

GAO

September 1993

# CHARTER BUS SERVICE

## Local Factors Determine Effectiveness of Federal Regulation



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**Resources, Community, and  
Economic Development Division**

B-253255

September 7, 1993

The Honorable Donald W. Riegle, Jr.  
Chairman  
The Honorable Alfonse D'Amato  
Ranking Minority Member  
Committee on Banking, Housing, and  
Urban Affairs  
United States Senate

The Honorable Norman Y. Mineta  
Chairman  
The Honorable Bud Shuster  
Ranking Minority Member  
Committee on Public Works  
and Transportation  
House of Representatives

For more than a decade, public and private bus operators have debated their roles in meeting the demand for local charter service in the United States.<sup>1</sup> Public transit operators state that their services are essential to meeting the needs of local community groups who cannot obtain services from private operators, while private operators contend that charter service should be the domain of the private sector. The Congress has required that public transit operators agree not to engage in charter bus operations except as permitted by the Department of Transportation (DOT). Regulations outlining the types of charter service that may be provided with federally funded buses have been promulgated by DOT's Federal Transit Administration (FTA).

Section 3041 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires that we assess the impact of the federal charter service regulation (49 C.F.R. part 604). As required by statute and agreed with your staff, we assessed (1) the extent to which the regulation allows communities to cost-effectively and efficiently meet the transportation needs of government, civic, and charitable organizations; (2) the extent to which public transit operators and private charter operators have entered

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<sup>1</sup>Charter service is defined as the use of buses or vans to transport a group of people with a common purpose under a single contract. The group has the exclusive use of the vehicle to travel together under an itinerary specified in advance or modified after they leave the place of origin.

into charter service agreements;<sup>2</sup> and (3) the extent to which contracts enable private operators to profit from the provision of charter service by public operators using federally subsidized vehicles. To obtain information on these issues, we distributed a nationwide survey to 1,253 public transit operators. We also compiled case studies of charter service in six communities where the regulation is in effect and three communities where it is not.<sup>3</sup> Appendix I further explains our methodology, and appendix II contains a copy of the survey.

## Results in Brief

Local conditions determine, to a great extent, the effectiveness of the federal charter regulation in meeting local charter demand. Of the 36 user groups we contacted, one-third stated that private operators (and/or school bus operators, in a few cases) meet their charter needs and they do not desire charter service from public operators. Another one-third had continued to obtain some charter service from public operators. The remaining one-third, although they had not done so, would like to obtain some charter service from public operators—either because they perceive the public operators' services to be more affordable or because of specific equipment needs. Many public operators, while indicating that the regulation does not allow them enough flexibility, also indicated that they have not taken advantage of the exceptions currently available under the regulation. Private operators that we contacted generally believe that the regulation is working well.

On the basis of our survey results, private and public operators are not cooperating extensively to provide charter service. Fewer than 20 percent of the public operators indicated on our survey that they had taken advantage of exceptions that allow them to contract through or form written agreements with private operators.

On the basis of our data, private operators are not profiting extensively by providing charter service through contracts with public operators. About one-third of the private operators we contacted impose surcharges (ranging from \$5 to \$50 per bus) when contracting with a public operator. According to the private operators, the surcharges are imposed to cover

<sup>2</sup>When private operators either do not have the capacity or the appropriate equipment to provide certain types of charter service, they may contract with or form annual agreements that allow public operators to provide the service. Contracting refers to case-by-case arrangements through which public operators provide charter service with their buses under contract to private operators. An annual agreement refers to a document that defines the type(s) of charter service that the public operator may provide directly to customers, as agreed upon annually by the public and private operators in the area.

<sup>3</sup>Some communities are not subject to the regulation because they do not receive federal funds or are exempt by law.

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the costs of organizing the charter, having the public vehicle inspected, and obtaining the necessary insurance on the vehicle, when required.

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## Background

Implemented in 1987 and revised in 1988, the most recent federal charter service regulation generally requires FTA grant recipients to enter into an agreement with the FTA Administrator that ensures that grant recipients are not taking business away from private charter operators.<sup>4</sup> Notwithstanding certain exceptions, the regulation prohibits grant recipients from providing charter service with federally subsidized vehicles.

Public transit operators have expressed their concern that the regulation does not allow them enough flexibility to meet their communities' charter needs. To obtain better data on charter service, the Congress included two related provisions in ISTEA. Section 3040 requires FTA to undertake a charter demonstration program, whereby public operators in several locations would be allowed greater flexibility to meet local charter needs and FTA would collect data on the impact of the change. (App. III of this report contains a description of FTA's proposed demonstration program.) Section 3041 of ISTEA requires that we study the impact of the regulation on communities' ability to meet their charter needs.

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## Characteristics of Local Charter Markets Determine the Impact of the Federal Charter Regulation

Our nationwide survey of public transit operators and case studies of charter service in nine communities showed that local charter markets vary on the basis of demographics and, therefore, the charter regulation's impact differs across localities. Appendixes IV and V, respectively, describe the survey responses and case studies in greater detail. Most public operators stated that the regulation is too strict, while private operators that we contacted were generally satisfied with it. The opinions of those who use charter service vary depending on their needs and the characteristics of the local charter market. And, while public operators agreed on the regulation's overall impact, they had different opinions on potential changes to the regulation. Similarly, private operators have varying business priorities and, therefore, had different opinions on the role of public operators.

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<sup>4</sup>The federal charter service regulation implements statutory provisions in the Federal Transit Act, which excludes charter service from its definition of "mass transportation."

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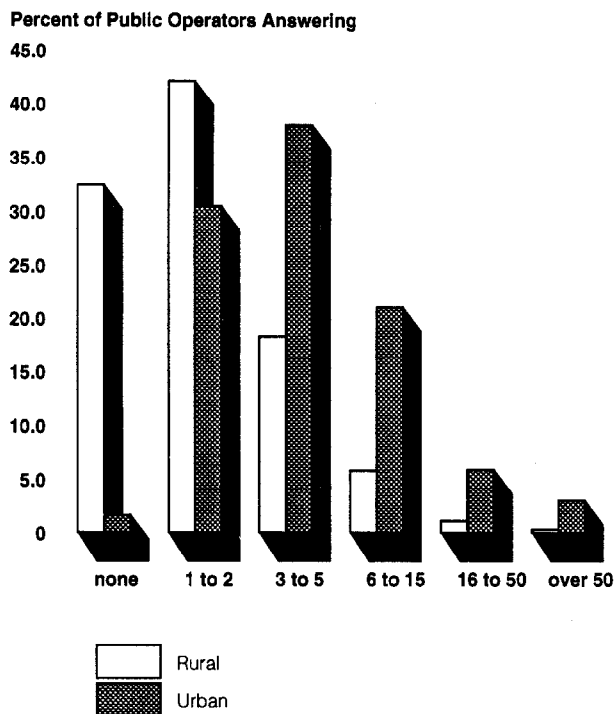
## Demographics Determine, to a Great Extent, Public Operators' Concerns With the Charter Regulation

Overall, public transit operators were dissatisfied with the current charter regulation, and they have not extensively used the available exceptions to provide charter service. Eighty-two percent (635 of 771 respondents) of the public operators who responded to our survey indicated that the regulation is currently too strict, and a majority of the respondents had not used any of the exceptions in the past year. (See app. IV for a detailed discussion of the use of the exceptions.) Public operators' reasons for not using the exceptions included a lack of familiarity with the regulation and a perception that the processes for obtaining exceptions are too cumbersome for the relatively small amount of charter service that they are interested in providing.

