



U.S. Department
of Transportation
Federal Transit
Administration

REGION IX
Arizona, California,
Hawaii, Nevada, Guam
American Samoa,
Northern Mariana Islands

201 Mission Street
Suite 2210
San Francisco, CA 94105-1839
415-744-3133
415-744-2726 (fax)

JAN 15 2004

Mr. Richard Cromwell
General Manager and CEO
SunLine Transit Agency
32-505 Harry Oliver Trail
Thousand Palms, CA 92276

Mr. Jim Seal
Jim Seal Consulting Services
2431 32nd Street
Santa Monica, CA 90405

Dear Messrs. Cromwell and Seal:

It has come to our attention that Federal Transit Administration (FTA) failed to issue its final determination letter in response to correspondence submitted by the SunLine Transit Agency (SunLine) and the California Bus Association (CBA) concerning the reconfiguration and reinstatement of SunLine's group trip service. We regret this omission, and herewith transmit FTA's decision.

Background

On February 10, 1997, the FTA issued a decision finding that SunLine's fixed-route group trip service was charter service in violation of 49 CFR Part 604. SunLine was ordered to discontinue operating the service and advised that if it wished to reinstitute group trip operations, it must reconfigure the service to conform to FTA's mass transportation guidelines. Shortly thereafter, the FTA granted a temporary stay of its decision based on SunLine's revelation that the information it had provided to FTA prior to the February 10 decision was outdated; the parties had resolved their differences during an October 1996 meeting; and the charter infractions had been corrected. In response, CBA denied that the issues were resolved and claimed that SunLine was still performing impermissible charter service.

Both parties filed supplemental documentation, with SunLine maintaining that the group trip operation is "fixed route deviation service" within the meaning of mass transportation, and CBA continuing to claim that the group trip violates the charter regulation. Thereafter, in response to FTA's request for clarification of its supplemental information, SunLine stated in its January 21, 1998, letter:

"There were a total of 164 group trips during the period 9/1/97 through 1/4/98. 100% of these group trips were for schools. None of the schools requested a

deviation... 69 of the 164 trips included a deviation of $\frac{1}{4}$ mile or less. We made the decision to 'deviate' from the exact fixed route in order to provide a safer boarding point for these students, almost all of who are grade schoolers. The deviation in these cases means that the bus leaves the exact route, travels a few blocks to a convenient, on the street (never on school property) location, boards the children, and immediately returns to the exact fixed route. This routing assures that no bus stop is missed in making these deviations."

Discussion

Based on the supplemental information gathered since issuing its February 10 decision, FTA finds that SunLine has not made the changes necessary to bring the group trip service within the definition of mass transportation. There may be several ways, however, that SunLine could provide the service, which would be consistent with Federal law and regulation.

First, according to SunLine, SunBuses have used computerized rolling head signs to display regular route designations for all routes since June 1996. Moreover, the number of group trips performed, including 69 deviations over a four-month period, may justify placing a bus stop in front of all schools served as well as the group trip destination points. Finally, adopting this reconfiguration would assure that group trip pick-up and drop-off points would be published in the regular fixed-route schedule.

Second, SunLine might consider implementing site-specific route deviation service as an alternative that would offer SunLine a degree of route flexibility while limiting overall schedule impact. Under this approach, certain major trip generators or destinations, such as public housing or group homes, senior centers, service agencies, and so forth are identified on the advertised schedule. Deviation requests are only accepted for these specific sites. Customers and agencies can request that new sites be considered and these may be included on the schedule the next time the routes are adjusted or schedules updated. Site-specific route deviation combines fixed route and demand response service, both of which FTA has determined to be mass transportation. The fact that it combines aspects of both rather than being simply one or the other would not make it any less mass transit, as long as it is available to any individual or group within the service area.

According to SunLine, "100%" of its group trips are performed for schools, which clearly establishes that the service is performed exclusively for students and school personnel rather than for the general public. Therefore, if SunLine does decide to reconfigure its service as site-specific route deviation, it must take steps to vigorously advertise and promote the service to ensure that the public is aware of whatever routes or deviation possibilities are offered. Generally, this marketing effort is best evidenced by publication of the service in the recipient's preprinted schedules and doing other types of advertising as well. SunLine's success in these marketing efforts to the general public will be determined by the diversity of the clientele requesting deviations and the percentage of deviation requests that can be attributed to each; i.e. group homes/20%.

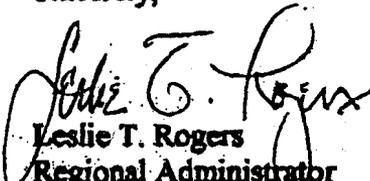
Conclusion

In conclusion, SunLine's group trip service is charter service rather than mass transportation and therefore, results in an impermissible user of FTA funded facilities and equipment. Under FTA's charter regulation, SunLine may not provide charter service using FTA funded equipment or

facilities if there is a private operator in its geographic area willing and able to provide that charter service unless one or more of the exceptions listed in 49 CFR § 604.9(b) apply. Furthermore, any charter service provided by SunLine under an exception must be incidental. Moreover, if SunLine wishes to provide direct charter service it must engage in the public notice process set forth in 49 CFR § 604.11. If, as a result of the public notice process, SunLine determines that there is no willing and able private operator, it may provide charter service.

In accordance with 49 CFR § 604.19, either party may appeal this decision within ten days to Jennifer L. Dorn, Administrator, Federal Transit Administration, 400 Seventh Street, S.W., Room 9328, Washington, DC 20590.

Sincerely,


Leslie T. Rogers
Regional Administrator