



Appendix B

Contracting Guidelines



Central Yavapai Transit Implementation Plan Update



CYMPO
Central Yavapai Metropolitan
Planning Organization

N
NELSON
NYGAARD



Best Practices on Contracting Public Transit Services and Other Considerations for CYMPO

Overview

- Contracting out private sector providers to execute a variety of functions is a common practice in the transit industry. According to a study published by the U.S. Government Accountability Office (GAO), approximately 60% of transit agencies in the country contract all or some operations and services.¹
- Agencies commonly contract out some, all, or a selection of the following functions: service planning, transit service operations, infrastructure maintenance, and non-operating ancillary services (e.g., station cleaning and security).²
- A review of various transit agencies' experiences contracting out helps identify situations in which contracting out has proven most successful, including:³
 - Improving inefficient services, such as transit lines that may be subject to elimination due to high operating costs, low ridership, or both;
 - Implementing new special services, such as peak-period commuter bus lines;
 - Testing new lines, which provides transit agencies with flexibility to assess and make adjustments before committing to operate the service long-term;
 - Launching new lines, expanded service, or an entire agency when a public agency does not have in-house transit resources or expertise.
- Conversely, situations in which contracting service has proven less useful include:⁴
 - When agencies try to take advantage of the wage gap between private and public sectors and allow substantially lower wages and benefits for private-sector drivers;
 - When agencies focus on the short-term reduction in service provisions cost and overlook/underestimate other essential costs associated with contracting out, such as procurement, negotiating contracts, monitoring contracts, enforcing penalties, etc.;
 - When well-utilized, regular in-house bus service is transferred to the private sector, more so if that service is being efficiently delivered by public-sector employees;
 - When there are an inadequate number of potential private contractors to bid on service contracts.

¹ Transit Agencies' Use of Contracting to Provide Service; GAO; 2013

² A Bid for Better Transit; TransitCenter & Eno; 2017

³ Contracting for Public Transit Services; Evaluating the Tradeoffs; Frick, Taylor, Wachs; 2006

⁴ Ibid



Preparation

- Transit agencies' first considerations ought to be defining a clear vision for the project/service in question, including their priorities in relation to key objectives they are aiming for and the values/principles they want to uphold.
 - 'Objectives' may be improving coverage geographically, temporally, or to target populations, improving service quality, improving cost-efficiency, testing new service models, etc.;
 - 'Principles' may be providing equitable wages and benefits to private sector drivers, ensuring equivalent levels of service for various disadvantaged populations, demanding primary data sharing, etc.
- Another crucial step is conducting a marketplace assessment of the project in mind by talking to various providers and peer agencies offering similar services. The aim is to develop a more nuanced understanding of what the private sector can offer, at what costs, and what provisions are needed in procurement and implementation to ensure project success.
- The final preliminary step is conducting an overall feasibility analysis of the project, considering the project lifetime costs both to compensate the private provider and to manage the contract internally, as well as the availability of funding sources needed to cover those costs.

Contracting Principles

- One of the purported benefits of contracting is that it encourages competition, and through this competition the cost of services is minimized. The ability of transit agencies to attract multiple bids to their RFPs reflects a variety of factors. Competition can be encouraged by:
 - Private providers are driven by profit; as such, successful requests for proposals and similar procurement and contracting vehicles seek to achieve clear alignment between the agency's policy goals and overall vision for the project with the provider's profit drive through clearly articulated contract goals and specific performance standards.
 - Issuing relatively short contracts with options for renewal. Contracts (services) that have a record of changing hands are more likely to attract competitors than contracts that have long standing relationships with a single service provider.
- Establish strong monitoring and oversight protocols through project preparation and implementation. The aim is not to micromanage the agency's contractor, but rather, to build a clear framework that facilitates collaboration and cultivates contractors as allies in serving the public interest leveraging their broader experiences and skills.

