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A Bid for Better Transit

Improving service with contracted operations

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September 2017

Acknowledgments

A Bid for Better Transit was written by Stephanie Lotshaw, Paul Lewis, David Bragdon, and Zak Accuardi. The authors thank Emily Han, Joshua Schank (now at LA Metro), and Rob Puentes of the Eno Center for their contributions to this paper's research and writing. This report would not be possible without the dozens of case study interviewees who contributed their time and knowledge to the study and reviewed the report's case studies (see report appendices). The authors are also indebted to Don Cohen, Didier van de Velde, Darnell Grisby, Neil Smith, Kent Woodman, Dottie Watkins, Ed Wytkind, and Jeff Pavlak for their detailed and insightful comments during peer review. Thanks are also owed to Steven Higashide, Tabitha Decker, and Jon Orcutt of TransitCenter for their comments on later report drafts. Any errors in the report's final text belong to the Eno Center for Transportation and TransitCenter alone.

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Executive Summary

Service contracting is a tool that government can use to improve transit service quality for riders and better position transit agencies to succeed in today's dynamic transportation industry. Public agencies must strongly align the private sector's profit motive with the public sector's goals in order to unlock this potential using financial incentives in contracts and market competition during the bidding process. Public officials and transit agencies who identify this opportunity and use it to advance their long-term goals will have a powerful strategy at their disposal to improve transit for the communities who rely on it.

Contracting does not inherently yield better or worse transit service, and contracting is not "privatization." A litany of government-managed and government-funded services are delivered by private-sector contractors working for the government, according to contracts that the government has written to hold private companies accountable for delivering those services. Clear accountability and public oversight, effective management, and carefully designed incentives differentiate the most successful contracting regimes from their less successful counterparts.

It is essential that public-sector leaders pursue contracting strategically as a means to further the public interest, without assuming that contracting automatically leads to better service quality or lower cost. Cities and countries where transit contracting is most effective tend to have strong labor protections in place that ensure wages, benefits, and employment are preserved through changes in the contracted operator. Poorly written or otherwise ill-conceived contracts can lock public agencies into bad contracts that erode the status quo and miss opportunities for improvements.

Contracting implementation presents an opportunity not only to improve quality of service, but to rethink the fundamental responsibilities of the transit agency itself. Agency leaders are hungry for new ways to respond to changing demographics, emerging technologies, and unpredictable political dynamics. Contracting can help strengthen the industry's footing when used strategically to address these issues and create structural changes.

Contracting is best supported by management structures that are different from the US transit industry's typical, vertically integrated, government-operated model. Changing the traditional operating model is challenging, but several of this report's cases show that strong political leadership, good management, and a commitment to improved transit service quality—not a focus on cost-cutting—can lead to progress. In this report, TransitCenter and the Eno Center for Transportation present six case studies—three in Europe (London, Stockholm, and Oslo) and three in North America (New Orleans, Vancouver, and Los Angeles). The research team interviewed more than 70 expert stakeholders from these cities' transit agencies, city and regional governments, private contractors, researchers, advocates, and labor unions in order to tell these stories.

From these case studies' common lessons and themes, the report concludes that effective contracting depends on applying three key lessons learned:

The first lesson is that **government cannot contract out the public interest.** Government is uniquely positioned to prioritize high-quality, affordable, equitable, sustainable, and safe transit access to its citizens. While transit is publicly subsidized around the world to meet these goals, private companies must strive for profitability—a fundamentally different operating model. Labor protections in place at the national level provide foundational ground rules for contracting in all three European case studies. Cases in New Orleans and Los Angeles show that successful contracting requires a clear vision and articulation of the public sector's goals as well as the agency expertise required to manage large, complex contracts. Finally, particularly savvy local government leaders can leverage contracting as a strategic opportunity to facilitate more transformational governance change, as agencies in Oslo, Stockholm, and London did. Contracting should be designed to expand, rather than constrain, government's ability to advance the public interest.

The second lesson is that **clear contracts can align contractors' profit motive with agency goals.** Public agencies that contract must clearly articulate their goals and set specific performance standards for private contractors to meet when those contractors seek to profit from public investments. Cases in London, New Orleans, and Los Angeles demonstrate the importance of learning from peer agencies and refining contracts over multiple iterations. London's use of excess wait time to evaluate bus route reliability and Los Angeles' use of Vision Zero–related contract incentives are examples of aligning agency goals with strong and measurable performance metrics. Vancouver's Canada Line contract shows the importance of preserving operational flexibility within the contract itself. Each case study also reflects various context-specific approaches to defining contract-term length, asset ownership structures, and the overall structure of the contracting relationship.

The third lesson is that **symbiotic agency-contractor relationships can improve operations and foster innovation.** While strong public oversight is a precondition for successful contracting, contractors should also be cultivated as allies in serving the public interest. Agencies in Oslo and Los Angeles show the value of engaging contractors on strategic issues, not just operations, especially because contractors can bring valuable knowledge from the other cities in which they work. The Stockholm case provides an example of an agency setting clear expectations around how the agency will assess financial bonuses and penalties, which is part of fostering a mutually respectful, professional relationship. Stockholm also presents one of the clearest cases of staffing changes intended to complement contractor skills—staffing changes that can enable agencies to focus more on policy and planning to benefit their riders while contractors serve as the agency's "eyes and ears" in daily operations.

