

CHARTER SERVICE

A Compliance Guide for PennDOT Subrecipients

Section I: Introduction

This guide is intended to provide PennDOT **subrecipients** (including public entities, nonprofits, and private providers) guidance on the Federal Transit Administration's (FTA) Charter Service regulations per [49 CFR Part 604](#). FTA defines charter service as:

Transportation, not including demand response service to individuals, provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:

- ❑ A third party pays the transit provider a negotiated price for the group.
- ❑ Any fares charged to individual members of the group are collected by a third party.
- ❑ The service is not part of the transit provider's regularly scheduled service or is offered for a limited period of time.
- ❑ A third party determines the origin and destination of the trip as well as scheduling.

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

The FTA allows recipients of Federal financial assistance (including subrecipients and third-party contractors) to offer charter services only under certain conditions. These conditions are outlined in the table below and are further detailed in the following section and [49 CFR Part 604](#).

To operate a charter service, the service provider must meet at least one of the **exemptions** and/or **exceptions below** and obtain approval from PennDOT's Bureau of Public Transportation (BPT) by completing the Charter Service Request Form. This form must be submitted to BPT 30 days prior to the service date. Agencies may request expedited review, which BPT may accommodate on a case-by-case basis. A response indicating approval, denial, or a request for more information will be sent to you within 5-7 business days.

Charter Rule Exemptions	Charter Rule Exceptions
1) Recipient provides transportation to facilitate oversight activities §604.2(b)	1) Transporting government officials on official government business §604.6
2) Private charter operator that receives federal assistance §604.2(c)	2) Transporting participants of qualified human service organization (seniors, persons with disabilities, and low-income individuals) §604.7
3) Recipient performing emergency preparedness planning and operations §604.2(d)	3) Leasing to private charter operator §604.8
4) Recipient of funds from 5310, 5311, 5316, and 5317 providing charter service that supports program purposes §604.2(e)	4) No registered charter provider responds to a notice sent by recipient §604.9
5) Recipient responding to immediate emergency §604.2(f)	5) By agreement with registered charter providers §604.10
6) Recipient in non-urbanized area transporting its employees for training purposes outside of geographic service area §604.2(g)	6) By petition to the FTA administrator §604.11

Demand Response

FTA defines demand response service as: any non-fixed route system of transporting individuals that requires advanced scheduling by the customer, including services provided by public entities, nonprofits, and private providers.

Demand response trips provide service from multiple origins to a single destination, a single origin to multiple destinations, or even multiple origins to multiple destinations. These types of trips are considered demand response transit service, not charter service, because even though a human service agency pays for the transportation of its clients, trips are scheduled and routed for the individuals in the group. Service to individuals can be identified by vehicle routing that includes multiple origins, multiple destinations, or both, based on the needs of individual members of the group, rather than the group as a whole.

Section II: Does it Apply to You?

If you are...	Then...
A public transit agency that receives federal funds (e.g., 5307, 5309, 5310, 5311...) exclusively for equipment or assets, but not for operating assistance (such as most shared-ride service-only providers).	Only vehicles funded with federal assistance subject to charter service regulation per 49 CFR Part 604. You may be allowed to provide exclusive service utilizing non-federally (i.e., state and local) funded vehicles upon PennDOT approval, provided the vehicles are not maintained or dispatched with federal funds.
A public transit agency that receives federal funds (e.g., 5307, 5309, 5310, 5311...) for equipment/assets and operation.	Charter regulation per 49 CFR Part 604 applies to your agency no matter if you are using federally funded or non-federally funded vehicles to provide charter service.
A private-non-profit agency, social service agency, or private transit system, receives and/or operates 5310-funded vehicles, and does not receive, directly or indirectly, FTA financial assistance for operation.	Vehicles funded with federal assistance are subject to charter service regulation per 49 CFR Part 604. These vehicles are for program purposes only as indicated in your 5310 application. Any non-program usage of such vehicles must receive prior approval from PennDOT.

Section III: Exemption

This section clarifies situations where recipients of FTA funding can offer charter services. Normally, such services fall under the regulations outlined in [49 CFR Part 604](#). However, there are exemptions that allow for charter service under specific circumstances. This section details these exemptions.