Contract Terms

- Contract lengths and renewal terms vary significantly throughout the country. However, CUTR recommends: "*To foster competition, a traditional three-year contract with two 1-year renewals appears to be long enough to avoid repeated*



transaction costs that occur with frequent rebidding, yet short enough to ensure that contractor complacency does not develop.”⁵

- Different agencies use different styles, templates and structures for their contracts. Some use contracts that are very short (5-6 pages) and reference terms and provisions provided in other documents. Other contracts include all relevant information in a single, much longer document. While the organization and structure of each contract is different, there are many similarities. These reflect federal requirements imposed on any contract involving federal funds as well as practices that have evolved out of agencies’ operations over time.⁶ In general, these common practices include:
 - Staff – Most contracts specify that the contractors will engage existing transit operating personnel. Contractors are responsible for recruiting, hiring, and training any new staff. Most contracts also specify training requirements, especially for drivers but also for maintenance staff.
 - Vehicles – For most services, agencies provide vehicles and the contractors are responsible for vehicle maintenance, including preventative maintenance. But, there are also examples where the contractor is expected to provide the vehicles. This is easier to do if vehicles have a useful life that is in line with the contract term, such as cutaway buses, accessible vans and other small buses.
 - Vehicle Maintenance – Most contracts require a vehicle maintenance program and/or specify maintenance. This approach creates a more seamless approach to operations because the organization responsible for having buses on the road is also responsible for keeping vehicles ready. An exception may be made for heavy or periodic maintenance work. CYMPO may wish to engage local Department of Public Works (DPW) staff to inspect vehicles and conduct heavy maintenance work.
 - Facilities – Most agencies provide administrative, maintenance and vehicle storage facilities. Contractors are responsible for the maintenance of these facilities. CYMPO may be able to arrange to facilitate a sharing agreement where the contractor shares space with a local DPW facility.
 - Insurance – Agencies typically require the management team to obtain and maintain a variety of different types of insurance. Contracts almost always specify the amounts and types in the contract document.
 - Safety – Contractors are responsible for ensuring all employees, including drivers, adhere to safety standards, including safety and accident prevention and maintaining safety records.
 - Reporting – Contracts specify requirements associated with submitting management, performance and other reports.

⁵ Analysis of Contracting for Fixed Route Bus Service; CUTR; 2011.

⁶ Federally required contract clauses include provisions associated with energy conservation, clean water, anti-lobbying, access to records, clean air, no obligation by the Federal Government, program fraud and false or fraudulent statements, civil rights, disadvantaged business enterprises, ADA, etc.



- Consulting and Technical Assistance – Nearly all contracts look to their management team to provide ad hoc consulting and technical services. Most of these costs are included contract management fees, but some agencies pay additional fees to have special technical services provided on an as needed basis.
- Most fixed-route contracts pay a management fee to the contractor that includes salaries for a management team, plus a fee or profit to the operating company. As a percentage of total contract costs, management fees average approximately 4%. Numbers varying to a significant extent according to system size, with larger systems generally having lower percentages as a percent of total costs, and smaller systems having higher percentages.
- Nearly all contracts for fixed-route service include some measures to limit cost escalation over time. The most common of which is a prohibition on the hiring of additional personnel without direct approval from the agency. Several contracts also include provisions against substantially increasing pay rates without approval from the agency. Other terms limit the amount of overhead hours.
- Contracts for demand-response services are more likely to include incentives for cost saving than fixed-route contracts. With demand-response service the relationships between service costs and productivity are more direct because higher rates of passengers per vehicle service hour almost always means more trips are grouped and rides are shared, which lowers service costs. Consequently, several of the contracts specify goals or requirements for the number of passengers carried per vehicle hour.

References

1. A Bid for Better Transit; TransitCenter & Eno; 2017
2. Best Practices Procurement & Lessons Learned Manual; FTA; 2016
3. Analysis of Transit Contracting Models and Proper Incentives for Long-Term Success; NCTR; 2013
4. Third Party Contracting Guidance; FTA; 2013
5. Transit Agencies' Use of Contracting to Provide Service, GAO, 2013
6. The Process of Transit Procurement; APTA; 2013
7. Analysis of Contracting for Fixed Route Bus Service; CUTR; 2011.
8. Contracting for Public Transit Services; Evaluating the Tradeoffs; Frick, Taylor, Wachs; 2006
9. Special Report 258, Contracting for Bus and Demand Responsive Transit Services; TRB; 2001.