This report presents key operational and strategic insights throughout the six case studies and summarizes those insights in a checklist of concrete actions that city and regional government leaders should take when contracting for private service operations. Contracting out effectively is hard work requiring specialized skills, but transit agencies that internalize and heed this report's recommendations will gain powerful management strategies—and transit riders will be the key beneficiaries.

Introduction

Across the United States, public transportation systems are under strain. After years of steady increases in ridership in many cities and metropolitan areas, passenger counts are declining almost everywhere.[1] At the same time, transit is more vital than ever to creating vibrant, inclusive, and efficient cities in the face of increasing congestion, economic inequality, and policies that prioritize cars above all other transportation modes.

Several major barriers stand in the way of improving transit service quality for the riding public. US transit agencies' governance structures are diverse and often guided more by politics than by good governance practice.[2] Many outdated planning and engineering practices are preserved in longstanding management hierarchies. Public funding for transit operations has grown increasingly scarce in most parts of the country, with the US federal government threatening to cut existing funding streams. Meanwhile, emerging mobility options like Uber and Lyft, bikeshare, private on-demand transit services, and carsharing services (not to mention the prospect of automated vehicles) create new uncertainty for the industry. To respond to these daunting challenges, public-sector transit providers across the United States are increasingly looking for ways to better serve their riders while working within tight budgets.

One strategy with the potential to improve transit service quality for riders has been hiding in plain sight: contracting with private transportation companies, rather than strictly hiring public agency employees, to operate buses and trains. Service contracting via competitive tendering differs substantially from the US transit industry's typical approach during the past fifty years. Most American transit agencies—unlike many of their counterparts in Europe and Asia—directly operate fixed-route transit services with their own

1 Laura Bliss, "What's Behind Declining Transit Ridership Nationwide?" **CityLab**, February 24, 2017, https://www.citylab.com/transportation/2017/02/whats-behind-declining-transit-ridership-nationwide/517701/.

2 Joshua Schank, Paul Lewis, Marla Westervelt, Pamela Shepherd, Emil Frankel, Benton Heimsath, and David Bragdon, **Getting to the Route of It: The Role of Governance in Regional Transit**, Eno Center for Transportation and TransitCenter, 2014, http://transitcenter.org/wp-content/uploads/2014/08/Transit-Governance-Final-PDF-10_7_14.pdf.

employees, using equipment procured and owned by the agency. Achieving service-quality improvements through contracting requires hard work, new management structures, and new agency competencies in order to avoid a contracted system that increases costs and reduces operational flexibility and service quality.

Several factors may lead agencies to pursue service contracting. Financial incentives memorialized in contracts and market competition during the bidding process can enable significant operational performance improvements. Contracting can pair well with governance change and help an agency focus on policy and planning rather than the nuts and bolts of operations. An experienced contractor can bring new expertise to a given region from work conducted by the same contractor (and its staff) elsewhere. A well-written contract can also introduce discipline and accountability into the operator-management relationship, regardless of whether the operator is private or public.

"Achieving service quality improvements through contracting requires hard work, new management structures, and new agency competencies."

While competitive tendering can also yield cost-efficiency improvements in the short- and long-term, lowering costs should not be an agency's primary goal when approaching contracting. If implemented carefully, competitive contracting for transit operations can improve operational performance and support agency cost-efficiency while preserving essential labor protections. Contracting can also provide an opportunity for labor leaders to update working conditions and challenge outdated assumptions about work rules, depending on pre-existing labor conditions.

"Lowering costs should not be an agency's primary goal when approaching contracting."

Despite these appeals, competitively tendering public transportation services is complex and controversial. The experiences in North America and Europe presented in this report demonstrate that contracting's potential benefits are only likely to materialize when it is implemented in a careful, strategic, and context-appropriate way. It also shows a few of the potential pitfalls of bad contracting practice. Devising poor contracts, chasing the lowest bidder, and undercutting workers can leave an agency and its riders with substandard, overpriced service. It might also create an upheaval for the workers whose skills are essential to delivering high-quality service.

This report explains how and under what circumstances agencies can implement competitive contracting effectively to yield improved service for riders. Previous studies on contracting have focused on the potential savings, which are real but vary

substantially according to the efficiency of public operations beforehand, the labor market, and the quality of the contract itself. The analysis and case studies presented in this report review the other benefits, drawbacks, and implementation strategies.

A Bid for Better Transit: Improving service with contracted operations adds nuance for agencies considering contracting by exploring its use as a tool to address fundamental issues related to implementing good governance and management practices. For agencies that do not contract out their core operations, understanding *why* and *how* contracting can improve service quality will help agency leaders better understand the importance of incentives and performance metrics in driving service improvements, even within a vertically integrated management system.

The Eno Center for Transportation and TransitCenter set out to uncover the state of the practice through six case studies in North America and Europe. Drawing on these case studies, we identify effective strategies for contracting out transit service operations, the potential benefits and pitfalls of contracting, and existing barriers to implementation. We then synthesize these lessons in a checklist of concrete actions for contracting agencies.

Our research confirms that—when implemented carefully—competitive contracting can yield improved transit service and other innovations that benefit the riding public. These benefits will be fully realized when elected leaders, transit officials, and other stakeholders work to understand and implement contracting in a strategic, context-appropriate way.

