

§ 604.49

the party. Filing and service of appeals and replies shall be by personal delivery consistent with §§ 604.30 and 604.31.

(b) If an appeal is filed, the Administrator reviews the entire record and issues a final agency decision based on the record that either accepts, rejects, or modifies the Chief Counsel's decision within 30 days of the due date of the reply. If no appeal is filed, the Administrator may take review of the case on his or her own motion. If the Administrator finds that the respondent is not in compliance with this part, the final agency order shall include a statement of corrective action, if appropriate, and identify remedies.

(c) If no appeal is filed, and the Administrator does not take review of the decision by the office on the Administrator's own motion, the Chief Counsel's decision shall take effect as the final agency decision and order on the twenty-first day after the actual date the Chief Counsel's decision was issued.

(d) The failure to file an appeal is deemed a waiver of any rights to seek judicial review of the Chief Counsel's decision that becomes a final agency decision by operation of paragraph (c) of this section.

§ 604.49 Administrator's discretionary review of the Chief Counsel's decision.

(a) If the Administrator takes review on the Administrator's own motion, the Administrator shall issue a notice of review by the twenty-first day after the actual date of the Chief Counsel's decision that contains the following information:

(1) The notice sets forth the specific findings of fact and conclusions of law in the decision subject to review by the Administrator.

(2) Parties may file one brief on review to the Administrator or rely on

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their post-hearing briefs to the Chief Counsel's office. Briefs on review shall be filed not later than 10 days after service of the notice of review. Filing and service of briefs on review shall be by personal delivery consistent with § 604.30 and § 604.31.

(3) The Administrator issues a final agency decision and order within 30 days of the due date of the briefs on review. If the Administrator finds that the respondent is not in compliance with this part, the final agency order shall include a statement of corrective action, if appropriate, and identify remedies.

(b) If the Administrator takes review on the Administrator's own motion, the decision of the Chief Counsel is stayed pending a final decision by the Administrator.

Subpart K—Judicial Review

§ 604.50 Judicial review of a final decision and order.

(a) A person may seek judicial review in an appropriate United States District Court of a final decision and order of the Administrator as provided in 5 U.S.C. 701–706. A party seeking judicial review of a final decision and order shall file a petition for review with the Court not later than 60 days after a final decision and order is effective.

(b) The following do not constitute final decisions and orders subject to judicial review:

(1) FTA's decision to dismiss a complaint as set forth in § 604.29;

(2) A recommended decision issued by a PO at the conclusion of a hearing; or

(3) A Chief Counsel decision that becomes the final decision of the Administrator because it was not appealed within the stated timeframes.

APPENDIX A TO PART 604—LISTING OF HUMAN SERVICE FEDERAL FINANCIAL ASSISTANCE PROGRAMS

FEDERAL PROGRAMS PROVIDING TRANSPORTATION ASSISTANCE

1	Food Stamp, Employment and Training Program.	Food and Nutrition Service	Department of Agriculture.
2	Voluntary Public School Choice.	Office of Innovation and Improvement.	Department of Education.