Exemption 1

§604.2(b) General Provision

Part 604 requirements shall not apply to recipient transporting its employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guests, to or from transit facilities or projects within its geographic service area or proposed geographic service area for the purpose of conducting oversight functions such as inspection, evaluation, or review.

Explanation

Transporting transit system employees, regardless of whether personnel from other transit systems are included, does not constitute a charter service. When the trip includes individuals not employed or contracted by the transit system, this exemption is limited to transit related activities only.

Reporting and Recordkeeping Requirements

1. Trips exclusive to transit employees are exempt from BPT approval procedures and are excluded from the quarterly charter report.
2. If the trip includes individuals not employed or contracted by the transit system, submit the Charter Service Request Form at least 30 days prior to the service date.
 - a. Following trip completion, retain the approved form and any trip-related information for your records for a period of three years.

Exemption 2

§604.2(c) General Provision

Part 604 requirements shall not apply to private charter operators that receive Federal financial assistance, directly or indirectly.

Explanation

Private charter operator may engage in charter service provided federally funded vehicles are not used and the service does not interfere with the public transportation.

Reporting and Recordkeeping Requirements

No reporting and recordkeeping required.

Exemption 3

§604.2(d) General Provision:

Part 604 requirements shall not apply to recipient transporting its employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guests, for emergency preparedness planning and operations.

Explanation

Transporting transit system's own employees, regardless of whether personnel from other transit systems are included, does not constitute a charter service. When the trip includes individuals from non-transit system, this exemption is limited to emergency preparedness planning and operations only.

Reporting and Recordkeeping Requirements

1. Trips exclusive to transit employees are exempt from BPT approval procedures and are excluded from the quarterly charter report.
2. If the trip includes individuals from non-transit system, submit the Charter Service Request Form at least 30 days prior to the service date.
 - a. Following trip completion, retain the approved form and any trip-related information for your records for a period of three years.

Exemption 4

§604.2(e) General Provision

Part 604 requirements shall not apply to recipients that uses Federal financial assistance from FTA for program purposes only, under 49 U.S.C. 5310, 49 U.S.C. 5311, 49 U.S.C. 5316, or 49 U.S.C. 5317.

Explanation

“Program purposes” is defined in the regulation as “transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and/or low-income individuals)”. Thus, your service only qualifies for the exemption contained in this section if the service is designed to serve the needs of populations targeted by the Section 5310 Program (i.e. seniors and persons with disabilities).

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form at least 30 days prior to the service date.
2. Following trip completion, retain the approved form and any trip-related information for your records for a period of three years.

Exemption 5

§604.2(f) General Provision

Part 604 requirements shall not apply to a recipient, for actions directly responding to an emergency declared by the President, Governor, or Mayor or in an emergency requiring immediate action prior to a formal declaration. If the emergency lasts more than 45 days, the recipient shall follow the procedures set out in subpart D of 49 CFR Part 601.

Explanation

In emergency situations, transit system can participate in emergency situations without worrying about complying with the charter regulation. This applies even before an official declaration of emergency. If a transit system assists with emergency response

for more than 45 days, it must request permission to continue service by submitting a petition to BPT.

Reporting and Recordkeeping Requirements

1. Following trip completion, submit the Charter Service Request Form to BPT.
2. Retain the approved form and any trip-related information for your records for a period of three years.

Exemption 6

§604.2(g) General Provision

Part 604 requirements do not apply to training purposes.

Reporting and Recordkeeping Requirements

No reporting and recordkeeping required.

Section IV: Exception

This section is to identify the limited exceptions under which recipients may provide community-based charter services.

Exception 1

§604.6 General Provision

A recipient may provide charter service to government officials (Federal, State, and local) for official government business, which can include non-transit related purposes, if the recipient:

- (1) Provides the service in its geographic service area;
- (2) Does not generate revenue from the charter service, except as required by law.

Explanation

This provision allows transit systems to utilize their vehicles for transporting government officials. These visits may include trips to industrial sites, government facilities, or industrial development sites. The key requirement for this exception is that the trip serves a **governmental purpose** and includes participation from **governmental officials**.