Skilled, satisfied workers are an essential ingredient of good transit service

Perhaps the most controversial and complex aspects of competitive contracting for transit service are related to the relationship between labor and management. Salaries and benefits for the people who operate and maintain transit vehicles are typically agencies' single largest operating expense, comprising more than 60 percent of a transit agency's operating budget on average in the US.[3]

These workers have typically arrived at their contracts through collective bargaining and exercising their rights to organize. Their contracts set wage and benefit levels and define work rules that provide stability to workers while constraining agencies' operating practices. Bus drivers, train operators, and other rider-facing personnel are transit's link to the riding public on a day-to-day basis. The professional experience and expertise of these employees are also essential in keeping transit equipment, property, and the public safe. Maintaining a satisfied and well-trained transit workforce is a precondition to improving the transit experience for the riding public.

Contractors often share an interest in retaining and further developing the existing workforce. Private companies submitting service-operation proposals commonly base their pricing proposals on existing wage and benefit structures, and also seek to retain a workforce that is familiar with the transit system's routes, vehicles, and maintenance requirements.

The workforce can benefit from competitive tendering as well. To the extent that contracting out improves service and/or reduces agency operating costs, it can also enable agencies to add new service and hire more staff—outcomes that may not be possible in cases where agencies are not positioned to succeed. Depending on pre-existing labor conditions, contracting can also lead to the provision of additional benefits and improved working conditions.

Many European examples prove that competitive tendering and protecting workers' rights are not mutually exclusive, but those examples—as in this report—tend to reflect strong labor protections enacted in national laws, many of which are absent in the US. The agencies from London, Stockholm, and Oslo profiled in this report contract with private operating companies. Each maintains high levels of customer service and efficiency while employing unionized and highly experienced drivers, mechanics, and other personnel. Indeed, in those cities, improved operational performance often correlates with healthy labor-management relationships, rather than acrimonious or exploitative ones.

3 American Public Transportation Association, "Table 23: Operating Expense by Mode and Object Class, Millions of Dollars, Report Year 2013," 2015 Public Transportation Fact Book, 2015, https://www.apta.com/resources/statistics/Documents/FactBook/2015-APTA-Fact-Book.pdf.

Background

Service contracting is used by public-sector agencies to procure the services of a private firm through a competitive bidding process.[4] Typically a transit agency issues a request for proposals (RFP) to operate a specific service (or group of services) for a set timeline. It then selects one or more private firms out of a field of multiple bidders, based on a weighted evaluation of competing firms' technical qualifications, proposed operations approaches, and price. Once an agency selects an operator, it works with the winning firm to finalize a formal contract and performs oversight duties during the length of the agreement.[5]

Contracting can be applied to various transit functions, such as operations, maintenance, or administration.[6] Agencies can choose which functions to contract out, including some, all, or a selection of the following:

- **Transit operation:** Operating vehicles, maintaining fleets, managing operators, and other tasks directly related to the provision of transit services.
- **Infrastructure maintenance:** The maintenance of rail track infrastructure, stations, or other buildings associated with the operation of public transit.
- **Ancillary services:** Non-operating tasks such as station cleaning and security.
- **Service planning:** Could include scheduling, route design, stop placement, and other factors. This can be applied to a specific route or a selected network of routes, with proposed service plans subject to agency approval.

4 Janet L. Davis and Stephan R. Reich, **Analysis of Transit Contracting Models and Proper Incentives for Long-Term Success**, National Center for Transit Research, University of South Florida, 2013, http://www.nctr.usf.edu/wp-content/uploads/2014/02/77952.pdf.

5 Transportation Research Board, Committee for a Study of Contracting Out Transit Services, **Contracting for Bus and Demand-Responsive Transit Services: A Survey of U.S. Practice and Experience**, Special Report 258, (Washington, DC: National Academy Press, 2001), http://onlinepubs.trb.org/onlinepubs/sr/sr258.pdf.

6 US Government Accountability Office, **Public Transit: Transit Agencies' Use of Contracting to Provide Service**, GAO-13-782, 2013, https://www.gao.gov/assets/660/658171.pdf.

While there are instances where the following duties have been contracted out in full or in part to private firms, these duties are more typically reserved for the public agency itself to manage directly:

- **Long-range transit planning:** Long-term planning for capital investments and implementing transit services in order to meet the stated mobility goals. The range of this planning depends on the extent of the transit network.
- **Capital planning:** A subset of long-range transit planning, including the development of transit infrastructure projects such as stations or rail lines. These projects are intended help accomplish mobility goals.
- **Contract oversight:** Administrative duties involved with overseeing transit operations, such as monitoring service performance.

Contracts for any of these functions generally contain a number of detailed provisions that determine contracts' efficacy. These provisions likely include definitions for the respective responsibilities of the contracting parties, performance evaluation criteria (including specific performance metrics), payment structure, asset ownership, labor union engagement, and contract duration, among others.[7]

American Experience

The history and use of private contracting varies across America. In the early half of the twentieth century, American public transit was a for-profit enterprise.[8] Firms operated trains, streetcars, subways, and buses in order to provide a financial return to their investors.[9] While many private firms enjoyed exclusive rights to their routes and fares were often set by public officials, their investment capital and operating funds were often privately generated, the latter primarily from fares and sometimes from property revenues. Gradually—and for a variety of reasons—these firms proved to be financially unviable, and transit ultimately became a service provided by the public sector.[10]

7 Davis and Reich, **Analysis of Transit Contracting Models**.
8 See, e.g.: Robert C. Post, **Urban Mass Transit: The Life Story of a Technology** (Westport, CT: Greenwood Publishing Group, 2007).
9 Transportation Research Board, **Contracting for Bus and Demand-Responsive Transit Services**.
10 David W. Jones, **Mass Motorization and Mass Transit: An American History and Policy Analysis** (Bloomington, IN: Indiana University Press, 2008).

