

AGENDA ITEM 7 A
Information/Discussion Item

MEMORANDUM

DATE: August 28, 2008
TO: El Dorado County Transit Authority
FROM: Matt Mauk, Transit Services Assistant
SUBJECT: Charter Policy

REQUESTED ACTION:

BY MOTION, No action. Information only.

BACKGROUND

The El Dorado County Transit Authority (El Dorado Transit) currently provides charter services as allowed per State and Federal guidelines. In June 2000, El Dorado Transit adopted a policy to provide charter services exclusively to public service agencies and private non-profit human service organizations. El Dorado Transit annually establishes an hourly charter rate as per the guidelines set forth in the Transportation Development Act (TDA), Statutes and California Codes of Regulations, January 2005. The charter rate adopted for Fiscal Year 2008/2009 is \$132.00 per service hour.

The Federal Transit Administration (FTA) recently issued its final rule on the governance of transit charters. The Charter Service; Final Rule 49 CFR, Part 604 published January 14, 2008 amends regulations that govern the provision of charter service by public transit agencies receiving Federal funds. On June 5, 2008 El Dorado Transit adopted Resolution 08-09 to comply with the FTA Final Rule “as policy criteria for provision and reporting of all charter services provided by El Dorado Transit.”

DISCUSSION

The Charter Service; Final Rule 49 CFR, Part 604 is a result of a two (2) year effort on the part of the FTA to establish regulations prohibiting public transit providers from unfairly competing with private charter providers for business. The new rules clearly define what constitutes a “charter” and severely restricts public agencies from providing such services under penalties ranging from severe fines to loss of eligibility for Federal funding. The rule does not exclude transit agencies from providing special services that specifically target the needs of populations who are elderly, disabled or low income.

The Charter Service; Final Rule 49 CFR, Part 604 defines charter service as transportation provided at the request of a third party for exclusive use of a transit vehicle for a negotiated price. A third party pays a negotiated price for the group and determines

the origin and destination of the trips, as well as the scheduling. Charter service is not part of the transit system's regularly scheduled service and is only offered for a limited time. The rule defines a charter as transportation provided for special events or functions that occur on an irregular basis or for a limited time, if the fare charged is higher than the usual or customary fixed route fare; or a third party pays for any part of the cost.

Public transit agencies may provide the following charter service under Charter Service; Final Rule 49 CFR, Part 604:

- Charters involving transportation of government officials for official business.
- Qualified Human Service Organizations (QHSO), defined as qualified groups serving the elderly, persons with disabilities and low income individuals, who receive funding from one of the sixty-five (65) Federal programs. A QHSO that does not receive Federal funding, can qualify for exempt charter services provided they register with the FTA and do so at least sixty days prior to requesting charter service.
- Leasing equipment to private charter operators (must exhaust all available vehicles first and the operator must be registered on the FTA's Charter Registration website)
- By agreement with all registered charter providers
- When no registered charter provider responds to a notice sent by a recipient. If a transit agency wishes to provide charter service, not qualifying under any of the previously mentioned exemptions, it must post a notice of interest via the FTA's Charter Registration website. If no registered private charter providers respond with an interest in providing the charter within the specified timeframes the agency can provide the service. If a registered private operator expresses interest, a transit system cannot provide the service whether the private operator does so or not.
- Transit systems transporting transit employees for the purpose of conducting oversight functions such as inspection, evaluation or review
- Private charter operators receiving federal funds
- Public transit agencies receiving funds under FTA Sections 5310, 5311, 5316 and 5317, so long as the charter service supports "program purposes"
- Planning and operations related to emergency response and preparedness
- Recipients in non-urbanized areas transporting employees for training

Under the Charter Service; Final Rule 49 CFR, Part 604, public transit agencies must report all charter services performed to the FTA. Reporting is required on a quarterly basis and includes all services provided under the above named exceptions.

FISCAL IMPACT

The State of California, TDA regulations, Section 99250, include two (2) guidelines regarding the rates for charter services performed by a public transit agency:

1. "...charter bus service rates and minimums shall be established which are...at least equal to the average of the three lowest current rates charged by private

- charter bus carriers actually operating charters originating in the same service area of the public transportation system during the prior year.”
2. “All charter bus service rates shall be reviewed and adjusted not less than semiannually to reflect variations in actual and assumed costs, as well as private charter bus carrier rates.”

Based on the formula provided by the TDA regulations, El Dorado Transit’s rate for charter service was set at \$132.00 per service hour for the first six (6) months of Fiscal Year 2008/2009.