FTA defines “government official” as the individual currently holding a government position that is elected or appointed through a political process. In order to take advantage of this exception, at least one government official must be transported.

In addition, the charter service shall be limited annually to 80 charter service hours under this exception. Agencies may request approval from BPT if they wish to provide greater than 80 hours of service.

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form at least 30 days prior to the service date.
2. Following trip completion, complete the quarterly charter report with the following information:
 - a. The government organization’s name, address, phone number, and email address;
 - b. The date and time of service;
 - c. The number of passengers (specifically noting the number of government officials on the trip);
 - d. The origin, destination, and trip length (miles and hours);
 - e. The fee collected, if any; and
 - f. The vehicle number for the vehicle used to provide the service.
3. Retain the approved Request form, quarterly report, and any trip-related information for your records for a period of three years from the date of the service.

Exception 2

§604.7 General Provision

A recipient may provide charter service to a qualified human service organization (QHSO) for the purpose of serving persons:

- (1) With mobility limitations related to advanced age;
- (2) With disabilities; or
- (3) With low income.

Explanation

Charter service differs from regular public transportation offered to human service organization. According to FTA Circular 9040.1F, public transportation typically refers to services controlled by the public transit agency, where anyone can board, including clients of human service organizations. The QHSO exception applies when these characteristics are not met.

If an organization serving persons described in this exception receives funding, directly or indirectly, from the programs listed in Part 604 [Appendix A](#), the QHSO shall not be required to register on the FTA charter registration [Web site](#).

If a QHSO serving persons described in General Provision of this exception does **not** receive funding from any of the programs listed in Part 604 [Appendix A](#), the QHSO shall register on the FTA charter registration [Web site](#) in accordance with §604.15. In addition, public transit agencies should ensure that the QHSO has a valid registration in the FTA charter registration [Web site](#) that was provided at least sixty days in advance of the requested service before providing charter services to that organization.

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form at least 30 days prior to the service date.
2. Following trip completion, complete the quarterly charter report with the following information:
 - a. The QHSO's name, address, phone number, and e-mail address;
 - b. The date and time of service;
 - c. The number of passengers;
 - d. The origin, destination, and trip length (miles and hours);
 - e. The fee collected, if any; and
 - f. The vehicle number for the vehicle used to provide the service.
3. Retain the approved Request form, quarterly report, and any trip-related information for your records for a period of three years from the date of the service.

Exception 3

§604.8 General Provision

A recipient may lease its FTA-funded equipment and drivers to registered charter providers for charter service only if the following conditions exist:

- (1) The private charter operator is registered on the FTA charter registration [Web site](#);
- (2) The registered charter provider owns and operates buses or vans in a charter service business;
- (3) The registered charter provider received a request for charter service that exceeds its available capacity either of the number of vehicles operated by the registered charter provider or the number of accessible vehicles operated by the registered charter provider; and
- (4) The registered charter provider has exhausted all of the available vehicles of all registered charter providers in the recipient's geographic service area.

Explanation

Public transit agency may go to FTA charter registration [Web site](#) to verify the private charter provider registration status. When a registered charter provider certifies that it has exhausted all of the private vehicles in the area, the transit agency need only go to

the charter registration [Web site](#), note all of the registered charter providers in the geographic service area and the number of vehicles identified in the registration to verify that the registered charter provider's certification is accurate. No independent verification beyond this process is required by the regulations.

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form at least 30 days prior to the service date.
2. Following trip completion, complete the quarterly charter report with the following information:
 - a. The registered charter provider's name, address, telephone number, and e-mail address;
 - b. The number of vehicles leased, types of vehicles leased, and vehicle identification numbers; and
 - c. The documentation presented by the registered charter provider in support of paragraphs (1) through (4) of General Provision under this exception.
3. Retain the approved Request form, quarterly report, and any trip-related information for your records for a period of three years from the date of the service.

Exception 4

§604.9 General Provision

A recipient may provide charter service, on its own initiative or at the request of a third party, if no registered charter provider responds to the notice issued in §604.14:

- (1) Within 72 hours for charter service requested to be provided in less than 30 days;
or
- (2) Within 14 calendar days for charter service requested to be provided in 30 days or more.