Public operators' priorities concerning possible regulatory changes differ, depending on the demographics of the areas they serve. Eighty percent of the survey respondents who were public transit operators in urban areas strongly supported a change that would allow them to provide charter service to local government officials and agencies. Seventy-one percent strongly supported allowing public operators to provide charter service to nonprofit and community service organizations. A consensus was less strong among operators in rural areas, who voiced their top support for allowing public operators to provide services to nonprofit and community groups (59 percent). Fifty-nine percent of the rural operators also indicated that the regulation should be clarified.

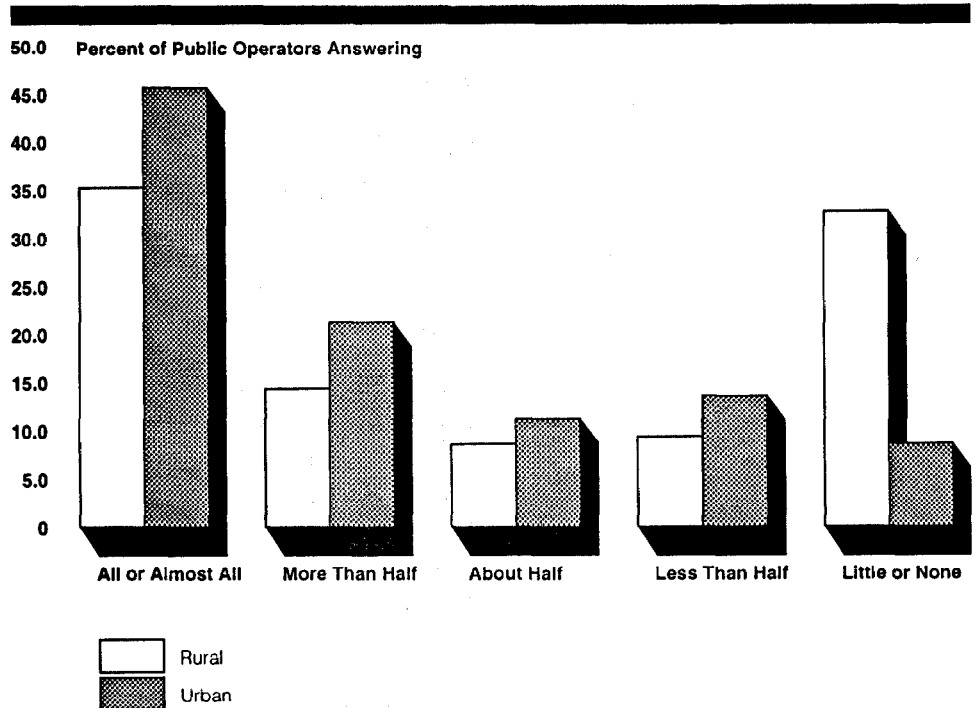
Differences in priorities stem in part from differences in the characteristics of charter markets in rural and urban areas. Seventy-five percent of the rural transit operators indicated that no more than two private charter operators provide services in their areas. (See fig. 1.) Conversely, about 70 percent of the urban transit operators responded that at least three private charter operators were in their service areas.

**Figure 1: Number of Private Charter Companies in Service Areas, According to Public Transit Operators**



Stemming from these differences, rural and urban operators have different opinions about private operators' abilities to meet local charter needs. Forty-six percent of the urban transit operators responded that private operators meet "all or almost all" of the demand for local charter service, and only 9 percent responded that private operators meet "little or none" of the demand. (See fig. 2.) Rural transit operators were split, however; 35 percent responded that private operators meet "all or almost all" of the demand, and 33 percent responded that private operators meet "little or none" of the demand. More than half of those responding "little or none" also responded that no private operators are in their service areas.

**Figure 2: Local Charter Demand Met by Private Operators, According to Public Transit Operators**



**Case Studies Showed That Private Operators Believe the Regulation Allows Bus Operators to Meet Community Needs**

Many of the private operators we contacted were satisfied with the existing regulation and believe that charter customers are well served by private operators. Of the 19 private operators we contacted in six locations subject to the regulation, 13 stated that they are generally satisfied with the existing charter regulation. Of those who were not satisfied, four believe that the public transit operators in their service areas are providing charter service not allowed under the regulation, and the remaining two were unfamiliar with the regulation. Some private operators were concerned about FTA's enforcement of the regulation. These concerns are described in greater detail in appendix VI.

Most of the private operators we contacted (17 of 19) believe that private operators have the capacity to meet the demand for local charter service. Seven private operators stated, however, that they would not mind if public operators provided certain types of charter service. Two private operators would not mind if public operators provided charter service with wheelchair-accessible vehicles—one of the private operators stated that the demand is insufficient to warrant investment by private operators in the equipment. Another operator has signed an agreement to allow the local public operator to provide charter service to governmental units and



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to charter its trolley buses. Four operators stated that they would not mind if public operators provided local charter service because they are more interested in long-distance charters.

While some operators concentrate on long-distance charters, private operators' business priorities vary considerably. For those private operators we contacted, the local share of their business ranges from zero to 65 percent. Of the 15 private operators that gave us local/long-distance breakdowns, 5 stated that at least 50 percent of their charter business is local.

In addition to variations in local/long-distance service, private operators require a range of minimum durations and/or minimum charges for services. Of the private operators we contacted, only one did not have a minimum charge or minimum duration. Sixteen operators had minimum durations, which ranged from 2 to 7 hours and averaged 4.7 hours. Two operators had minimum charges—\$125 and \$300, respectively—rather than minimum durations.

Thus, while private operators' hourly rates are sometimes lower than those charged by public operators, some groups believe that the applicable minimum charge is excessive for short, local trips. For example, in one of our case study cities, each of the three private operators had a 5-hour minimum charge, the lowest of which was \$160. The public operator's charter rate was \$55 per hour, with no minimum duration. In this case, the private operator's services were more cost-effective for trips of over 3 hours in duration, as the public operator would charge more than \$160. If, however, the group needed a bus for only 2 hours, the public operator would charge only \$110, a cost advantage over the private operator.

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### User Groups' Opinions Vary, Depending on Their Needs

Groups that use charter service expressed a variety of opinions on the efficiency and cost-effectiveness of the services they receive. Of 36 user groups in six locations, one-third stated that they find charter service to be available and affordable from private operators. About half of the satisfied groups were senior citizens, and the others were various youth and community organizations. Another one-third of the groups, seeking affordable services or access to specific types of vehicles, would like to obtain charter service from public operators but have not attempted to do so. Most of the remaining one-third of the groups have continued to obtain some charter service from public operators.

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Six user groups, including senior citizens, a local government, and a church, stated that they cannot afford services from private operators. One user group stated that, although it can afford services from private operators, its charter service costs for short shuttles have increased by 300 percent because it now must pay the minimum durations imposed by private operators. Before the regulation took effect, the group chartered shuttle buses from the local public transit operator, who charged only for the time during which the shuttle was in operation.

Some groups have obtained less costly charter service from sources other than the public transit operator or private companies. Five groups (mostly youth groups) stated that they use school buses for some or all of their charter needs. They stated that school bus charter rates are usually lower than either the public or private operators' rates. A few other groups (mostly nursing homes) have relied on their own vehicles, on local demand-response services, or on vehicles owned by a local college for their group transportation needs.

