

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Notice to Colleges, Universities, and other Organizations
Offering Flights to College Bowl Games and other Special Events

NOTICE

This notice provides guidance to colleges, universities, and other organizations wishing to arrange charter flights, including flights to special events, such as football bowl games and National Collegiate Athletic Association (NCAA) basketball tournament games. Colleges and other organizations may assist students, alumni, club members, or other individuals with obtaining air travel to bowl games or other special events by (1) contracting directly with an airline that will operate the flight; (2) doing business with a Public Charter Operator; (3) using an air charter broker; or (3) reselling individual seats on the charter flight themselves (i.e. assuming the role of a Public Charter Operator).

This notice is intended to help these organizations understand the Department of Transportation's (DOT) requirements pertaining to each of these types of arrangements.

The notice also informs organization of their responsibilities when offering a flight, whether scheduled or chartered, which includes tickets to a sporting or other special event.

AIR TRAVEL TO BOWL GAMES AND OTHER SPECIAL EVENTS

I. Contracting with an Airline

If a college or other organization chooses to contract directly with a direct air carrier, it should be aware of the requirements that govern the airline's operations.

OST Certificated Airlines

Generally, most colleges or other organizations choose to contract directly with airlines that have authority from the Department of Transportation's Office of the Secretary (OST) and the Federal Aviation Administration (FAA), a DOT operating administration, for air transportation to special events such as bowl games. Before such an airline can advertise that it provides interstate scheduled or charter air transportation, it must obtain economic authority from OST, which for U.S. airlines usually comes in the form of an "air carrier certificate." Prior to granting a certificate, OST must find a carrier to be "fit," which means that the carrier has adequate financial resources, a competent management team, a proper compliance disposition, and is owned and controlled by U.S. citizens. OST continuously monitors a carrier's operations to ensure that it remains fit. In addition, certificated carriers must meet additional OST requirements, such as maintaining minimum liability insurance and establishing an escrow account to protect consumer funds.

Furthermore, all OST certificated airlines are required by the FAA to comply with the stringent safety-related certification and operating rules, depending on whether they operate scheduled or charter service and on the size of aircraft that they use.

Part 125 Aircraft Operators

There are certain operators of large passenger aircraft that are not required to have OST economic authority. These operators follow the FAA safety rules in 14 CFR Part 125 (Part 125). Organizations that wish to charter a flight from a Part 125 operator should be aware that Part 125 does not include many of the stringent safety requirements that the FAA requires scheduled and charter airlines to meet. In addition, Part 125 operators may not hold out their services to the public. Colleges or other organizations may purchase the entire capacity of an aircraft from a Part 125 operator to transport a select group of individuals (e.g., a football team) to bowl games or other special events. However, colleges or other entities are prohibited from charging any fee for any of the seats on such a flight.

II. Using a Public Charter Operator

Colleges or other organizations may use the services of a Public Charter Operator to organize a charter flight. Any organization that does so should take reasonable steps to ensure that the Public Charter Operator has complied with the requirements of 14 CFR Part 380 (Part 380)¹. Public Charter Operators must comply with the rules in Part 380, which are designed to prevent financial harm to consumers. Among other things, this rule requires the filing and approval of a charter prospectus with the OST before any sale of seats takes place. Additionally, Public Charter Operators must ensure that they maintain a financial agreement to cover all payments received from charter participants

¹ The information on becoming a Public Charter Operator can be found on the DOT's website at: <https://www.transportation.gov/policy/aviation-policy/licensing/public-charters>.

in the event the flight does not take place. Part 380 also has requirements regarding advertising, the cancellation of trips, and a charter participant's right to a refund.

III. Using an Air Charter Broker

Organizations may also contract with an airline through an "air charter broker." An air charter broker is not itself an airline and cannot represent that it is one. Because it does not operate aircraft or hold authority from the DOT, it cannot in its own right contract to sell air transportation. Instead, it either acts as the agent of a chartering organization, such as a university, and contracts with a direct air carrier to operate the flight or it acts as the agent of the direct air carrier and contracts with the organization seeking air transportation. Air charter brokers also may act as a "go-between" without being involved in the actual contract between the airline and the charter customer (e.g., by locating a customer for an air carrier and being paid a finder's fee by the carrier), but this is a rare occurrence.

Organizations using air charter brokers should be aware that DOT does not license air charter brokers and payments to air charter brokers are not protected by DOT rules. When an air charter broker represents that it is acting as the agent of a direct air carrier, the contracting college or organization should ensure that it understands the nature of the agency relationship between the broker and airline, and that the airline is properly licensed by OST and FAA to provide the air transportation.² The college or organization should not sign a contract for air services until it has this information.

² On October 8, 2004, OST issued a notice regarding the lawful role of air charter brokers in the provision of air transportation and its enforcement policy covering such operations. The notice, which was published in the *Federal Register*, provides information on a variety of topics involving air charter brokers, including contracting procedures and marketing. 69 Fed. Reg. 61429, Oct. 18, 2004; erratum published 69 Fed. Reg. 62321, Oct. 25, 2004. The notice may be found on the DOT's website at: <https://www.transportation.gov/airconsumer/unauthorized-operations>.

IV. Acting as a Public Charter Operator

A college or other organization may also choose to charter a flight and resell tickets on that flight to its students, alumni, the press, booster club members or others. In such cases, the organization assumes the role of an “indirect air carrier.” Indirect air carriers may not sell individual seats until they have been licensed to do so as a Public Charter Operator in accordance with DOT’s Public Charter regulations described above.

DOT recognizes that organizations may seek to organize a charter flight on short notice, such as might occur with a bowl game or an NCAA basketball playoff appearance, where the location and exact date of the event are not known far in advance. DOT may grant a waiver from certain DOT rules if it finds that the waiver is in the public interest. DOT has always been willing to work with organizations to determine whether a waiver is appropriate. While such matters are reviewed on a case-by-case basis, an organization seeking a waiver should be prepared to show, at a minimum, it has a contract with a direct air carrier holding appropriate authority for the flight and that appropriate financial arrangements are in place to protect consumer payments.

RESPONSIBILITIES OF ORGANIZATIONS OFFERING TICKETS TO SPECIAL EVENT AIR TOURS

Specific rules apply to situations where an organization offers tickets to a game or other special event that are purchased with the cost of the flight to the event, whether it is a charter or a regularly scheduled flight. Specifically, an organization that offers game or special event tickets in connection with a flight must be in physical possession of a

sufficient number of tickets or have a written contract for the tickets, which must be directly from an authorized ticket distributor of the game or other special event.

Consumers are entitled to a full refund, including the price of the airfare, if a tour operator offers game or other special event tickets, but does not have physical possession of a sufficient number of tickets or a written contract for the tickets.

DOT appreciates the chartering public's cooperation and assistance in ensuring an enjoyable and secure traveling experience. If you have any questions or desire additional information, please contact the Office of Aviation Enforcement and Proceedings at (202) 366-9342. If you wish to ascertain whether a particular aircraft operator has DOT air carrier economic authority, you may contact the Air Carrier Fitness Division at (202) 366-9721.

By:

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An electronic version of this document is available at

<http://www.dot.gov/airconsumer>