Explanation

Public transit agencies are not required to provide notice to registered charter providers of all requests for charter service. Notice is only given for those requests that do not fit within one of the Exceptions (§604.6 - §604.11) and for which the public transit agency is still interested in providing that service. Only in this instance is a public transit agency required to provide notice to the list of registered charter providers in its geographic service area.

A transit agency shall not provide charter service under this section if a registered charter provider indicates an interest in providing the charter service set out in the notice issued pursuant to §604.14 and the registered charter provider has informed the recipient of its interest in providing the service.

§ 604.14 Recipient's notification to registered charter providers.

- (a) Upon receiving a request for charter service, a recipient may:
- (1) Decline to provide the service, with or without referring the requestor to FTA's charter registration Web site;
 - (2) Provide the service under an exception provided in subpart B of this part; or
 - (3) Provide notice to registered charter providers as provided in this section and provide the service pursuant to §604.9.
- (b) If a recipient is interested in providing charter service under the exception contained in §604.9, then upon receipt of a request for charter service, the recipient shall provide e-mail notice to registered charter providers in the recipient's geographic service area in the following manner:
- (1) E-mail notice of the request shall be sent by the close of business on the day the recipient receives the request unless the recipient received the request after 2 p.m., in which case the recipient shall send the notice by the close of business the next business day;
 - (2) E-mail notice sent to the list of registered charter providers shall include:
 - (i) Customer name, address, phone number, and e-mail address (if available);
 - (ii) Requested date of service;
 - (iii) Approximate number of passengers;
 - (iv) Whether the type of equipment requested is (are) bus(es) or van(s); and
 - (v) Trip itinerary and approximate duration; and
 - (3) If the recipient intends to provide service that meets the definition of charter service under §604.3(c)(2), the email notice must include the fare the recipient intends to charge for the service.

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form at least 30 days prior to the service date.
2. Following trip completion, complete the quarterly charter report with the following information:
 - a. The group's name, address, phone number, and e-mail address;
 - b. The date and time of service;
 - c. The number of passengers;
 - d. The origin, destination, and trip length (miles and hours);
 - e. The fee collected, if any; and
 - f. The vehicle number for the vehicle used to provide the service.

3. Retain the approved Request form, quarterly report, and any trip-related information for your records for a period of three years from the date of the service.

Exception 5

§604.10 General Provision

A recipient may provide charter service directly to a customer consistent with an agreement entered into with all registered charter providers in the recipient's geographic service area.

If a new charter provider registers in the geographic service area subsequent to the initial agreement, the recipient may continue to provide charter service under the previous agreement with the other charter providers up to 90 days without an agreement with the newly registered charter provider.

Any of the parties to an agreement may cancel the agreement at any time after providing the recipient a 90-day notice.

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form at least 30 days prior to the service date.
2. Submit a copy of the Charter Service Agreement
3. Retain the approved Request form and Charter Service Agreement for a period of three years from the date of the service.

Exception 6

§604.11 General Provision

A recipient may petition BPT to make a request with the FTA Administrator for an exception to the charter service regulations to provide charter service directly to a customer for:

- (1) Events of regional or national significance;
- (2) Hardship (only for non-urbanized areas under 50,000 in population or small urbanized areas under 200,000 in population); or
- (3) Unique and time sensitive events (e.g., funerals of local, regional, or national significance) that are in the public's interest.

Explanation

1. For an event of regional or national significance, the petition shall include a description of how registered charter providers were consulted, how registered charter providers will be utilized in providing the charter service, a certification that the recipient has exhausted all of the registered charter providers in its geographic service area and submit the petition at least 90 days before the first day of the event.
2. For a hardship request, a petition is only available if the registered charter provider has deadhead time that exceeds total trip time from initial pickup to final drop-off, including wait time. The petition shall describe how the registered charter provider's minimum duration would create a hardship on the group requesting the charter service.
3. For unique and time sensitive events, the petition shall describe why the event is unique or time sensitive and how providing the charter service would be in the public's interest.
4. Any exception granted by the FTA under this section shall be effective only for the event identified.