Six groups stated that private operators do not have the necessary equipment to meet their charter needs. Three groups needed wheelchair-accessible vehicles, which were not available from private operators. Two were nursing homes, and one was a conference funded with a National Science Foundation grant that required the conference to use accessible equipment. The conference planners solicited bids for charter service from private operators and the local public operator. Although the private operators submitted lower bids, they did not have accessible equipment, and the business went to the public operator. Such situations could occur more frequently in the future as more organizations, in a manner consistent with the Americans With Disabilities Act (ADA), demand accessible vehicles.<sup>5</sup>

Three other groups, each concerned with providing shuttle services to local conventions, stated that there is not enough capacity among the private operators in their communities to provide services for large conventions. One group's representative stated that the community's inability to obtain charter service directly from public operators negatively affects the community's ability to attract conventions.

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<sup>5</sup>While public transit operators have been required since August 1990 to purchase new transit buses that are accessible to the disabled, ADA regulations for over-the-road buses (the type operated by most private charter companies) are not due to be issued until May 1994. The regulations would take effect in 1996. A recent report by the Office of Technology Assessment, Access to Over-the-Road Buses for Persons With Disabilities (May 1993), analyzed various issues concerning bus access.

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FTA plans to collect additional information on user groups during its charter demonstration program. For example, FTA plans to collect data on the types of services that groups wish to obtain from public operators and the reasons that they have not been able to obtain such services under the current regulation.

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## Formal Cooperation Between Public and Private Operators Is Not Widespread

Public and private operators do not take extensive advantage of opportunities to cooperate with each other to meet their communities' charter needs. The charter regulation provides two opportunities for cooperation—(1) public operators may provide charter service under contract to private operators and (2) public and private operators may form a written agreement that allows the public operator to provide certain types of charter service.

According to our survey, fewer than 20 percent (143 of 748 respondents) of the public operators have provided vehicles under contract to private operators to provide additional capacity. Only 12 percent (89 of 744 respondents) have provided vehicles accessible to the elderly and disabled under contract to private operators.

Written agreements have been used even less; only about 7 percent of the survey respondents (49 operators) indicated that they have an agreement in place. The agreements are being used to allow public operators to provide some of the following types of services: trolley bus charters; charters with vehicles accessible to the elderly and disabled; charters to specific groups, such as government agencies and schools; and shuttles for local conventions and community events. A few transit operators have agreements allowing them to provide any services that the private operators do not want to provide.

Such agreements are most likely to be formed in locations where public and private operators already have a high level of cooperation. One such example is Corpus Christi, Texas, where the Corpus Christi Regional Transportation Authority (CCRTA) executed an agreement with local private operators allowing CCRTA to provide charter service on a nonprofit basis to government entities, nonprofit organizations, and community festivals and for certain school programs. According to CCRTA, the agency had a long history of providing local charter service. When the current charter regulation took effect, CCRTA began to provide charter service under contract to private operators, but some user groups complained about surcharges added by the private operators. Private operators agreed

to allow CCRTA to provide certain types of service. Accordingly, they signed an agreement that establishes ground rules for serving certain community groups. Both CCRTA and the one private operator we reached stated that the agreement is working well.

In general, however, public transit operators stated that forming such agreements can be difficult because private operators have little incentive to relinquish categories of business to transit agencies. The United Bus Owners of America, which represents private bus companies, stated that they discourage their members from entering into such general agreements because it is not in their best interest.

FTA's charter demonstration program will further test the ability of public and private operators to cooperate. Under the program, local advisory committees (composed equally of public and private operators) will discuss and vote on the types of charter service that may be provided by public operators.

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## Case Studies Show That Private Operators Do Not Profit Greatly From Contracting

On the basis of our data, there is little evidence that private operators are profiting extensively from contracting arrangements with public operators (i.e., public operators who provide service with their vehicles under contract to private operators). While some private operators do impose surcharges, several state compelling reasons for doing so. Of the 19 private operators contacted in the six case study cities subject to the regulation, 6 stated that they impose surcharges when contracting with a public operator. The surcharge amounts vary among operators and can depend on the type of services provided. Five of the six operators apply the following surcharges, respectively: \$5 per vehicle, \$5 per hour, \$25 per bus, \$40 to \$50 per bus, and \$0 to \$50 per bus, depending on the circumstances. The sixth operator simply charges his own rate to the customer even if the public operator's rate is lower, which he believes it often is.

Reasons cited for the surcharges include covering the administrative costs of organizing the charter, covering unexpected late charges imposed by the public operator, and recovering costs for obtaining a required state inspection of the public bus. One private operator, who assesses a \$25 per-bus surcharge, explained that the surcharge covers only part of the costs incurred when contracting to use a public bus. The private operator is required by state law to have the public bus inspected and to reinsure the vehicle if the public operator does not carry \$5 million in liability

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insurance. The surcharge covers the state vehicle inspection, which costs \$25, and the private operator typically covers any applicable reinsurance costs without passing the cost on to the customer.

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## Conclusions

While the effectiveness of charter service varies between localities, our data did not provide compelling evidence that there are serious, widespread needs for charter service that cannot be met under the current regulation. The data did show that the exceptions currently allowed under the regulation, such as contracting, are not widely used. On the basis of our contact with public operators, we believe that many of them, particularly those in rural areas, are unfamiliar with the processes for obtaining exceptions. While some operators perceived the processes to be too cumbersome, others have successfully obtained exceptions to provide charter service that meets their communities' needs. Grant recipients, in general, should be made more aware of opportunities to serve local groups through the existing exceptions.

Of those user groups who told us that they are not being served to their satisfaction, about half stated that they could not afford the charter rates charged by private operators. In the current regulation, FTA has listed certain groups that need public transportation and that are allowed subsidized charter service by public operators. Whether the list should be broadened to allow subsidized services to more groups is beyond the scope of this report.

Other dissatisfied user groups fell primarily into two categories—(1) those who need vehicles accessible to the elderly and disabled and (2) those who need many buses to accommodate local conventions and economic development activities. The current regulation accounts for both circumstances by allowing public operators to provide the appropriate vehicles under contract to private operators. Improved cooperation between public and private operators could result in better services to these groups.

Through its rulemaking process for the demonstration program, FTA has begun to collect information on groups in eight communities whose charter needs have not been met under the existing regulation. As the program is implemented, FTA will continue to collect data on the needs of user groups and on the decisions made by local public and private operators on how to meet those needs.

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## Recommendation

We recommend that the Administrator, FTA, seek ways to more clearly communicate to grant recipients the services that they may provide under the charter regulation. Specifically, we recommend that FTA communicate the processes for obtaining exceptions under the existing regulation directly to public operators, particularly those in rural areas.

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## Agency Comments

We met with attorneys from FTA's Office of the Chief Counsel, including an Assistant Chief Counsel, to obtain their comments on this report. They generally agreed with the contents of the report. Where appropriate, we incorporated their suggestions to clarify the report's language, and we modified the conclusions and recommendations to more accurately reflect FTA's ongoing work.

