a Chief Executive Officer (CEO). According to the Bureau of Labor Statistics (BLS) the applicable hourly salary is (occupational code 11-1011, <https://www.bls.gov/oes/current/oes193051.htm>) \$88.68 per hour plus 28% for fringe benefits equals \$113.51 per hour. Therefore, the annual cost to the recipient is estimated as follows: (1,676 annual respondents x 0.05 hours) x \$113.51 = \$9,512.14 per year.

FTA estimates that the burden associated with the reporting requirement in 49 C.F.R. Section 604.12, is approximately 75 minutes per reporting instance. FTA has determined that the respondent to this information request would typically be a Bookkeeping, Accounting, or Auditing Clerk. According to the Bureau of Labor Statistics (BLS) the applicable hourly salary is (occupational code 43-3031,

<https://www.bls.gov/oes/current/oes433031.htm>) \$19.82 per hour plus 28% for fringe benefits equals \$25.37 per hour. Therefore, the annual cost is estimated as follows: (90 annual respondents x 1.25 hours) x \$25.37 per hour = \$2,854.13 per quarter.²

FTA estimates that the registration requirement in 49 C.F.R. Part 604.13 takes approximately 30 minutes (0.5 hours) to fill out the on-line registration form. Currently, there are 287 registered charter service providers. FTA has determined that the respondent to this information request would typically be a Bookkeeping, Accounting, or Auditing Clerk. According to the Bureau of Labor Statistics (BLS) the applicable hourly salary is (occupational code 43-3031, <https://www.bls.gov/oes/current/oes433031.htm>) \$19.82 per hour plus 28% for fringe benefits equals \$25.37 per hour. Thus, the annual cost is estimated as follows: (287 annual respondents x 0.5 hours) x \$25.37 per hour = \$3,640.60 per year.

FTA estimates that the burden associated with the e-mail notification requirement in 49 C.F.R. Section 604.14, is approximately 30 minutes (0.5 hours) which is spent on e-mail notifications to registered charter service providers in the recipient's geographic service area. This includes searching on FTA's Charter Registration Website for the registered charter service providers in the recipient's geographic service area, and typing and sending the e-mail notification. FTA has determined that the respondent to this information request would typically be a Bookkeeping, Accounting, or Auditing Clerk. According to the Bureau of Labor Statistics (BLS) the applicable hourly salary is (occupational code 43-3031, <https://www.bls.gov/oes/current/oes433031.htm>) \$19.82 per hour plus 28% for fringe benefits equals \$25.37 per hour. Recipients are not required to report to FTA the number of charter service requests that they receive under this provision, nor the number of emails that are sent out to charter service providers in their geographic area. Therefore, FTA has used the number of respondents who have reported providing charter service, explained above, as the number of respondents for the calculation of the burdens of this provision. Thus, the annual cost is estimated as follows: (90 annual respondents x .50 hours) x \$25.37 per hour = \$1,141.65 per year.

FTA estimates that the registration requirement for certain QHSOs in 49 C.F.R. Section 604.15 imposes a 30 minute (0.5 hours) burden per QHSO. FTA has determined that the respondent to this information request would typically be a Bookkeeping, Accounting, or Auditing Clerk. According to the Bureau of Labor Statistics (BLS) the applicable hourly salary is (occupational code 43-3031, <https://www.bls.gov/oes/current/oes433031.htm>) \$19.82 per hour plus 28% for fringe benefits equals \$25.37 per hour. Currently, there are approximately 37 QHSOs registered on FTA's Charter Registration. Thus, the annual cost is estimated as follows: (37 annual respondents x .50 hours) x \$25.37 per hour = \$469.35 per year.

12. Estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information (not including the cost of any hour burden shown in items 12 and 14)

Although recipient respondents are required to maintain the notices and records for a minimum of three years from the date of the service or lease of FTA-funded equipment and/or drivers under 49 C.F.R. Section 604.12(a), FTA expects the cost burden to be minimal because the notices and records must only be maintained electronically.