Reporting and Recordkeeping Requirements

1. Submit the Charter Service Request Form to BPT at least 30 days prior to the service date, except for an event of regional or national significance, in which requires at least 90 days before the first day of the event.
2. Retain the approved Request form and any trip-related information for your records for a period of three years from the date of the service.

Section V: Q&A

A. Is it Charter Service?

- 1) **Q: Is it charter service to provide transportation to a group of young adults living in an assisted living facility to see a local parade using vehicles funded with Section 5311 funds? The transportation would be open to the public but paid for by the human service agency that operates the assisted living facility. (Source: [Section 5311 Q&A](#))**

A: This service is exempt from the charter rule because the vehicles are funded with Section 5311 funds and the service falls under the program purpose. Under 49 C.F.R. Section 604(e), "The requirements of this part shall not apply to a recipient that uses Federal financial assistance from FTA, for program purposes only, under 49 U.S.C. Section 5310, 49 U.S.C. Section 5311, 49 U.S.C. Section 5316, or 49 U.S.C. Section 5317." The recipient must use Federal funds under one of the above-mentioned programs **and** those funds must also be used for program purposes. This service falls under "program purposes" because it serves the needs of a human service agency.

- 2) **Q: Is it charter service to provide transportation to a day care provider that calls in and asks for transportation services to take their children to the local pumpkin patch using vehicles funded with Section 5311 funds? The transportation would be open to the public but paid for by the daycare provider. (Source: [Section 5311 Q&A](#))**

A: This service is charter service even if the vehicle might be dispatched as open to the public unless: (a) all the children are in a program receiving assistance under a program listed in Appendix A to 49 C.F.R. Part 604 like Head Start (exclusively for low-income children) or all the children are disabled; (b) the day care provider is a non-profit that can qualify as a qualified human service organization (QHISO) under the regulation and can do so sufficiently in advance of the trip requested to comply with 49 C.F.R. Part 604; or (c) the demand response system chooses to provide the trip for free, in which case it would not be considered charter. If one of the described exceptions applies and the demand response system supplies the trip, then the trip must be reported in the quarterly exceptions report. If none of the above options apply, then the trip is considered charter service and notice must be given to registered charter providers. In that case, the local transit agency may only provide the service if no private registered charter provider responds with interest.

- 3) **Q: Is it charter service to provide transportation to a group of college students who would like to attend a concert using vehicles funded with Section 5311 funds? The transit agency will charge the normal fee and the college students will fill the vehicles entirely. (Source: [Section 5311 Q&A](#))**

A: Yes, this would be considered charter service because it is exclusive use of a vehicle for a negotiated price. Unless all the college students were all disabled or low-income, then service would not fall under the program purpose exemption.

4) Q: Can a transit agency provide transportation to transit employees for an event such as the funeral of a transit employee or the transit agency's annual picnic? (Source: [Part 604 FAQ #6](#))

A: Yes. These events do not fall within the definition of charter, because while the service is exclusive, it is not provided at the request of a third party and it is not at a negotiated price. Furthermore, a transit agency transporting its own employees to events sponsored by the transit agency for employee morale purposes or to events directly related to internal employee relations such as a funeral of an employee, or to the transit agency's picnic, is paying for these services as part of the transit agency's own administrative overhead.

5) Q: Is sightseeing service considered to be charter? (Source: [Part 604 FAQ #7](#))

A: "Sightseeing" is a different type of service than charter service. "Sightseeing" service is regularly scheduled round trip service to see the sights, which is often accompanied by a narrative guide and is open to the public for a set price. Public transit agencies may not provide sightseeing service with federally funded assets or assistance because it falls outside the definition of "public transportation" under 49 U.S.C. Section 5302(a) (10), unless FTA provides written concurrence for that service as an approved incidental use. While, in general, "sightseeing" service does not constitute charter service, "sightseeing" service that also meets the definition of charter service would be prohibited, even as an incidental use.