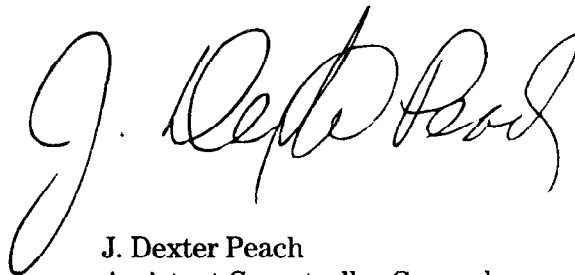
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We obtained information for this report from public transit operators, private charter companies, and groups that use charter service. A more detailed description of our objectives, scope, and methodology appears in appendix I. We performed our work from April 1992 to April 1993 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Secretary of Transportation; the Administrator, Federal Transit Administration; the Director, Office of Management and Budget; and interested congressional committees. We will make copies available to others upon request.

Our work was performed under the direction of Kenneth M. Mead, Director, Transportation Issues, who can be reached on (202) 512-2834. Other major contributors to this report are listed in appendix VII.

Sincerely yours,



J. Dexter Peach  
Assistant Comptroller General



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**Abbreviations**

ABA	American Bus Association
ADA	Americans With Disabilities Act
CATA	Capital Area Transportation Authority
CCRTA	Corpus Christi Regional Transportation Authority
CENTRO	Central New York Regional Transportation Authority
DOT	Department of Transportation
FTA	Federal Transit Administration
GAO	General Accounting Office
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
LTD	Lane Transit District
METRO	Des Moines Metropolitan Transit Authority
MPO	metropolitan planning organization
SFPUC	San Francisco Public Utilities Commission

# Objectives, Scope, and Methodology

Our objectives in this study were to assess (1) the extent to which the federal charter service regulation allows communities to cost-effectively and efficiently meet the transportation needs of government, civic, and charitable organizations; (2) the extent to which public transit operators and private charter operators have entered into charter service agreements; and (3) the extent to which such agreements enable private operators to profit from the provision of charter service by public operators using federally subsidized vehicles. To obtain information on each of the objectives, we contacted public transit operators, private charter bus operators, and charter users.

We contacted public transit operators through a nationwide survey distributed to 1,253 operators, representing recipients of urban (Section 9) and rural (Section 18) Federal Transit Administration (FTA) grants. We compiled the address list from Section 15 reports filed by urban grant recipients and from the Section 18 mailing list maintained by the Community Transportation Association of America. A total of 1,013 public and/or nonprofit organizations completed and returned the survey, representing an 81-percent response rate. Of those responding, 69 percent (694 operators) serve rural areas, and 31 percent (319 operators) serve only urban areas.<sup>1</sup> A copy of the survey, including responses, is included in appendix II.

To obtain information on the extent to which the regulation allows communities to meet local charter bus needs, we compiled case studies of nine communities. The communities were chosen on the basis of criteria that included: the geographic location, population, and presence or absence of known problems with charter service. Whether the community received federal funds was also a criterion we used. In six communities, we interviewed the local public transit operator, two to four private charter operators, and 2 to 14 charter user groups to obtain their perspectives on the impact of the regulation. In three communities where the regulation is not in effect, we interviewed public and private operators to find out about their working relationship in the absence of the regulation. We did not interview user groups in those three localities because the users would not have been able to offer a comparison of service before and after the regulation was promulgated. In total, we interviewed 19 private charter companies and 36 user groups in the six communities subject to the regulation. Summaries of the case studies are provided in appendix V.

<sup>1</sup>For the purpose of our analysis, we included operators that receive both urban (Section 9) and rural (Section 18) grants in the rural category.

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**Appendix I  
Objectives, Scope, and Methodology**

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We obtained information on private operators' experiences with the regulation through the case studies and through interviews with an additional 20 private charter operators and representatives of the American Bus Association and the United Bus Owners of America. We also spoke with some state transportation officials to obtain information on the impact of the regulation. To obtain information on FTA's charter demonstration program, we met several times with FTA officials, attended the two meetings of the federal advisory committee, and reviewed the proposed and final rules.

We conducted our review from April 1992 to April 1993 in accordance with generally accepted government auditing standards.

# Charter Bus Survey With Responses

U.S. General Accounting Office

## GAO Survey of Public Transit Operators' Charter Service

### Introduction

The U.S. General Accounting Office (GAO) is an independent agency that assists the U.S. Congress in evaluating federal programs and policies. We are currently assessing the effect of federal regulations that prohibit federally funded transit operators from providing charter services, except as allowed under specific exemptions. We encourage you to complete this survey. Your responses are important to our understanding of all sides of the issue.

We understand that some public operators are no longer providing what has traditionally been called "charter" service. For the purpose of this survey, please consider *charter* to be any service which has the following characteristics: transportation provided to a group with a common purpose that has exclusive use over the vehicle under an itinerary either specified in advance or modified after leaving the place of origin. This can include charter services provided through contracts with private operators.

Please check all boxes that apply, unless otherwise instructed. In the event that the format for any question does not fit your situation, we would appreciate any additional comments that would help us understand your situation. We have provided room at the end of the survey for additional comments or explanations.

Please complete the survey and return it in the enclosed envelope within 10 days of receipt, if possible. If you have questions about specific items in the survey, please contact Kris Burnham at (202) 401-6634 or Teresa Spisak at (202) 401-4029. If the self-addressed, postage-paid envelope is missing, please return the survey to:

U.S. General Accounting Office  
Attn: Ms. Kris Burnham  
Room 1826  
441 G Street, N.W.  
Washington, D.C. 20548

(label here)

1. This survey concerns charter services and public and non-profit transit agencies who are eligible to receive federal transit funds. Is your organization a public transit agency or non-profit transit organization? (Check one.) N=1013

1. 75% Yes, public agency → (Continue with next question.)

2. 25% Yes, non-profit organization → (Continue with next question.)

3.    No → **STOP! Please return survey to us so that we can correct our mailing list. Thank you.**

2. Which statement below best describes your transit agency's feelings about current federal regulations that affect your ability to provide charter service? (Check one.) N=771

1. 40% Regulations are much too strict

2. 42% Regulations are somewhat too strict

3. 18% Regulations are about right

4.    Can't say/No basis to judge

NOTE: "N" is the number of respondents choosing options other than "can't say/no basis to judge." Percentages may not add to 100 due to rounding.

Appendix II  
Charter Bus Survey With Responses

Section 1: Local Use of Charter Services

3. To the best of your knowledge, how many private charter companies operate in your service area? (Check one.) N=963

1. 23% None
2. 39% 1 to 2
3. 24% 3 to 5
4. 11% 6 to 15
5. 3% 16 to 50
6. 1% Over 50
7.    Can't say/No basis to judge

4. In your opinion, what portion of the demand for local charter service do private operators in your area meet? (Check one.) N=775

1. 39% All or almost all
2. 17% More than half
3. 9% About half
4. 11% Less than half
5. 25% Little or none
6.    Can't say/No basis to judge

5. In your opinion, which of the following groups in your community, if any, have needs for charter services that are not being met by private operators? (Check all that apply.)

1. 53% Schools/daycare centers N=690
2. 70% Senior citizens
3. 52% Local government officials and agencies
4. 68% Civic and community organizations
5. 61% Handicapped persons
6. 44% Church groups
7. 18% I am unaware of any such groups
8.    Can't say/No basis to judge
9. 9% Other (Please specify.)

Appendix II  
Charter Bus Survey With Responses

**Section 2: Exemptions for Transit Agencies**

This section covers ways that public transit agencies can legally provide charter services under the current federal regulations.

6. Has your transit agency received federal funds within the past 12 months? (Check one.) N=1004

- 1. 96% Yes → (Go to next question.)
- 2. 4% No → (Skip to question 14.)

