

PROCEDURE FOR FILING AND REVIEWING CHARTER PROSPECTUSES

Part 380 of the Department of Transportation's (DOT) regulations (14 CFR 380) requires all persons who wish to arrange public charter flights to first submit a charter prospectus to the Special Authorities Division with the required information about the proposed charter program. A prospectus should contain the following original documents, signed and dated by all parties involved. Filers may, at their option, submit the required documents by e-mail or fax on an advance basis, pending transmission of the signed hard-copy originals. We will begin to process applications upon receipt of the advance submissions.

OST Form 4530	Registration and Amendments of Foreign Charter Operators (Non U.S. Citizens)
OST Form 4532	Statement of Charter Operator and Direct Air Carrier
OST Form 4533	Statement of Charter Operator, Direct Air Carrier and Securer
OST Form 4534	Statement of Charter Operator, Direct air Carrier and Depository Bank.
OST Form 4535	Statement of Air Direct Carrier (Should only be filed if the carrier assumes financial responsibility for which it holds to the passengers of that charter program). (See section 380.34a)

The applicant must also include a \$39 filing fee made payable to the Department of Transportation for each prospectus. Please note that the actual agreements between charter operators and direct carriers, securers, or depository banks are required to be filed with the Department. Under Part 380, a single prospectus may cover any number of flights as long as the period between the departure of the first flight and the last flight of the program does not exceed one year. The charter operator must obtain acceptable security arrangements in either the amount equal to the price of the entire charter, \$10,000 per round trip flight or the maximum requirement of \$200,000 for an unlimited amount of flights. These security arrangements can be in either the form of a surety bond, surety trust agreement or a letter-of-credit. When the security agreement is a Letter of Credit naming the Department as "Beneficiary", the filing must include the original instrument. Security arrangements must remain effective at least 60 days after the return of the last flight. The charter operator must establish an escrow account (depository) so that participants may send payments directly to the bank. If payments are received by the charter operator, it is the responsibility of the charter operator to deposit ALL payments immediately into the escrow account. Funds may not be withdrawn from the escrow account until the carrier is paid first and then ground arrangements are paid in full.

If the applicant files a totally secured program, in which the entire cost of the program filed is covered by a large security arrangement, the applicant must include information on the cost per flight and number of flights. Costs of the operation may be listed as "confidential" and will be maintained in a separate file.

The Department will review the filing to see if it meets our regulations. If it contains all of the necessary forms, signatures, and declarations, a public charter (PC) number will be assigned. *The applicant will be notified of the approval by phone, e-mail and/or US Postal Service.* Until the applicant receives notification, it may not advertise or sell any of the flights in the program. The

charter operator must reference the PC number provided by the Department at all times when advertising, selling or receiving payments for any given program. If we find that the prospectus does not meet all of the requirements, we will inform the charter operator what must be done to obtain approval. If the problem is not resolved within 10 days after receipt of the prospectus, it will be returned to the applicant. Once the problem has been resolved, the charter operator will be notified and may then begin advertising or selling the program. The charter operator must provide a operator-participant contract which specifically states (a) the name, telephone number and complete mailing address of the charter operator, (b) price per passenger, (c) the dates and routes of travel, (d) the air carrier, (e) tour itinerary including hotel accommodations and any ground arrangements (f) the depository bank that all payments must be made payable to, and (g) any information about the conditions of the charter.

Changes to the charter program, including an addition or cancellation of flights, changes in flight dates, origin or destination cities, or a change in the direct air carrier, securer or depository bank are required to be filed with DOT in the same way as the original prospectus. Such changes will not become effective until received and accepted by the Department. In submitting any document (via e-mail, fax or hand delivery service) concerning a particular charter filing e.g., corrections, amendments, waivers, or cancellation notices, the charter operator should use the PC number assigned. This will speed the processing of these documents.

WAIVERS

DOT has in its charter rules a “waiver” provision to handle those situations where it is impossible or impractical for all of the requirements of the rules to be met. In acting on any request for waiver, the Department must find that special or unusual circumstances exist which warrant a deviation from our rules and that granting of such a request would *be in the public interest*. Both conditions must be met for DOT to grant the required authority.

Waiver applications are submitted to DOT in letter form by the charter operator or the air carrier performing the particular flight. Requests must be accompanied by a \$39 filing fee. In the event of an emergency, we can orally act on waiver requests which are submitted in writing via e-mail or by fax. An original of each written waiver request must be filed electronically or by mail on company letterhead. In submitting the application, it is the responsibility of the applicant to set forth in a factual manner the special or unusual circumstances and public interest considerations which it believes warrant granting of its request. DOT reviews each application to determine whether sufficient information has been presented and decides what action should be taken. The applicant is then advised of the approval or disapproval by phone, mail and/or e- mailed. Charter prospectuses and waiver requests should be emailed or sent to:

Reather.Flemmings@dot.gov or Torlanda.Archer@dot.gov

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Visit our website at:

<http://ostpxweb.dot.gov/aviation/domesticaffairs.htm#charters>