6) Q: May a public transit agency provide "seasonal service" (e.g., service May through September for the summer beach season)? (Source: [Part 604 FAQ #15](#))

A: "Seasonal service" that is regular and continuing, available to the public, and controlled by the public transit agency meets the definition of public transportation and is not charter service. The service should have a regular schedule and be planned in the same manner as all the other routes, except that it is run only during the periods when there is sufficient demand to justify public transit service; for example, the winter ski season or summer beach season. "Seasonal service" is distinguishable from charter service provided for a special event or function that occurs on an irregular basis or for a limited duration, because the seasonal transit service is regular and continuing and the demand for service is not triggered by an event or function. In addition, "seasonal service" is generally more than a month or two, and the schedule is consistent from year to year, based on calendar or climate, rather than being scheduled around a specific event.

- 7) **Q: Is it charter if a demand response transit service carries a group of individuals with disabilities from a single origin to a single destination on a regular basis? (Source: [Part 604 FAQ #17](#))**

A: No. Daily subscription trips between a group living facility for persons with developmental disabilities to a sheltered workshop where the individuals work, or weekly trips from the group home to a recreation center is “special transportation” and not considered charter service. These trips are regular and continuous and do not meet the definition of charter.

- 8) **Q: If a third-party requests charter service for the exclusive use of a bus or van, but the transit agency provides the service free of charge, is it charter? (Source: [Part 604 FAQ #18](#))**

A: No. The definition of charter service under 49 CFR Section 604.3(c) (1), requires a negotiated price, which implies an exchange of money. Thus, free service does not meet the negotiated price requirement. Transit agencies should note, however, that a negotiated price could be the regular fixed route fare or when a third party indirectly pays for the regular fare.

PennDOT’s note: Even if the service wouldn't be considered a charter service, using FTA-funded equipment could trigger the 'incidental use' requirement under FTA Circular 5010.1E, Chapter IV, Section 4e(3). An alternative approach would be to use non-FTA funded equipment to provide the free-of-charge service. To ensure proper procedures, public transit agencies will need approval from their governing body before providing such services.

- 9) **Q: If a transit agency accepts a subsidy for providing shuttle service for an entire baseball season, is that charter? (Source: [Part 604 FAQ #19](#))**

A: Yes. Even though there are many baseball games over several months, the service is still to an event or function on an irregular basis or for a limited duration for which a third party pays in whole or in part. In order to provide the service, a transit agency must first provide notice to registered charter providers.

- 10) **Q: If a transit agency contracts with a third party to provide free shuttle service during football games for persons with disabilities, is that charter? (Source: [Part 604 FAQ #20](#))**

A: Yes. Even though the service is for persons with disabilities, the transit agency receives payment from a third party for an event or function that occurs on an irregular basis or for a limited duration. In order for a transit agency to provide the service, it must provide notice to the list of registered charter providers first.

- 11) **Q: What if a business park pays the transit agency to add an additional stop on its fixed route to include the business park, is that charter? (Source: [Part 604 FAQ #21](#))**

A: No. The service is not to an event or function, and it does not occur on an irregular basis or for a limited duration.

- 12) **Q: What if a university pays the transit agency to expand its regular fixed route to include stops on the campus, is that charter? (Source: [Part 604 FAQ #22](#))**

A: No. The service is not to an event or function, and it does not occur on an irregular basis or for a limited duration.

- 13) **Q: What if a university pays the transit agency to provide shuttle service that does not connect to the transit agency's regular routes, is that charter? (Source: [Part 604 FAQ #23](#))**

A: Yes. The service is provided at the request of a third party, the university, for the exclusive use of a bus or van by the university students and faculty for a negotiated price.

- 14) **Q: What if the university pays the transit agency to provide shuttle service to football games and graduation, is that charter? (Source: [Part 604 FAQ #24](#))**

A: Yes. The service is to an event or function that occurs on an irregular basis or for a limited duration. As such, in order to provide the service, a transit agency must provide notice to the list of registered charter providers.

- 15) **Q: What if a transit agency wishes to create a special pass for an event or function on an irregular basis or for a limited duration that allows a customer to ride the transit system several times for the duration of the event, is that charter? (Source: [Part 604 FAQ #28](#))**

A: It depends. If the special pass costs more than the fare for a reasonable number of expected individual trips during the event, then the special pass represents a premium fare. FTA will also consider whether a third party provides a subsidy for the service.