Calling contracting what it is

A competitively bid contract is just that: a contract. It is a method for a government agency to procure a private company's services with tax dollars, rather than that government agency using tax dollars to deliver those services itself. A service contract is not a "partnership"—when two parties pool capital and share risk—nor is it "privatization," in which a previously taxpayer-supported service is instead shifted to operation and ownership by for-profit companies with financial support only from private investors and customers.

A service contract is a binding legal agreement between a government agency and a private company, using public dollars intended to serve the public interest. The tendering, evaluation, award, and oversight of that contract should be transparent in light of transit agencies' imperative to be accountable to taxpayers. To contract effectively, agencies must align private companies' profit motive with the public interest in providing quality service to transit riders.

Under public ownership, public transit in the US faced several challenges. As transit services changed from private to public hands, costs grew rapidly: between 1950 and 1980, inflation-adjusted operating costs rose 183 percent.[11] Meanwhile, transit ridership dropped by 50 percent during that time as the number of automobiles in operation tripled.[12] Coupled with a range of public policies that facilitated sprawling, low-density real estate development and the construction of the Interstate Highway System, public transit became increasingly inefficient and uncompetitive with the private automobile.[13]

To reduce the growing federal costs of providing public transit (along with other initiatives to reduce federal spending) President Ronald Reagan's administration developed policies to encourage contracting out transit operations, maintenance, and administration. The stated intent was to spur competition and prompt "public agencies to make their own in-house services more efficient and responsive to customer needs."[14] The Urban Mass Transportation Administration linked funding to private-sector activity and published reports supporting the concept of service contracting."[15] As federal spending on transit operations fell from 22 percent of agencies' budgets in 1980 to 7 percent in 1984, many localities turned to contractors in hopes of reducing costs under tight budgets.[16] During this time, several states—including

11 Costs are inflation-adjusted per revenue bus-hour. See: Songju Kim, "The Effects of Fixed-Route Transit Service Contracting on Labor" (PhD diss., University of California, Berkeley, 2005), http://escholarship.org/uc/item/4mc5829j#page-1.

12 American Transit Association, **Transit Fact Book 1951** (New York: American Transit Association, 1951), http://www.apta.com/resources/statistics/Documents/FactBook/APTA-1951-Transit-Fact-Book.pdf. American Public Transit Association, **Transit Fact Book 1981** (Washington, DC: American Public Transit Association, 1981), http://www.apta.com/resources/statistics/Documents/FactBook/APTA-1981-Transit_Fact_Book.pdf. Stacy C. Davis, Susan W. Diegel, and Robert G. Boundy, **Transportation Energy Data Book: Edition 35** (Oak Ridge, TN: Center for Transportation Analysis, Oak Ridge National Laboratory, 2016), http://cta.ornl.gov/data/index.shtml.

13 See, e.g.: Wim Wiewel and Joseph J. Persky, **Suburban Sprawl: Private Decisions and Public Policy** (Abingdon, UK: Routledge, 2002). Robert W. Burchell et al., **Costs of Sprawl—2000**, Transportation Research Board, 2002, http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_74-a.pdf.

14 Transportation Research Board, **Contracting for Bus and Demand-Responsive Transit Services**.

15 Ibid.

16 Kim, "The Effects of Fixed-Route Transit Service Contracting on Labor."

New York, Texas, Colorado, and Connecticut—passed legislation encouraging private-sector participation. Massachusetts attempted to circumvent resistance from organized labor by prohibiting unions from discussing contracting during compensation negotiations.[17] California gave state funding priority to agencies that contracted.[18]

Despite these incentives, resistance to contracting grew. As contracting initiatives increased throughout the 1980s and 1990s, many experiments failed, rife with frequent contract negotiations and terminations before the terms ended.[19] These incidents caught national attention, and most agencies decided to keep core services in-house.

The passage of the Americans with Disabilities Act (ADA) in 1990 was an important moment for contracting. The ADA requires transit agencies to provide equivalent service for people physically unable to use standard bus and rail systems. To adhere to the mandate, many agencies turned to the private sector to provide demand-response (DR) transportation (mostly with vans and smaller-sized buses) rather than incurring the high costs of developing and operating such a service in-house.[20] While DR operations typically carry only three percent of transit riders, the services consume 14 percent of operating costs for the ten largest transit agencies and 18 percent for other transit agencies.[21] Today, DR comprises more than 60 percent of all transit service contracts in the US.[22]

"Today, demand-response comprises more than 60 percent of all transit service contracts in the US contracting."

17 Diane Quigley, Stephen L. Reich, and Janet L. Davis, **Analysis of Contracting for Fixed Route Bus Service**, National Center for Transit Research, University of South Florida, 2011, https://www.nctr.usf.edu/wp-content/uploads/2011/08/77923.pdf.