7. In the last 12 months, has your transit agency gone through a public notice process to find out if there are private operators who are "willing and able" to provide charter service in your area? (Check one.) N=953

- 1. 22% Yes, but no private operator claimed to be willing and able.  
→ (Skip to question 14.)
- 2. 14% Yes, and at least one private operator claimed to be willing and able. (Go to next question.)
- 3. 59% No, have not issued public notices in the last 12 months. (Go to next question.)
- 4. 5% Other (Please specify.)

8. In the last 12 months, how many times has your transit agency provided charter service through contracts with private operators who needed additional capacity? (Check one.) N=748

- 1. 81% None
- 2. 8% 1 to 5
- 3. 5% 6 to 15
- 4. 2% 16 to 40
- 5. 1% 41 to 60
- 6. 4% Over 60
- 7. — Can't say/No basis to judge

9. In the last 12 months, how many times has your transit agency provided charter service through contracts with private operators who needed equipment accessible to elderly and handicapped persons? (Check one.) N=744

- 1. 88% None
- 2. 7% 1 to 5
- 3. 3% 6 to 15
- 4. 2% 16 to 40
- 5. 3% 41 to 60
- 6. 4% Over 60
- 7. — Can't say/No basis to judge

Appendix II  
Charter Bus Survey With Responses

10. In the last 12 months, has your transit agency petitioned FTA for an exemption to provide charter service in non-urban areas because private operators' service would create a hardship on the customer? (Check one.) N=742

1. 99% Did not petition
2. .7% Did receive exemption
3. .1% Was denied exemption
4. .1% Petition still pending
5.    Can't say/No basis to judge

11. In the last 12 months, has your transit agency petitioned FTA for an exemption so that your transit agency could provide charter service directly to the customers for special events because the private operators were not able to provide the service? (Check one.) N=742

*NOTE: If your agency has petitioned FTA more than once, base your answer on your most recent experience.*

1. 99% Did not petition
2. .1% Did receive exemption
3. .1% Was denied exemption
4. .1% Petition still pending
5.    Can't say/No basis to judge

12. In the last 12 months, has your transit agency executed any contracts for charter services with any governmental or non-profit organizations transporting handicapped, elderly, or "transit-disadvantaged" individuals? (Check one.) N=743

1. 20% Yes
2. 80% No
3.    Can't say/No basis to judge

13. In the last 12 months, has your transit agency executed any formal agreements with private charter operators that allow your transit agency to provide specific types of charter services? (Check one.) N=758

1. 7% Yes → a. What type of service does the agreement allow you to provide? (Please specify.)

2. 92% No
3. 4% An agreement is currently being negotiated
4. 8% Other (Please specify.)

**Appendix II  
Charter Bus Survey With Responses**

**Section 3: Unique Equipment**

14. Some transit agencies operate unique equipment that local private operators do not have. For each type of equipment below, please answer the four questions, as applicable, in columns 1, 2, 3, and 4 based on your organization's experiences over the last twelve months. (Check one answer for each box that applies.)

Type of equipment	Do you operate this type of equipment? (1)	Do the private operators have it? (2)	Do you charter it directly to public? (3)	Do you charter it through private operators? (4)
a. Trolleys or trolley-style buses	N=922 1. <u>16%</u> Yes 2. <u>84%</u> No → (Go to Row b.)	N=143 1. <u>11%</u> Yes 2. <u>86%</u> No 3. <u>4%</u> Uncertain	N=143 1. <u>41%</u> Yes 2. <u>59%</u> No	N=140 1. <u>39%</u> Yes 2. <u>61%</u> No
b. Two-door transit buses (for easy loading)	N=930 1. <u>53%</u> Yes 2. <u>47%</u> No → (Go to Row c.)	N=463 1. <u>23%</u> Yes 2. <u>249%</u> No 3. <u>3.28%</u> Uncertain	N=454 1. <u>23%</u> Yes 2. <u>77%</u> No	N=447 1. <u>23%</u> Yes 2. <u>77%</u> No
c. Lift-equipped vehicles	N=1001 1. <u>91%</u> Yes 2. <u>9%</u> No → (Go to next page.)	N=842 1. <u>1.18%</u> Yes 2. <u>2.49%</u> No 3. <u>3.34%</u> Uncertain	N=819 1. <u>29%</u> Yes 2. <u>71%</u> No	N=814 1. <u>15%</u> Yes 2. <u>85%</u> No

15. How much did the number of charter trips provided annually by your agency change after the federal regulations took effect in 1987? (Check one.)

N=546

1. 2% Increased a lot
2. 3% Increased somewhat
3. 31% Stayed about the same
4. 17% Decreased somewhat
5. 47% Decreased a lot
6.    Can't say/No basis to judge



**Appendix II  
Charter Bus Survey With Responses**

**Section 4: Contracting Charter Services through Private Operators**

This section concerns your experiences chartering your vehicles through contracts with private charter companies.

*If your transit agency does not charter its vehicles through contracts with private companies, check this box and skip to the next question.*      N=1013      (82% checked box)     

16. When you charter your vehicles through private operators, generally how satisfied or dissatisfied are you with the following aspects of the contracting? (Check one for each aspect.)

	Very satisfied (1)	Generally satisfied (2)	Neither satisfied nor dissatisfied (3)	Generally dissatisfied (4)	Very dissatisfied (5)	Does not apply/No basis to judge (6)
a. Overall working relationship N=145	29%	45%	13%	11%	2%	
b. Timeliness of payment N=139	17%	50%	11%	13%	10%	
c. Amount of notice you receive for requests N=140	14%	54%	14%	11%	7%	
d. Amount of notice you receive for cancellations N=129	16%	44%	19%	14%	7%	
e. Quality of details you receive on each trip's itinerary N=141	23%	45%	18%	9%	6%	

**Appendix II  
Charter Bus Survey With Responses**

**Section 5: Support for Regulatory Changes**

17. Below are some possible ways to change the existing federal charter regulations. Please indicate how strongly you support or oppose each of the possible changes listed below. (Check one for each row.)

Possible changes	Strongly support (1)	Generally support (2)	Neither support nor oppose (3)	Generally oppose (4)	Strongly oppose (5)	Don't know/ No basis to judge (6)
a. Clarify regulations/make them easier to read N=831	54%	27%	18%	.4%	.2%	
b. Allow federally funded operators to provide charter service for local government officials and agencies N=859	63%	20%	12%	2%	2%	
c. Allow federally funded operators to provide charter service for public schools N=843	38%	20%	26%	10%	6%	
d. Allow federally funded operators to provide charter service for local non-profit and community service organizations N=883	63%	26%	8%	2%	1%	
e. Allow federally funded operators to provide charter service within their service areas (for any groups) N=881	50%	26%	16%	6%	2%	
f. Allow federally funded operators to provide charter service below fully allocated cost to certain groups N=856	21%	22%	26%	20%	11%	
g. Allow federally funded operators to provide charter service with unique equipment directly to the public N=868	49%	30%	14%	5%	2%	
h. Other (please specify)						

18. Please read over the list of possible regulatory changes in the previous question once again. Which two changes would you most like to see? Enter the letters of your two top choices in the boxes below. Order is not important. (If you do not support any of these changes, please write an "X" in the first box.)

