



July 3, 2024

Ms. Veronica Vanterpool
Acting Administrator
Federal Transit Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Acting Administrator Vanterpool:

The American Bus Association (ABA) with this letter hereby requests the United State Department of Transportation (US DOT) and the Federal Transit Administration (FTA) deny the petition for an exception from the charter regulations pursuant to 49 CFR 604.11(b)(4)(i), filed by the Chicago Transit Authority (CTA), in regards to the provision of services for the 2024 Democratic National Convention (Convention).

The CTA petition was filed on May 17, 2024, and posted by the FTA to the docket on May 21, 2024. The CTA rests its claim for relief from the federal charter bus regulations on the transit agency's word that it has exhausted efforts to find privately owned motorcoaches to provide the charter work needed to meet the demands of the Convention, scheduled to take place in Chicago from August 19 to August 22, 2024.

The ABA is a trade association representing the private over-the-road bus and motorcoach industry with over 3,800 members of which approximately 1,000 are motorcoach operators. The ABA's bus operator members provide all manner of transportation services, including charter services, throughout the United States and Canada. A number of ABA motorcoach operator members have expressed their interest in serving the Convention but have shared their concerns with ABA on the how the solicitation for services is being conducted.

The FTA's charter bus regulations make clear that exceptions to the charter service regulations may be sought by a federally funded transit operator, like the CTA, only in limited circumstances.ⁱ These circumstances include events of regional or national significance, that the transit operator certify that it "has exhausted all the registered charter providers in its geographic service area" and describe "how registered charter providers were consulted."ⁱⁱ The ABA believes CTA has not met its responsibilities under 49 CFR 604.11(b)(4)(i) and urges FTA to deny its petition for exception. Specifically, ABA believes the petition should be denied based on the following reasons: 1) CTA and the event organizers did not follow proper procedures

pursuant to 49 CFR 604, there was no good faith consultation by either the event organizers or CTA with registered charter providers; 2) CTA did not exhaust the inventory of all available private providers prior to filling its petition as directed under 49 CFR 604.11(b)(4); 3) CTA made unreasonable/unnecessary equipment demands in its request to private operators; and 4) the Convention does not meet the conditions of any other category under 49 CFR 604.11(a) warranting an exception.

1. CTA and the Event Organizers Did Not Follow Proper Procedure

a. Consultation

i. CTA

Pursuant to the federal charter regulations, a federally funded transit operator “shall first consult with registered charter providers in the geographic service area to determine whether or not registered charter providers are capable of providing the service.”ⁱⁱⁱ This fundamental requirement was not met as evidenced by CTA’s own filing of a petition. In its petition, CTA states “all of the operators who are registered with the FTA to operate in its service code were contacted via email numerous times to make them aware of the DNCC's efforts to contract buses.” Based on the information that we have received; the Convention organizers made some manor of outreach to the FTA registered private operators. However, the burden for notification does not fall on the Convention, but on the recipient of FTA funds as stated in 604.14(a). Further, it is not clear whether the first notice/vendor conference exhausted all the available inventory of interested motorcoach providers or if there were additional communications during the intervening periods. It is also confusing as to what degree private bus operators were consulted as no terms or RFP conditions were seemingly conveyed to the operators per the limited filing. The CTA stipulates in its filing that private operators indicated they were interested in performing the charter services requested because there were a number of responses to the initial inquiry. Those responses indicate that there were willing and able private bus operators, satisfying the conditions of 604.9(b). No information about the consultation process or the offering of service terms was included in the filing, thus the filing was incomplete and did not meet the conditions of 604.11(b)(4)(i) “*the petition shall include a description of how registered charter providers were consulted*”.

ii. Convention Organizers

In considering the attempts made at securing vehicles by the Convention organizers and their consultants, it is hard to believe that since they are not bound by the FTA’s regulations that they would specifically limit their outreach to only consider operators on the FTA’s charter bus registration list for an event of such regional or national significance that tens of thousands of attendees were expected to attend. Why would they limit their search for providers to a potentially restricted geographic service search area, rather than conduct a more exhaustive nationwide or even regional search?

ABA notes that there are more than 280 bus operators currently registered on the FTA’s charter bus webpage as of June 1, 2024. There are also 4 state bus and limousine associations in the

region (WI Motorcoach Operators Association, MN Charter Bus Operators Association, Midwest Bus and Motorcoach Association and Illinois Bus and Limousine Association) plus a number of national trade associations that any consultant for an event of regional/national significance would have likely reached out to and found nearly 500 active operator members in the region. To our knowledge, these large regional entities and swaths of active bus operators were never contacted and as a national body, ABA was not contacted. For other similar upcoming large-scale events, such as the 2024 Republican National Convention (RNC) or the FIFA World Cup in 2026, this is standard procedure followed by event organizers and transportation consultants to reach out to as many private bus operators as possible.

One can only conclude that the DNC was always intending to utilize CTA vehicles and thus restricted their geographic search and outreach for a national event to a very limited service area to intentionally trigger the exception request from the charter bus rules. No information about the consultation process of the DNC or their offering of service terms was included in the filing. In fact, it was only in news reporting (<https://www.chicagotribune.com/2024/05/28/cta-dnc-bus-service/>) that it is clear that CTA intends to provide the service for a fee, in spite of their own service cuts and widely reported staffing shortages.