18 Transportation Research Board, **Contracting for Bus and Demand-Responsive Transit Services**. Quigley et al., **Analysis of Contracting for Fixed Route Bus Service**. William McCullough, Brian Taylor, and Martin Wachs, **Transit Service Contracting and Cost Efficiency,** University of California Transportation Center, 1998, http://escholarship.org/uc/item/1x1048tt#page-1.

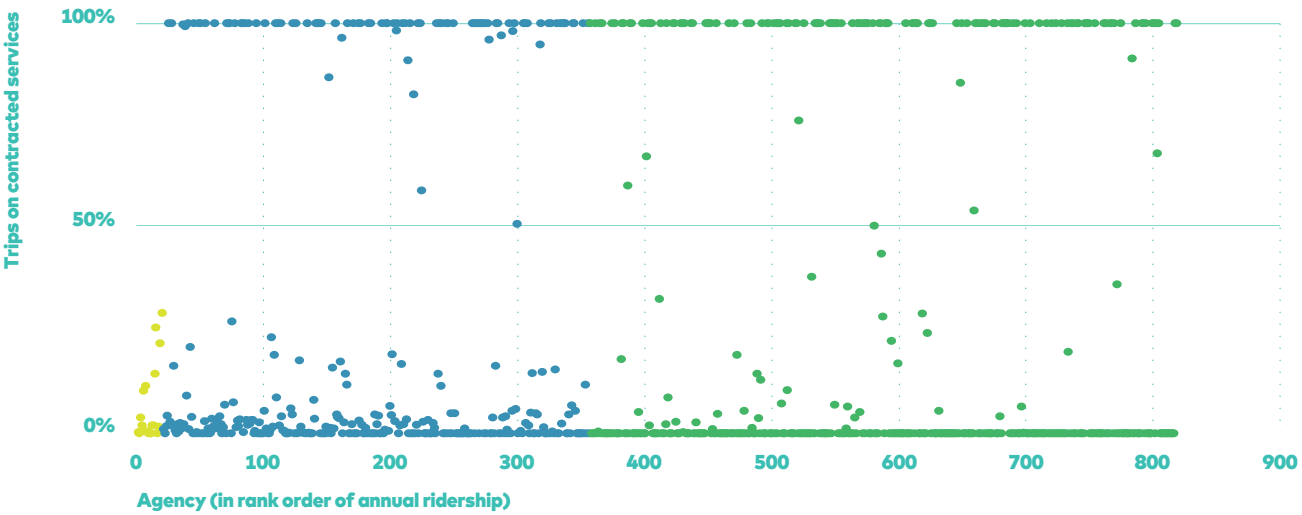
19 José A. Gómez-Ibáñez, **Regulating Infrastructure: Monopoly, Contracts, and Discretion** (Cambridge, MA: Harvard University Press, 2003).

20 James B. McDaniel et al., **Impact of the Americans with Disabilities Act on Transit Operations**, Transit Cooperative Research Program, Transportation Research Board, 2003, http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_lrd_19.pdf.

21 US Government Accountability Office, **ADA Paratransit Services: Demand Has Increased, but Little is Known about Compliance**, GAO-13-17, 2012, http://www.gao.gov/products/GAO-13-17.

22 Eno Center for Transportation analysis of the 2015 **National Transit Database**.

Figure 1:
Percentage of Trips on Contracted Services, 2015



Source: Adapted from the 2015 Operating Expenses Database, National Transit Database, Federal Transit Administration, https://www.transit.dot.gov/ntd/data-product/2015-annual-database-operating-expense.

Cost efficiency is a challenge for the entire industry, not just for DR service. New research shows that cost increases in the transit industry have outpaced labor productivity improvements as measured by cost per revenue service hour. The overall cost of bus service increased rapidly from 1997 to 2014, at an annual rate of 3.5 percent, compared with a 2.1 percent rate of inflation during the same time period.[23] Cost increases are a challenge for the industry and do not necessarily reflect operational inefficiency.

Figure 1 shows that in the United States, contracting is usually an all-or-nothing undertaking. Among the 817 agencies that report service data to the Federal Transit Administration (FTA), 411 do not contract at all.[24] The remaining 50 percent is nearly evenly split between those that contract all of their services (205 agencies) and those that contract only a portion (201 agencies). Among agencies in the latter category, the share of their riders served by private providers is generally less than 10 percent. When agencies contract for a portion of their service, it is often for low-ridership bus routes and/or paratransit services.[25]

"When agencies contract for a portion of their service, it is often for low-ridership bus routes and/or para-transit services."

23 Javier Morales Sarriera, Frederick P. Salvucci, and Jinhua Zhao, "What Drives the Costs of Transit Operations? Implications of Labor Productivity, Contracting Out, and Unionization" (paper presented at the Transportation Research Board in Washington, DC, in 2017), http://docs.trb.org/prp/17-02927.pdf.

