U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

JUL 14 2011

Miami-Dade Fire Rescue Department
Mr. Ray Barrato
9300 N.W. 41st Street
Doral, FL 33178-2414

Dear Mr. Barrato,

The following is in response to your request submitted on May 23, 2011, seeking authorization to collect reimbursement for fees related to your air trauma transport operations. You note that Miami-Dade Fire Rescue's Air Rescue Bureau (Bureau) provides aero-medical trauma transport, conducts search and rescue and firefighting operations, and supports Homeland Security efforts for Miami-Dade County, Florida. The Bureau is funded by Miami-Dade County's general tax fund. Given current economic conditions, the Bureau's ability to provide aero-medical trauma transport services will be drastically reduced unless it is able to collect reimbursement from patients for the transport and medical services provided by the Bureau. The reimbursement you seek to collect includes flightcrew member salaries, flightcrew member training costs, as well as medical services provided for the patient, including the use of medical equipment costs, during the transport. We assume, based on the information provided in your request, that you consider the air trauma transport operations conducted by the Bureau to be public aircraft operations under 49 U.S.C. § 40125(a).

Public aircraft operation is limited by statute to certain government operations within U.S. airspace. *See* 49 USC §§ 40102(a)(41)(C), 40125. Although these operations must comply with certain general operating rules (including those applicable to all aircraft in the National Airspace System), other civil certification and safety oversight regulations do not apply. Whether an operation may be considered public is determined on a flight-by-flight basis, under the terms of the statute. The FAA considers the following factors in making these determinations: aircraft ownership, the purpose of the flight, and the persons on board the aircraft.

Specifically, 49 USC § 40102(a)(41)(C) includes as a public aircraft "[A]n aircraft owned or operated by the government of a State … or a political subdivision of [one of these] governments, except as provided in section 40125(b)." Section 40125(b) states that an aircraft included in § 40102(a)(41)(C) "does not qualify as a public aircraft ... when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember." "Commercial purposes" under the statute means "the transportation of persons or property for compensation or hire …"

Currently, Miami-Dade County has chosen to provide trauma transport services by air to its residents, and funds these services through the collection of taxes from its residents. Such

air trauma transport operations may qualify as public aircraft operations under the statute if all of the other requirements are met on each flight. However, if you collect the fees described in your letter, the money would be considered compensation under § 40125(a)(1), and the flights determined to be for a commercial purpose. The Bureau would no longer be providing the service as a government entity, but as a commercial vendor. Accordingly, the flights would not qualify as public aircraft operations, and the Bureau would be required to comply with the certification and operating rules of 14 CFR part 135.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Anne Bechdolt and Karen Petronis, of the Office of the Chief Counsel's Regulations Division, and was coordinated with the Air Transportation Division and General Aviation and Commercial Division of Flight Standards Service.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel, Regulations Division