Appendix II  
Charter Bus Survey With Responses

**Section 6: Background**

19. What is the population of your service area? (Check one.) N=1006

1. 51% Under 50,000
2. 36% 50,000 to 249,999
3. 10% 250,000 to 999,999
4. 3% 1,000,000 to 3,000,000
5. 8% Over 3 million
6.    *Can't say/No basis to judge*

20. Does the amount of liability insurance your agency carries limit your ability to provide charter service? (Check one.) N=985

1. 16% Yes
2. 69% No
3. 15% *Does not apply/Self-insured*

21. What is the total fleet size of your transit agency? Include all vehicles used for public transit, excluding rail. (Check one.) N=1012

1. 70% Less than 25
2. 15% 25 to 49
3. 6% 50 to 100
4. 5% 101 to 300
5. 1% 301 to 500
6. 2% 501 to 1000
7. 1% Over 1000
8.    *Other (Please specify.)*

22. Please fill in the name, title, and phone number of the person completing this questionnaire.

Name \_\_\_\_\_

Title \_\_\_\_\_

Phone \_\_\_\_\_

23. If you have additional comments about the federal charter regulations or about any items in this questionnaire, please write them below or on a separate sheet of paper. Your comments are greatly appreciated. Thank you for your cooperation!

FAF:340621:12/92

# Overview of FTA's Charter Demonstration Program

FTA's charter demonstration program, required by the Intermodal Surface Transportation Efficiency Act (ISTEA), will give FTA the opportunity to collect data on alternatives for serving local charter needs. Recognizing that needs for and access to charter service vary greatly from one locality to another, FTA has designed the demonstration to give local decisionmakers greater authority for granting exceptions.

The program would allow a State Department of Transportation (State DOT) or metropolitan planning organization (MPO) in each of eight selected sites to appoint a local advisory panel with equal representation by public and private bus operators.<sup>1</sup> The local panel would discuss local charter needs and recommend to the State DOT or MPO that the public operator be allowed to provide certain types of service. The State DOT or MPO would adopt any unanimous recommendations from the local panel and decide to grant or deny other recommendations on the basis of certain criteria.

Decision-making criteria would replace the existing exceptions in the participating locations, giving local decisionmakers greater flexibility to meet local needs. The criteria would establish the following circumstances under which a State DOT or MPO may allow an FTA recipient to provide charter service:

- if the recipient offers service at a significantly lower cost than private operators,<sup>2</sup>
- if the recipient operates equipment that is not available from private operators (i.e., trolley buses, lift-equipped vehicles, etc.),
- if the nature of the service is such that only an FTA recipient can practically provide it (e.g., unscheduled charter service), and
- if a specific local need, which is important to the economic or social health and vitality of the local area, cannot be met by the private sector.

FTA issued its final rule outlining the demonstration program in July 1993 and plans to implement the program in August. The program is scheduled to run for 12 months, and FTA will report to the Congress at the end of 1994. Over the 12-month period, FTA plans to collect data on the impact of the program, including the following: the number and types of charter trips provided by public operators; the difference between public and private

<sup>1</sup>The following eight localities have been chosen to participate in the demonstration program: Monterey, California; Oklahoma City, Oklahoma; St. Louis, Missouri; Yolo County, California; and four sites within the state of Michigan to be selected by the Michigan DOT and approved by FTA.

<sup>2</sup>While FTA suggests that "significant" be defined as a 20-percent difference between private operators' costs and the recipient's fully allocated cost of providing the service, local advisory panels may set their own cost differentials based on local circumstances.

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**Appendix III  
Overview of FTA's Charter Demonstration  
Program**

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costs, if available; and whether the groups used a private charter for the same kind of trip before the demonstration.

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# Summary of Survey Responses Concerning Use of Existing Exceptions to the Regulation

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The federal charter regulation allows public transit operators to provide charter service under certain circumstances. According to our survey results, public transit operators have not extensively used the exceptions which allow them to provide certain types of charter service.

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## Transit Agencies Do Not Routinely Determine the Existence of Willing and Able Private Operators

About 60 percent of the public transit operators surveyed (564 of 953 respondents) indicated that they had not issued public notices in the past 12 months to determine the existence of private operators willing and able to provide local charter service. Because public notices are the first step that transit operators must take to provide certain types of charter service, a failure to do so limits their ability to charter their federally funded equipment.

About 28 percent of the rural operators we surveyed (182 of 645 respondents) had issued notices to which no private operators responded as being willing and able. Those operators were therefore allowed to provide charter service, as described in their notices, over the following 12-month period. Only 8 percent of the urban operators we surveyed (26 of 308 respondents) issued notices without finding willing and able private operators.

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## More Urban Than Rural Transit Operators Contract With Private Operators

According to our survey, more urban transit operators used the contracting exception, which allows them to charter their vehicles under contract to private operators, than did rural operators. Thirty-seven percent of the urban operators we surveyed (104 of 284 respondents) indicated that they had provided additional capacity under contract to private operators during the past year. Only 8 percent of the rural operators we surveyed (39 of 464 respondents) indicated that they had done so. About 19 percent of the urban operators we surveyed (53 of 278 respondents) stated that they had contracted services under private operators to provide equipment accessible to the elderly and disabled. Only 8 percent of the rural operators we surveyed (36 of 466 respondents) had done so.

More than 70 percent of the public operators who indicated that they contract under private operators stated that they are satisfied with their working relationships with the private operators. More than 60 percent of those who contract services also indicated satisfaction with each of the following aspects of the contracting relationship: the timeliness of

payments received from private operators, amount of notice received for charter requests and cancellations, and quality of trip itineraries.

### Few Rural Operators Petition FTA for a Rural Hardship Exception

Of the more than 1,100 rural public transit operators, FTA officials reported that only 1 applied for a rural hardship exception in 1992. Blacksburg Transit, of Blacksburg, Virginia, has obtained an exception each year since 1988. Blacksburg is located 41 miles from the nearest private operator and has shown that the private operator's base rate plus deadhead mileage charges equal about \$200 more per charter than the transit operator's average charge for a local trip. Given the price difference and the fact that most of Blacksburg Transit's charter customers are nonprofit groups for whom the price difference would constitute a hardship, FTA has consistently granted the exception.

### Public and Private Operators Have Signed Few Formal Agreements

Of those responding to our survey, only 12 percent of the urban operators (35 of 284 respondents) and 3 percent of the rural operators (14 of 474 respondents) indicated that they had reached agreements with local private operators that allow them to provide specific types of local charter service. Under these agreements, public operators provided charter service with vehicles not available from local private operators, such as trolley buses and buses with wheelchair lifts. Agreements were also used to provide charter service to specific groups, such as government agencies, schools, and shuttles for local conventions and community events. A few transit operators have agreements that allow them to provide any service that the private operators do not wish to provide.

### Transit Agencies Seldom Petition FTA for Special Events Exceptions

According to FTA, only four applications were submitted in 1992 for one-time exceptions for transit agencies to provide service for large special events when private operators lacked sufficient capacity or the necessary equipment. All four requests, which included service to the Republican and Democratic National Conventions, the National Veterans Wheelchair Games, and the U.S. Olympic Festival, were granted. Two of the four requests involved charter services with wheelchair-accessible buses, which were not available from private operators.

Some transit operators stated that they had not used this exception because some events are not planned far enough in advance for them to apply to FTA, which can take a month or more to render a decision. According to FTA, this exception is to be used for monumental events that

are planned well in advance. The City of San Antonio has used this exception successfully for several such events in recent years. In 1987, San Antonio's VIA Metropolitan Transit obtained an exception to provide charter service for the visit of Pope John Paul II. In 1988, VIA provided service to the National Veterans Wheelchair Games, to which it will also provide service in 1993. Also during the summer of 1993, VIA will provide charter service to the U.S. Olympic Festival, for which it applied for an exception almost 2 years in advance.