24 Federal Transit Administration, **National Transit Database**, 2015, https://www.transit.dot.gov/ntd.

25 Transportation Research Board, **Contracting for Bus and Demand-Responsive Transit Services**.

Agencies may more easily implement contracting when launching new services, which is typically less politically contentious than converting a publicly operated service to a contracted one. All of the 18 new commuter rail services launched since the 1980s use private contractors for operations.[26] New bus routes are also being contracted, such as the Washington, D.C. Circulator bus routes that were launched in 2005 to provide bus service to neighborhoods not well served by that city's existing underground rail network.[27]

Contracting enables agencies to access additional expertise and resources from the private sector that would not be available to conventional in-house operations.[28] This can be particularly useful when an agency is deploying new services, for instance when the City of Los Angeles, which at the time did not operate any public transportation, opted to launch its DASH network as a contracted service rather than an in-house operation. The Nashville Regional Transportation Authority has contracted out its commuter rail service since it began operation in 2006. These agencies decided to use contractors because they lacked sufficient in-house expertise to directly manage transit operations, and in Nashville's case did not have facilities for storing and maintaining vehicles.[29]

International Experience

The use of private contractors to operate train and bus service on behalf of public agencies is more common in other developed nations than in the United States, particularly in Europe and Australia. Similar to the American experience, most transit services in Europe were originally operated by private companies and later absorbed

26 Gwen Chisholm-Smith, Transit Cooperative Research Program, Transportation Research Board, "Contracting Commuter Rail Services," **Research Results Digest** 112 (2016), https://www.nap.edu/read/23642/chapter/1.

27 Errol Noel, Stephen Arhin, and Janet Thomas, **Long-Term Trends in Patron Satisfaction of DC Circulator**, Mineta National Transportation Research Consortium Report 12-09, 2013, http://transweb.sjsu.edu/PDFs/research/1138-DC-Circulator-user-satisfaction-trends.pdf.

28 Organisation for Economic Co-operation and Development, **Methods for Allocating Contracts for the Provision of Regional and Local Transportation Services**, 2013, http://www.oecd.org/daf/competition/ContractAllocationforLocalTransportation.pdf.

29 US Government Accountability Office, **Transit Agencies' Use of Contracting to Provide Service**.

by the public sector after encountering financial challenges. However, competitive tendering for transit increasingly emerged in Europe as an option for providing core services. Different places have pursued contracting in different ways: London tenders each route independently, Oslo tenders a series of routes at a time, and Stockholm tenders out service within neighborhoods.

Europe's foray into transit contracting began with London Transport's competitive tendering of its bus routes in the 1980s, spurred by Prime Minister Margaret Thatcher in part to reduce labor unions' power.[30] Other countries in Europe started to pursue competitive tendering shortly after: Sweden in 1988, Denmark in 1990, and Norway in 1994.[31]

Much of the existing research on European cases focuses on the potential for cost savings from reduced labor expenses, increased vehicle utilization, and fewer middle management staff. However, cost-saving outcomes are mixed. Existing case studies report a wide range of cost savings on initial contracts relative to a pre-contracting baseline—savings as much as 50 percent—but also cost increases in some cases.[32] Cost implications are highly dependent on the baseline cost—or in other words, how cost-efficiently service was provided prior to contracting. After an initial cost savings, costs can also increase over time for a variety of reasons. For example, the first decade (1986–1996) of contract tendering in Norway showed a 6 to 20 percent decrease in expenses, but more recent data show those trends reversed.[33] Second and third rounds of tendering (1997–2001) in Helsinki, Finland, resulted in cost increases between

"Cost implications are highly dependent on the baseline cost—or in other words, how cost-efficiently service was provided prior to contracting."

30 Didier van de Velde's comments on David A. Hensher et al., "Delivering Value for Money to Government through Efficient and Effective Public Transit Service Continuity: Some Thoughts," **Transport Reviews** 27, no. 4 (2007): 411–48, http://www.tandfonline.com/doi/abs/10.1080/01441640701192351.

31 James Wickham and Erich Latniak, "European Urban Public Transport: Towards a Single European Employment Model?" **Work Organisation, Labour & Globalisation** 4, no. 1 (2010): 160–74, http://www.tara.tcd.ie/handle/2262/56814.

32 John Stanley and David Hensher, "Why Touted Public Transport Savings from Competitive Tendering Are Too High," **The Conversation**, June 5, 2017, http://theconversation.com/why-touted-public-transport-savings-from-competitive-tendering-are-too-high-78527.

33 David A. Hensher and Ian P. Wallis, "Competitive Tendering as a Contracting Mechanism for Subsidizing Transport: The Bus Experience," **Journal of Transport Economics and Policy** 39, no. 3 (2005): 295–321, http://sydney.edu.au/business/__data/assets/pdf_file/0019/25561/hensher-wallis-2005.pdf.

10 and 18 percent.[34] Recent research also suggests that performance-based negotiation can lead to similar cost savings, particularly when paired with the "threat" of competitive tendering.[35]

Fully and objectively documenting the long-term potential cost savings from contracting is notoriously difficult. Reasons for service cost increases, for example, can include desirable factors, like improved service standards, or others that are unrelated to contracting, like tightened environmental regulations. Costs may also rise with general inflation. Contractors may also commit to unsustainably low bids in order to gain a foothold in a particular market and then seek an increased fee in subsequent contracting rounds. In part because of this complexity, it is hard to justify a shift to operations contracting on the basis of cost reductions alone.

Both the international and domestic examples illustrate the wide variety in how transit contracting is carried out. Understanding these different organizational models and approaches can provide a more complete picture of successful and failed endeavors. The case study section of this paper reviews six regions' successes, failures, and lessons learned from service contracting.