FEDERAL PROGRAMS PROVIDING TRANSPORTATION ASSISTANCE—Continued

3	Assistance for Education of All Children with Disabilities—IDEA.	Office of Special Education and Rehabilitative Services.	Department of Education.
4	Centers for Independent Living.	Office of Special Education and Rehabilitative Services.	Department of Education.
5	Independent Living for Older Individuals Who Are Blind.	Office of Special Education and Rehabilitative Services.	Department of Education.
6	Independent Living State Grants.	Office of Special Education and Rehabilitative Services.	Department of Education.
7	Supported Employment Services for Individuals with Most Significant Disabilities.	Office of Special Education and Rehabilitative Services.	Department of Education.
8	Vocational Rehabilitative Grants.	Office of Special Education and Rehabilitative Services.	Department of Education.
9	Social Service Block Grant	Administration for Children and Families.	Department of Health and Human Services.
10 ...	Child Care and Development Fund.	Administration for Children and Families.	Department of Health and Human Services.
11 ...	Head Start	Administration for Children and Families.	Department of Health and Human Services.
12 ...	Refugee and Entrant Assistance Discretionary Grants.	Administration for Children and Families.	Department of Health and Human Services.
13 ...	Refugee and Entrant Assistance State Administered Programs.	Administration for Children and Families.	Department of Health and Human Services.
14 ...	Refugee and Entrant Targeted Assistance.	Administration for Children and Families.	Department of Health and Human Services.
15 ...	Refugee and Entrant Assistance Voluntary Agency Programs.	Administration for Children and Families.	Department of Health and Human Services.
16 ...	State Development Disabilities Council and Protection & Advocacy.	Administration for Children and Families.	Department of Health and Human Services.
17 ...	Temporary Assistance to Needy Families.	Administration for Children and Families.	Department of Health and Human Services.
18 ...	Community Services Block Grant.	Administration for Children and Families.	Department of Health and Human Services.
19 ...	Promoting Safe and Stable Families.	Administration for Children and Families.	Department of Health and Human Services.
20 ...	Developmental Disabilities Projects of National Significance.	Administration for Children and Families.	Department of Health and Human Services.
21 ...	Grants for Supportive Services and Senior Centers.	Administration on Aging	Department of Health and Human Services.
22 ...	Programs for American Indian, Alaskan Native and Native Hawaii Elders.	Administration on Aging	Department of Health and Human Services.
23 ...	Medicaid	Centers for Medicaid and Medicare.	Department of Health and Human Services.
24 ...	State Health Insurance Program.	Centers for Medicaid and Medicare.	Department of Health and Human Services.

FEDERAL PROGRAMS PROVIDING TRANSPORTATION ASSISTANCE—Continued

25 ...	Home and Community Base Waiver.	Centers for Medicaid and Medicare.	Department of Health and Human Services.
26 ...	Community Health Centers	Health Resources and Services Administration.	Department of Health and Human Services.
27 ...	Healthy Communities	Health Resources and Services Administration.	Department of Health and Human Services.
28 ...	HIV Care Formula Program	Health Resources and Services Administration.	Department of Health and Human Services.
29 ...	Maternal and Child Health Block Grant.	Health Resources and Services Administration.	Department of Health and Human Services.
30 ...	Rural Health Care Network	Health Resources and Services Administration.	Department of Health and Human Services.
31 ...	Rural Health Care Outreach Program.	Health Resources and Services Administration.	Department of Health and Human Services.
32 ...	Health Start Initiative	Health Resources and Services Administration.	Department of Health and Human Services.
33 ...	Ryan White Care Act Programs.	Health Resources and Services Administration.	Department of Health and Human Services.
34 ...	Substance Abuse Prevention and Treatment Block Grant.	Substance Abuse and Mental Health Services Administration.	Department of Health and Human Services.
35 ...	Prevention and Texas Block Grant.	Substance Abuse and Mental Health Services Administration.	Department of Health and Human Services.
36 ...	Community Development Block Grant.	Community Planning and Development.	Department of Housing and Urban Development.
37 ...	Housing Opportunities for Persons with AIDS.	Community Planning and Development.	Department of Housing and Urban Development.
38 ...	Supportive Housing Program.	Community Planning and Development.	Department of Housing and Urban Development.
39 ...	Revitalization of Severely Distressed Public Housing.	Public and Indian Housing ..	Department of Housing and Urban Development.
40 ...	Indian Employment Assistance.	Bureau of Indian Affairs	Department of the Interior.
41 ...	Indian Employment, Training, and Related Services.	Bureau of Indian Affairs	Department of the Interior.
42 ...	Black Lung Benefits	Employment Standards Administration.	Department of Labor.
43 ...	Senior Community Services Employment Program.	Employment Standards Administration.	Department of Labor.
44 ...	Job Corps	Employment and Training Administration.	Department of Labor.
45 ...	Migrant and Seasonal Farm Worker.	Employment and Training Administration.	Department of Labor.
46 ...	Native American Employment and Training.	Employment and Training Administration.	Department of Labor.
47 ...	Welfare to Work Grants for Tribes.	Employment and Training Administration.	Department of Labor.
48 ...	Welfare to Work for States and Locals.	Employment and Training Administration.	Department of Labor.
49 ...	Work Incentive Grants	Employment and Training Administration.	Department of Labor.
50 ...	Workforce Investment Act Adult Services Program.	Employment and Training Administration.	Department of Labor.

