



U.S. Department
of Transportation
**Federal Transit
Administration**

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Ohio, Wisconsin

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OCT 23 2001

T. J. Ross
Executive Director
PACE
550 West Algonquin Road
Arlington Heights, IL 60005

RE: Charter Regulation Requirements

Dear Mr. Ross:

The Federal Transit Administration (FTA) is aware that on September 27, 2001, PACE provided thirty-five (35) buses based on a request from the White House. The buses were used to transport approximately 4,000 airline employees from sites beyond O'Hare Airport to a White House event with the Secretary of Transportation. The buses were used over a two-hour time period. PACE was reimbursed for the use of the buses. FTA does not know whether regular PACE service was impacted by the use of the buses.

FTA is aware that the White House indicated that for specific security reasons it wished to utilize PACE buses. A one-time event of this type would probably have qualified as an exception to the charter regulations under the special events exception. FTA is aware that this was a special request from the White House with a very narrow timeframe. FTA would have responded extremely quickly to either a written or verbal request (followed up later with a written request) for an exception. However, PACE did not seek the Administrator's approval for an exception. This letter is being sent as a reminder that PACE is required to follow the charter regulations, including the procedural requirements.

The charter regulations prohibit recipients from providing charter service with FTA funded equipment unless one of the specific charter exceptions applies. 49 Code of Federal Regulations (CFR) § 604.9(a). Under the regulations, there is a charter exception that applies for special events to the extent that private charter operators are not capable of providing the service. 49 CFR § 604.9(b)(4). However, in order to utilize the exception the recipient needs to petition the Administrator for an exception. *Id.* The petition should describe the event, explain how it is special, and explain the amount of charter service the private operators are not capable of providing. 49 CFR § 604.9(d). Additionally, the service provided can only be incidental. 49 CFR § 604.9(e). Incidental service means that the service does not interfere with or detract from the provision of mass transportation service. 49 CFR § 604.5.

As you well know, the service provided by PACE was not open to the public. PACE used federally funded equipment to provide transportation for a specific group of individuals for a specific purpose. The service provided clearly falls within the definition of charter. PACE did not petition for an exception to the charter regulations. FTA is bringing this matter to your attention so that should a similar situation occur, you will contact FTA immediately. Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Joel Ettinger
Regional Administrator