2. CTA Did Not Exhaust the Number of Interested Private Operators

In the petition, CTA concludes that it has exhausted efforts to find private operators with whom to contract for charter service for the Convention. Another part of the procedure is to meet the requirements of 604.11(2) and explain how the private operators will be used and why private operators are not capable of providing the requested service. We don't see much evidence of an explanation as to why the interested operators are not capable. In the documentation for their petition, CTA admits that over 40 operators had responded with interest to requests by the Convention organizers. However, they do not provide a list of the private operators who have executed contracts for service nor how many have been turned away or the reasons why they were not selected to provide service. Finally, it appears CTA had already concluded with the Convention organizers that private bus operators could not provide the service as they submitted this petition before the organizers could have reasonably concluded a review of the submissions from interested operators. Based on the limited documentation included with the petition, less than 3 days after responses from private operators were due, the petition was filed. It appears that a conclusion was pre-determined.

3. Special Equipment Demands Do Not Disqualify Private Operators

As only the original service description was included with the petition, neither ABA nor the FTA can evaluate the quality of the services requested or the competitiveness of the fees that CTA/Convention were willing to agree to pay the private operators for these services. It may be that the price offered by the organizers was too low, or that the terms were too onerous for the private operators to accept or that the RFP was requesting specific specialty vehicles (e.g. low floor transit vehicles as referenced by CTA in their petition) that private operators are not

capable of providing. However, no one can dispute that several private operators responded with interest. FTA would be hard pressed to conclude that negotiations were conducted in good faith, as we see no explanation as to how or why the private operators who have indicated interest are not capable of providing the service. Since registered private providers were contacted and responded affirmatively with interest, this petition should be denied.

One further point: CTA expressly notes the use of low floor transit vehicles at the DNC in its notice to private operators. ABA must in turn note that the availability of such vehicles is irrelevant to the issue of whether an exception should be granted and shows that an attempt is being made to game the system through a special vehicle request as detailed under the question-and-answer section in Appendix C of Part 604 (Question #46).

“Further, specialty or unique vehicles cannot be used until all privately owned buses are utilized.” As the question and answer (70) states that the “Thus, all the privately owned buses must be engaged in service and unavailable before a transit agency may lease its [specialty vehicle].”

4. Event Does Not Meet the Conditions for Other Exception Categories

Further, as the petition does not fulfill the requirements for seeking an exception from the federal charter rules for event of regional or national significance, alternatively it also fails to meet the requirements for relying on one of the other bases for an exception under 49 CFR 604.11(a).

a. Hardship Exception

Under this exception 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. This exception is only available to recipients in non-urbanized areas; and we have seen evidence of excessive deadhead time used in other exception request challenges (FTA-2007-0022) and the denial of eligibility of private operators when it was unwarranted. Neither FTA nor a transit agency can pre-determine where the vehicles will be coming from for a particular job. For many private operators, they may have multiple office or maintenance locations. Responding operators may reach an agreement with another private operator or a private business closer to the event location to use a parking lot or another facility as a staging area. This type of experience of non-local operators having interest in providing local shuttle service during a large scale event is not unusual or unprecedented (<http://www.deseretnews.com/oly/view/1,3949,70000793,00.html>).

b. Unique and Time Sensitive Events Exception

Under this exception request as detailed under 604.11(a)(3), a petition is only available if a petition is filed that describes why the event is unique and time sensitive and would be in the public’s interest. This CTA filing does not describe this event as time sensitive, as the

convention date was determined and announced in April of 2023.

Conclusion

The ABA believes CTA has not met its responsibilities under 49 CFR 604.11(b)(4)(i) and FTA should deny its petition for exception from the federal charter regulations. The CTA, in seeking an exception from the regulations for the Convention as an event of regional or national significance, it did not properly consult with registered charter providers; it did not exhaust all the registered charter providers in its geographic service area; and it made unreasonable equipment requests. Further, CTA cannot avail itself of another category under 49 CFR 604.11(a) for a different exception.

Ironically, there has been no similar petition or request for charter bus rules exception by public transit operators in the Milwaukee area, where the RNC is taking place July 15-18, nearly a month prior to the Democratic National Convention in Milwaukee, WI. This event is taking place for a similar duration a mere 90 miles from Chicago. The RNC has similar attendance projections and similar transportation needs, but apparently no need for a charter bus rules exception request and will utilize dozens of private bus operators to perform contracted transportation services. This should be noteworthy for FTA's consideration, in making a determination regarding CTA's petition as its likely the same private operators would responded with interest to the request by CTA and the DNC and are capable of providing the service.

For these various reasons, the FTA should deny CTA's petition for an exception from the federal charter regulations at 49 CFR Part 604, as it relates to the Convention. If you have any further questions or need additional information, please contact me at your convenience.

Sincerely,



Brandon Buchanan
Director of Regulatory Affairs

ⁱ 49 CFR 604.11

ⁱⁱ 49 CFR 604.11(b)(4)(i)

ⁱⁱⁱ Ibid.