² The reporting requirement in section 604.12 is quarterly. However, for purposes of this exercise, FTA used the calculations for a recipient's one time quarterly submission to be the same as a yearly submission to be consistent with the calculations for the other requirements.

13. Estimate of annualized cost to the Federal government

Requirements	604.4	604.12	604.13	604.14	604.15	Total
Number of Respondents	1,676	90	287	90	37	2,180
Number of Responses per Respondent	1	1	1 ³	1	1	
Annual	1,676		287		37	
FTA Review Hours Respondent	.03	N/A	.50	N/A	.50	
Total Hours	50.28	N/A	143.5	N/A	18.50	212.28
Estimated Cost to FTA per Review of Response	\$63.94	N/A	\$37.96	N/A	\$37.96	
Estimated Annual Costs to FTA For All Respondents	\$3,214.90	N/A	\$5,447.26	N/A	\$702.26	\$9,274.42

The estimated annual cost to the Federal government of processing the Charter Service Agreement requirement under 49 C.F.R. Section 604.4 is \$3,214.90. FTA employees review the Certifications and Assurances that contain the Charter Service Agreement to ensure that the recipient has complied with 49 C.F.R. Section 604.4. FTA estimates that the review takes approximately two minutes per FTA employee. With an average grade of GS-14 Step-1 (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf) at an hourly rate of \$63.94 (due to the various locations of regional staff, FTA added an estimated 10% overhead rate to the base rate of \$58.13, for a total hourly rate of \$63.94). Therefore, the estimated annual cost to the Federal government is \$3,214.90: (1,676 submissions x 0.03 hours per submission) x \$63.94 = \$3,214.90.

The estimated annual cost to the Federal government of processing private charter provider registrations under the registration requirement in 49 C.F.R. Section 604.13 is approximately \$5,447.26. The FTA employee reviews, communicates with the private charter provider as needed, and approves or disapproves the registration. The estimated processing time is about 30 minutes (0.50 hours) per registration. The average grade for the FTA employee reviewing the registration is GS-11. Thus, the estimated annual cost is: (287 registrations x 0.50 hours) x \$37.96 (\$34.51 plus 10% overhead rate) = \$5,447.26

The estimated annual cost to the Federal government of processing QHSO registrations under the registration requirement in 49 C.F.R. Section 604.15 is approximately \$702.26. The FTA employee reviews, communicates with the QHSO as needed, and approves or disapproves the registration. The estimated processing time is about one hour per registration. The average grade for the FTA employee reviewing the registration is GS-11. Thus, the estimated annual cost is: (37 registrations x 0.50 hours) x \$37.96 (\$34.51 plus 10% overhead rate) = \$702.26

³ Note, private providers of charter service are only required to register once every two years. For purposes of consistency in the calculations for this submission, FTA has assumed that a response is provided once per year.

Thus, the total cost to the federal government is: \$3,214.90 (cost of processing the Charter Service Agreement requirements) + \$5,447.26 (cost of processing private charter provider registrations) + \$702.26 (cost of processing QHSO registrations) = \$9,274.42.

14. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I

The current estimated total number of annual respondents is 2,180, an increase of 711 respondents from the previous justification statement approved in 2017. This increase is a result of additional registrants that are FTA recipients and for-profit private charter service providers that report in accordance with section 604.4 and 604.13. It is noted that this reflects an increase of 711 additional respondents, so the overall burden has increased, but the burden per respondent has not changed since that reported in 2017. The recipient and government burden cost has also increased due to a more accurate hourly CEO salary estimate from the Bureau of Labor Statistics (including fringe benefits) and an updated applicable federal government hourly wage using the 2020 OPM Salary Table.

Plans for tabulation and publication for collections of information whose results will be published

FTA does not plan to publish the results of the information collected for statistical use.

15. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate

There is no reason not to display the expiration date of OMB approval of the information collection.

16. Explain any exceptions to the certificate statement identified in Item 19 of OMB Form 83-I

No exceptions are stated.