34 Ibid.

35 Massimo Filippini, Martin Koller, and Giuliano Masiero, "Competitive Tendering versus Performance-Based Negotiation in Swiss Public Transport," **Transportation Research Part A: Policy and Practice** 82 (2015): 158–68, https://doi.org/10.1016/j.tra.2015.09.007.

Federal law and operations contracting in the U.S.

Federal labor laws place limitations on transit contracting. Most notably, all mass transit systems that receive federal financial aid are subject to "13(c)" labor protection requirements (named for the section number in the Urban Mass Transit Act where the provision was found from 1966 to 1994).36 This law is intended to protect the rights of incumbent workers and applies whether the agency is contractinvg or using in-house employees for service operations. Section 13(c) was first enacted in 1964, when most urban bus companies were still privately owned. Bus company employees usually had good benefits and strong union representation. Public employees, meanwhile, were rarely unionized.

The purpose of section 13(c) was therefore to protect the benefits, working conditions, and collective bargaining rights of the unionized employees as they transitioned into the then–comparatively hostile public sector. The law applies equally to today's public-sector employees in cases where agencies may decide to contract out. Specifically, 13(c) requires all grants for federal mass transit funding assistance to include provisions protecting "the interests of employees affected by the assistance" that are determined by the Secretary of Labor to be "fair and equitable."

The statute says that the protections written into transit agreements are required to include:

- **The preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;**
- **The continuation of collective bargaining rights;**
- **The protection of individual employees against a worsening of their positions related to employment;**
- **Assurances of employment to employees of acquired public transportation systems;**
- **Assurances of priority of reemployment of employees whose employment is ended or who are laid off; and**
- **Paid training or retraining programs.**

The Labor Department has developed a standard protective arrangement for inclusion in mass transit grant agreements and has promulgated regulations explaining its procedures for assessing individual agreements to be negotiated between labor and transit agencies, or the private operator.[37] Agencies wishing to contract out transit services are not prohibited from doing so under federal law, but they must do so in compliance with 13(c).

36 The 13(c) provision is now codified at 49 U.S.C. §5333(b).
37 See: Title 29: Labor, CFR Part 215.

Case Studies in Transit Service Contracting

The core of this report consists of six case studies of public agencies that contract with private operators to provide core transit services. The research team interviewed stakeholders in each case study region on the use of contracting, its relation to service outcomes and agency governance structures, and the implementation process in order to understand best practices. This study focuses on service contracting specifically, which is fundamentally different from capital procurement or public-private partnerships with a financing component. While much of the existing contracting literature has focused on the potential for cost savings, these case studies focus on service-quality improvements for transit riders.

The research team selected six international and North American regions with a range of governance structures and contracting experiences from which to draw lessons for a diverse range of transit agencies in the US. Each of these regions—London (UK), Stockholm (Sweden), Oslo (Norway), New Orleans, Los Angeles, and Vancouver (Canada)—brings a unique perspective to transit contracting.

"European contracting experiences provide valuable lessons for US agencies"

European contracting experiences provide valuable lessons for US agencies, particularly in the ways governance and management practices were improved in order to complement contracting implementation. The three European examples also showcase diverse approaches to the scope and structure of service contracting. London contracts its bus services line by line, but Stockholm employs a unique form of competitive tendering in which the transit agency solicits bids by service area, delegating route planning and scheduling to the vendors. Oslo, with a metro area population of less than 2 million, recently created a new oversight agency responsible for managing service contractors. While Margaret Thatcher's government initially took a combative approach to dealing with the UK's unionized bus workforce, Stockholm and Oslo had a more collaborative method—but the strong national labor protections and social safety net present in each European case study represent an important contextual difference relative to the US.

The North American cases represent different approaches and environments, especially in contrast with the European cases: New Orleans is a transit system rebuilding and expanding service; Los Angeles is a large region with many different players; and California is a state where labor unions are politically strong, while Louisiana is less hospitable to organized labor. Vancouver's transit agency administers one prominent competitive contract but wields the authority to contract other services—helping to ensure that high service standards are maintained.

The research team traveled to each region and conducted more than 50 meetings with a wide range of high-level representatives and stakeholders from organizations such as:

- **Transit agencies**
- **Private operators**
- **Labor unions**
- **Rider advocacy groups**
- **City and county governments**
- **Federal or national transit administrations**
- **Metropolitan planning organizations**
- **Other regional authorities**
- **Independent researchers and academics**
- **Former transit and government officials with specific knowledge about the history and implementation of contracting in the specific region**