- 16) **Q: Is it a third-party subsidy if a third party collects the regular fixed route fare for the transit agency? (Source: [Part 604 FAQ #29](#))**

A. Generally no. If the service provided is not at the request of a third party for the exclusive use of a bus or van, then a third party collecting the fare would not qualify the service as charter. But a transit agency has to consider carefully whether the service is at the request of an event planner. For example, a group offers to make "passes" for its organization and then later work out the payment to the transit agency. The transit agency can only collect the regular fare for each passenger.

- 17) **Q: If the transit agency is part of the local government and an agency within the local government pays for service to an event or function of limited duration or that occurs on an irregular basis, is that charter? (Source: [Part 604 FAQ #30](#))**

A: Yes. Since the agency pays for the charter service, whether by direct payment or transfer of funds through internal local government accounts, it represents a third-party payment for charter service. Thus, the service would meet the definition of charter service under 49 CFR Section 604.3(c) (1).

- 18) **Q: What if an organization requests and pays for service through an in-kind payment such as paying for a new bus shelter or providing advertising, is that charter? (Source: [Part 604 FAQ #31](#))**

A: Yes. The service is provided at the request of a third party for a negotiated price, which would be the cost of a new bus shelter or advertising. The key here is the direct payment for service to an event or function. For instance, advertising that appears on buses for regular service does not make it charter.

B. Payment Related Questions

- 1) **Q: If a third-party requests charter service for the exclusive use of a bus or van, but the transit agency provides the service free of charge, is it charter? (Source: [Part 604 FAQ #18](#))**

A: No. The definition of charter service under 49 CFR Section 604.3(c) (1), requires a negotiated price, which implies an exchange of money. Thus, free service does not meet the negotiated price requirement. Transit agencies should note, however, that a negotiated price could be the regular fixed route fare or when a third party indirectly pays for the regular fare.

PennDOT's note: Even if the service wouldn't be considered a charter service, using FTA-funded equipment could trigger the 'incidental use' requirement under FTA Circular 5010.1E, Chapter IV, Section 4e(3). An alternative approach would be to use non-FTA funded equipment to provide the free-of-charge service. To ensure proper procedures, public transit agencies will need approval from their governing body before providing such services.

- 2) **Q: What happens if a transit agency does not have fixed route service to determine whether the fare charged is a premium fare? (Source: [Part 604 FAQ #25](#))**

A: A transit agency should compare the proposed fare to what it might charge for a similar trip under a demand response scenario.

- 3) **Q: How can a transit agency tell if the fare is "premium"? (Source: [Part 604 FAQ #26](#))**

A: The transit agency should analyze its regular fares to determine whether the fare charged is higher than its regular fare for comparable services. For example, if the transit agency proposes to provide an express shuttle service to football games, it should look at the regular fares charged for express shuttles of similar distance elsewhere in the transit system. In addition, the service may be charter if the transit agency charges a lower fare or no fare because of a third-party subsidy.

- 4) **Q: What if a transit agency charges a customer an upfront special event fare that includes the outbound and inbound trips, is that a premium fare? (Source: [Part 604 FAQ #27](#))**

A: It depends. If the transit agency charges the outbound and inbound fares up front, but many customers don't travel both directions, then the fare may be premium. This would not be true generally for park and ride lots, where the customer parks his or her car, and would most likely use transit to return to the same lot. Under that scenario, the transit agency may collect the regular outbound and inbound fare up front.

C. Equipment Related Questions

- 1) **Q: If a grantee operates assets that are locally funded are such assets subject to the charter regulations? (Source: [Part 604 FAQ #65](#))**

A: It depends. If a recipient receives FTA funds for operating assistance or stores its vehicles in a FTA-funded facility or receives indirect FTA assistance, then the charter regulations apply. The fact that the vehicle was locally funded does not make the recipient exempt from the charter regulations. If both operating and capital funds are locally supplied, then the vehicle is not subject to the charter service regulations.

- 2) **Q: Are body-on-van-chassis vehicles classified as buses or vans under the charter regulation? (Source: [Part 604 FAQ #67](#))**

A: Body-on-van-chassis vehicles are treated as vans under the charter regulation.