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## **Exceptions for Nonprofit Organizations Are Difficult to Understand**

The two remaining exceptions, which allow transit operators to provide direct charter service to nonprofit organizations that meet certain criteria, are not used extensively because local operators have difficulty in interpreting the regulation. While 20 percent of the transit operators we surveyed (147 of 743 respondents) indicated on our survey that they had used these exceptions, few of the transit operators we spoke with understood how to use the exceptions. Public operators told us that the requirements are difficult to interpret and apply, and that many potential charter groups are not aware that they are eligible for such service.

According to FTA officials, these exceptions were written narrowly to avoid taking business from private operators. They require nonprofit groups to certify in writing that they are exempt from taxation under section 501(c) of the Internal Revenue Code, that the purpose of the trip is consistent with the purpose of the organization, and that nonprofit groups meet one of the following criteria: (1) a significant number of disabled persons will be passengers on the trip, (2) the organization is a qualified social service agency that can receive funds under at least one of the federal programs listed in the regulation's appendix, or (3) the organization receives or is eligible to receive public welfare assistance funds and is transporting transit-dependent persons. In rural areas, a government entity or nonprofit organization must certify that more than 50 percent of the passengers will be elderly.



# Summary of Case Studies of Charter Bus Service

## Syracuse, New York

According to officials of the Central New York Regional Transportation Authority (CENTRO), CENTRO was one of the last transit operators in upstate New York to become public, and it had a history of providing local charter service. CENTRO officials stated that, prior to the 1987 charter regulation, they provided charter service on an incidental basis. They stated that charter revenues allowed them to rely less heavily on federal funds and allowed them an opportunity to build public support for transit. CENTRO's charter revenues for fiscal year 1987 were an estimated \$350,000, compared with revenues of \$37,000 for fiscal year 1992.

Since implementation of the 1987 regulation, CENTRO officials stated that they perform charters only under contract to private charter operators. The officials believe that this has been detrimental to customers in the Syracuse area because private operators typically add surcharges to CENTRO's rate, making the service too costly for some groups. In particular, they believe that local nonprofit organizations such as a home for retarded children, senior citizens' groups, schools, and church groups have been adversely affected.

We interviewed the two major private operators in the Syracuse area. Both stated that the charter market in the Syracuse area is very competitive and that private operators would like the first opportunity to accept charters, whether local or long-distance. The two operators have somewhat different working relationships with CENTRO—one contracts frequently with CENTRO when it lacks the equipment to provide local charters, while the other seldom does. When they have contracted with CENTRO, both have imposed surcharges. The operator who contracts more frequently charges \$40 to \$50 per bus, depending on the number of buses, and states that the charge covers the administrative costs of setting up the charter. The other operator adds \$0 to \$50, depending on the type of equipment chartered, and stated that the charge is an attempt to cover unexpected charges imposed by the public transit operator after the customer has already paid for the charter service.

We contacted 14 user groups, including senior citizens' groups, nursing homes, churches, charitable organizations, and university programs. Seven of the 14 have been able to obtain satisfactory service from private operators. Other groups that formerly obtained charter services from CENTRO, including a county hospital and a church, stated that they could not afford service offered by private operators. After the regulation went into effect, the county hospital reduced the number of trips planned for residents, and the church dropped its religious education program. The

representative of another program stated that, while the program can afford to pay the estimated 20-percent-higher rate charged by private operators for local shuttle-type charters, the private operators have not been as dependable as CENTRO was.

Representatives of two nursing homes stated that their residents need buses that are wheelchair-accessible, which the private operators do not have. Since the regulation took effect, one nursing home reduced the number of trips it takes and uses its own vehicles. When the other nursing home takes groups on local trips, the home calls CENTRO's demand-response service, which sends a bus that can accommodate up to seven wheelchairs and more than 20 passengers.

In addition to the demand-response service, other types of vehicles are also used for charter service. One social service organization rents school buses for its charter needs because they are less expensive than buses provided by either the public transit operator or the private operators. Two senior citizens' groups have free access to a police bus once per month, which they use for local charters.

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## Lansing, Michigan

The Capital Area Transportation Authority (CATA) in Lansing currently provides few charter movements, and most of them are through contracts with private operators. CATA provides charter service through contract to a private operator 10 to 12 times per year, half of which is for football games. Because CATA depends heavily on local funding, it would like more flexibility to serve the needs of the community, including economic development activities.

We spoke with four private operators who serve, but are not located in, Lansing. The operators were satisfied with the regulations because they believe that CATA is adhering to them and avoiding competition with the private sector. They commented that the private carriers in the Lansing area work together to meet charter needs even though the private market is extremely competitive.

Although CATA was unable to provide the names of many user groups, we spoke with three groups, including an economic development agency, a conference organizer, and a local government agency on aging. The economic development agency's representative stated that the agency has not been able to obtain shuttle services between outlying hotels and the city's convention center from either CATA or private operators. He believes

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that this has adversely affected Lansing's ability to attract large conventions. The conference organizer was not able to obtain shuttle service from CATA for an 8,000-participant function. He stated that private operators would have been too costly, and hence, the participants moved from place to place in cars and by walking. The local agency on aging stated that it was not able to procure service from CATA for transportation to a large public hearing for senior citizens. The agency ultimately obtained buses from a local community college.

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## Wilkes-Barre, Pennsylvania

According to the Luzerne County Transportation Authority, it discontinued charter service when the federal charter bus service regulation went into effect. The Authority does not even provide charter service under contract to private operators. Its representative stated that school bus operators have assumed much of the local charter business because, he believes, private operators are more interested in long-distance charters.

Each of the three private operators that we contacted believes that the regulations are working well in Wilkes-Barre. They stated that the Authority does not provide charter service and that private operators are meeting most of the demand.

We contacted four user groups, including youth organizations, a community center, and a nonprofit service organization. Each group expressed satisfaction with charter services obtained from private operators and/or school bus operators. Two of the four groups use school buses for some of their charter needs. One group stated that private operators' rates are sometimes high, but they are able to pay.

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## Eugene, Oregon

When the federal regulation took effect, Lane Transit District (LTD) began contracting charter service through private operators, but the state Public Utilities Commission imposed the same regulatory requirements on LTD that it imposes on private operators. Because of the additional regulatory requirements assumed by LTD, it discontinued contracting through private operators but currently provides some special services for large community events and conventions. LTD officials believe that the regulation has resulted in unmet charter needs because no large bus companies are located in Eugene.

The three private operators that we contacted do not contract with LTD and believe that the regulations are working well in Eugene. One of the

companies described its working relationship with LTD as good and noted that the companies refer business to each other depending on whose equipment is better suited for an event. Another company stated that it is primarily interested in long-distance business and would not object to LTD providing all local charter service within its service area.

We spoke with six user groups in Eugene, including convention and athletic event planners, a local government, and an athletic team. The convention planner commented that the regulation makes it difficult for Eugene to attract conventions because of insufficient private operator capacity. The local government department canceled a field trip because of the cost imposed by private operators, and the athletic team complained of the increased costs of hiring a private operator for a 5-hour minimum duration for 15-minute shuttles.