FEDERAL PROGRAMS PROVIDING TRANSPORTATION ASSISTANCE—Continued

51 ...	Workforce Investment Act Adult Dislocated Worker Program.	Employment and Training Administration.	Department of Labor.
52 ...	Workforce Investment Act Youth Activities Program.	Employment and Training Administration.	Department of Labor.
53 ...	Homeless Veterans Re-integration Program.	Veterans Employment & Training Service.	Department of Labor.
54 ...	Veterans Employment Program.	Veterans Employment & Training Service.	Department of Labor.
55 ...	Elderly and Persons with Disability.	Federal Transit Administration.	Department of Transportation.
56 ...	New Freedom Program	Federal Transit Administration.	Department of Transportation.
57 ...	Job Access and Reverse Commute Program.	Federal Transit Administration.	Department of Transportation.
58 ...	Non-Urbanized Area Program.	Federal Transit Administration.	Department of Transportation.
59 ...	Capital Discretionary Program.	Federal Transit Administration.	Department of Transportation.
60 ...	Urbanized Area Formula Program.	Federal Transit Administration.	Department of Transportation.
61 ...	Automobiles and Adaptive Equipment.	Veterans Benefits Administration.	Department of Veterans Affairs.
62 ...	Homeless Provider Grants	Veterans Health Administration.	Department of Veterans Affairs.
63 ...	Veterans Medical Care Benefits.	Veterans Health Administration.	Department of Veterans Affairs.
64 ...	Ticket to Work Program	Social Security Administration.	Department of Veterans Affairs.

APPENDIX B TO PART 604—REASONS FOR REMOVAL

The following is guidance on the terms contained in section 604.26(d) concerning reasons for which FTA may remove a registered charter provider or a qualified human service organization from the FTA charter registration Web site.

What is bad faith?

Bad faith is the actual or constructive fraud or a design to mislead or deceive another or a neglect or refusal to fulfill a duty or contractual obligation. It is not an honest mistake. Black's Law Dictionary, Revised Fourth Edition, West Publishing Company, St. Paul, Minn., 1968.

For example, it would be bad faith for a registered charter provider to respond to a recipient's notification to registered charter providers of a charter service opportunity stating that it would provide the service with no actual intent to perform the charter service. It would also be bad faith if the registered charter provider fails to contact the customer or provide a quote for charter service within a reasonable time. Typically, if a registered charter provider fails to contact a

customer or fails to provide a price quote to the customer at least 14 business days before an event, then FTA may remove the registered charter provider from the registration Web site, which would allow a transit agency to step back in to provide the service because the registered charter provider's response to the email would no longer be effective because it is not registered.

Further, it would be bad faith for a registered charter provider to submit a quote for charter services knowing that the price is three to four times higher because of the distance the registered charter provider must travel (deadhead time). In those situations, FTA may interpret such quotes as bad faith because they appear to be designed to prevent the local transit agency from providing the service.

On the other hand, FTA would not interpret an honest mistake of fact as bad faith. For example, if a registered charter provider fails to provide charter service in response to a recipient's notification when it honestly mistook the date, place or time the service was to be provided. It would not be bad faith if the registered charter provider responded affirmatively to the email notification sent by the public transit agency, but then later