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## Des Moines, Iowa

The Des Moines Metropolitan Transit Authority (METRO) provides charter service through the contracting and the nonprofit organization exceptions under the regulation. METRO officials believe that large conventions and social service organizations are not adequately served under the regulation. Some groups cannot afford the cost of private operators' 5-hour minimum durations when they need a bus for a shorter time, according to METRO officials.

Of the four private operators we contacted, one contracts frequently with METRO, two contract infrequently, and one does not contract at all. Two operators believe the regulations are not working because METRO provides charter service they believe is unauthorized, such as a Christmas city lights tour.

We contacted seven user groups in the Des Moines area, including charitable organizations, an industry organization, the local symphony, a youth group, the city recreation department, and a convention planner. The groups were satisfied with the service they receive.

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## Topeka, Kansas

The Topeka Metropolitan Transit Authority (the Authority) provides charter service through frequent contracting arrangements with private operators and under an agreement the Authority formed with private operators allowing it to provide trolley bus service and services to the city of Topeka. The Authority is concerned that the contracting arrangement confuses the public and results in higher costs because of surcharges and

that the regulation leads to an unmet need for transit buses in the community.

Of the three private operators with whom we spoke, one contracted extensively with the Authority for extra equipment, while the other two did not contract for buses from the Authority. One of the operators felt that the contracting exception in the regulation led to an exclusive relationship between the Authority and one operator that excluded other operators from certain local business. One operator was not aware of the existence of the agreement, while another objected to allowing services to the city.

We spoke with two user groups, both of whom obtained affordable and available charter service from private operators.

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The following locations are not subject to the regulation either because the transit agency does not receive federal funds or because it is exempt by law from the regulation. We contacted transit agencies and private operators to discuss how charter needs are being met in the three communities.

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## Long Beach, California

Long Beach Transit is exempt by law from the federal charter bus service regulation. It provides incidental charter service to community groups on a limited basis. Long Beach Transit indicated that at times, it contracts with private operators needing extra capacity, but none of the three private operators we talked with had entered into such contracts. One operator viewed Long Beach Transit as a potential competitor but said it (the operator) would remain satisfied as long as Long Beach Transit did not aggressively pursue charter service. Two other private operators believe that Long Beach Transit competes unfairly with them for charter service. One operator believes it lost several trips to Long Beach Transit.

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## Macon, Georgia

Because its funding comes from the city and county rather than from FTA, the Macon-Bibb County Transit Authority (the Authority) is not subject to the federal charter bus service regulation. According to the Authority, it provides charter service within the state of Georgia at rates comparable to those charged by private operators.

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Both private operators we contacted had contracted with the Authority to add buses when needed. One operator said that its relationship with the Authority will remain good as long as the amount of charter service the Authority provides is not excessive. The other operator sees charter service from the Authority as unfairly subsidized competition even though the source is local—not federal—funding.

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## **Charleston, South Carolina**

In Charleston, the local gas and electric company—South Carolina Gas and Electric Company—operates the public transit system, which is not subject to the federal charter bus service regulation. South Carolina Gas and Electric provides charter service to all user groups if buses and drivers are available. Occasionally, the company contracts with private charter operators to provide additional capacity. South Carolina Gas and Electric believes its relationship with private operators is good, especially since it has significantly decreased the amount of charter service it provides in recent years.

We spoke with one private operator in the Charleston area, who views South Carolina Gas and Electric as a competitor but not an adversary. The operator said that South Carolina Gas and Electric does not hurt the operator's business because it does not provide extensive charter service.

# FTA's Enforcement of Charter Regulation

While private operators are generally satisfied with the existing charter regulation, some are concerned about FTA's enforcement. Although many private operators with whom we spoke stated that public operators are complying with the regulation, some stated that, when a public operator oversteps the bounds of the regulation, the burden of proof falls on the private operator. FTA recognizes that this is a valid concern and that the responsibility for identifying noncompliance falls primarily on those who file complaints. Because of resource constraints, FTA investigates complaints by relying largely on evidence presented by private operators. There are essentially two ways in which FTA obtains information on noncompliance—(1) through complaints filed by private operators and (2) through triennial review reports.<sup>1</sup>

Private operators stated that the complaint process can be lengthy and, therefore, resource-intensive to undertake.<sup>2</sup> For example, several private operators in the San Antonio area, with assistance from the American Bus Association (ABA), filed a complaint against the local transit authority—VIA Metropolitan Transit—in 1988. They alleged that the public operator attempted to channel most of its charter business to brokers or to bus operators chronically short of equipment who therefore contracted to use the public operator's equipment. FTA found that the public operator had violated the regulation by leasing vehicles to entities that were not "private charter operators" within the meaning of the regulation. FTA ordered the operator to cease such practices. Private operators filed a similar complaint in 1989. In a decision published in 1992,<sup>3</sup> FTA found that the operator had established an exclusive subcontracting arrangement with one private operator in violation of the regulation and ordered the practice to cease. The second decision threatened removal of FTA assistance to the public operator if a 6-month report of charter activities did not show that this practice had ended. On the basis of a report by VIA of its charter practices from June through November 1992, FTA, ABA, and the private operators involved in the complaints are now satisfied that VIA is in compliance with the regulation. VIA made several changes in its practices, including the discontinuation of referrals to specific charter companies, the sale of all nonfederally funded buses used for charter purposes, and

<sup>1</sup>In addition to yearly audits and reviews, FTA is required to evaluate the operations of its Section 9 urban grant recipients every 3 years. FTA includes in the triennial review an assessment of the recipient's compliance with the charter regulation.

<sup>2</sup>Until recently, complaints were addressed by FTA headquarters staff. In December 1992, FTA delegated the authority for addressing complaints to its regional offices.

<sup>3</sup>According to FTA, the second decision was delayed for 1 year at the request of private operators to monitor VIA's charter services.

the implementation of a new charter tariff designed to remove even the perception of price discrimination.

Another example of a lengthy resolution comes from the January 1993 triennial review report for the San Francisco Public Utilities Commission (SFPUC). The report stated that SFPUC has violated the charter regulation by operating charter service during peak periods and not fully recovering costs. The report also stated that the operator has a history of noncompliance dating back to 1986. The report required SFPUC to cease the illegal practices and report in writing all charter operations that do not comply with the federal regulation. In response to the report, SFPUC stated that it will no longer provide charter services, except as permitted. FTA accepted SFPUC's statement and considers the report finding closed.

A major enforcement concern of private operators is the rate charged by public operators for charter service, which, according to FTA, ought to cover the fully allocated costs (i.e., a complete accounting of all labor, capital, and material resources) of providing the service.<sup>4</sup> Some private operators do not believe that public operators correctly calculate their full costs and, as a result, charge lower rates than they should. Private operators are particularly concerned that, should the regulation provide public operators greater flexibility to provide charter service, public operators could unfairly undercut the rates charged by private operators if the public operators failed to fully allocate costs. While it is difficult to estimate the extent to which public operators incorrectly calculate their costs, there is evidence that some public operators are either not aware of or are ignoring the cost allocation requirement. Two transit operators that we contacted stated that they base their charter rates on an average of local private operators' rates rather than on their own costs.

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<sup>4</sup>According to FTA, the current charter regulation does not require public bus operators to fully recover their costs when providing charter service. FTA does expect, however, public operators to fully recover costs for most groups. FTA uses fully allocated costs as an indicator of whether the charter service is incidental, which it must be.



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