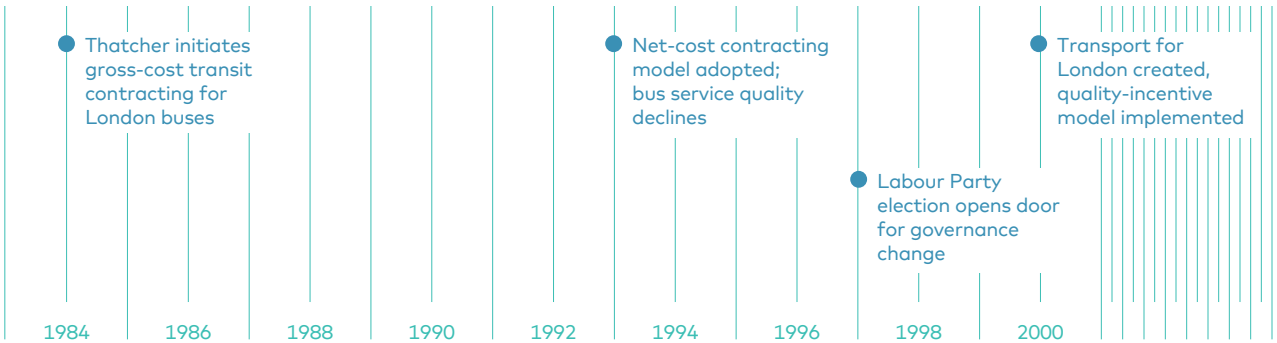
In each interview, the research team investigated major elements of service contracting as it pertained to the particular case. Conversations were "off the record" in order to allow interviewees to be candid in their experiences and insights. The findings in each case are based on consistent and credible information from multiple sources. These findings inform the report's lessons learned and core recommendations, which follow the case studies.


Oslo 3
2 Stockholm
1 London
5 Vancouver
Los Angeles 6
4 New Orleans

London:
From Ideological Cost-Cutting to Improving Service Quality

Through their decades-long experience, London transportation authorities have refined and honed their approach to contracting for transit operations. This practice has improved the quality of the metropolitan area's service and provides valuable lessons about labor-management relations, risk management, and appropriate private- and public-sector roles. The London transit network includes many modes, each with its own history and contractual model. The focus of this case study, however, is the urban bus network, given its long history and relatable lessons for the United States.

Timeline



Starting in 1984, London experimented with various forms of contracting, finally settling on the approach it uses today. Each phase of London's contracting experience—from its first politically motivated move to gross-cost contracting, then to its second attempt with revenue sharing via net-cost contracts, and finally to a performance bonus–oriented model in quality-incentive contracting—has valuable lessons (see Table 1 below). Initial rounds of contracting produced cost savings, but over time, operational costs have risen faster than inflation. At the same time, performance-based targets have greatly improved quality and increased demand, and the region has added more service, all factors that could contribute to increased costs. Using performance metrics to incentivize service improvements that are important to riders, such as minimizing excess wait time, has helped boost ridership on London's bus network by 69 percent since 2000.[38]

"Using performance metrics to incentivize service improvements has helped boost ridership on London's bus network by 69 percent since 2000."

38 Transport for London, "Annual passenger journeys on London's buses top 2.4 billion" (press release), May 14, 2014, https://tfl.gov.uk/info-for/media/press-releases/2014/may/annual-passenger-journeys-on-london-s-buses-top-2-4-billion.

Thatcher embarks on cost-cutting mission

For most of its history, the London municipal government operated urban mass transit in London with in-house employees. In 1984, Prime Minister Margaret Thatcher introduced the London Regional Transport Act as part of a wider national initiative to increase private-sector involvement in the provision of public services. This act transferred control of London Transport from the Greater London Council to a board appointed by the national government, which was obligated to contract out bus services, a practice it adopted gradually over a ten-year period.[39]

General concern over the state of public finances—particularly at London Transport, whose public contribution had increased from £6.5 million (US$7.9 million) in 1972 to £370 million (US$450 million) in 1982—made moving to a contracted model appealing to many.[40] Yet even with such escalating costs, resistance from organized labor might have been insurmountable without Prime Minister Thatcher's unrelenting push.

In light of concern over growing public subsidies, the initial purpose of introducing a contracted system was to lower costs. Initially, London Transport realized these savings by paying private concessionaires to run the bus service as instructed for a fixed fee (commonly known as a gross-cost contract), with penalties for poor operational performance. This switch reportedly saved London Transport an average of 16 percent on operating costs for the bus network.[41] As London Transport transitioned to the contracted model, the bus unions lost significant collective bargaining power and political might. Most notably, they lost the ability to bargain with the government and were forced to negotiate directly with the private companies. In addition to wages and jobs being cut, private operators procured vehicles that compromised on passenger comfort.

In the initial transition to contracting, London Transport staff was unaccustomed to procuring and managing contracts and stumbled frequently in managing private operators. The contracts did not establish financial incentives for quality service provision, and over time service quality fell.

39 David Kennedy, "London Bus Tendering: An Overview," Transport Reviews 15, no. 3 (1995): 253–64, http://dx.doi.org/10.1080/01441649508716915.

40 David Kennedy, "London Bus Tendering: A Welfare Balance," Transport Policy 2, no. 4 (1995): 243-49, https://doi.org/10.1016/0967-070X(95)00015-I.

41 Kennedy, "London Bus Tendering: An Overview."

A wrong turn on the path to effective contracting

London Transport changed its contracting approach in 1993. Intending to incentivize operators to provide better service with more opportunities for financial gain, net-cost contracts replaced the gross-cost model. As Table 1 describes, there are important structural differences between gross- and net-cost contracting models. While both can be amended to include performance standards, a "quality-incentive" contract in this framework is a modified form of gross-cost contracting. Table 1 also outlines the difference between area- and route-based contracting approaches.

Table 1:
Common Payment and Geographic Structures in Transit Contracting [42]

		Typical Contractor Role	Typical Agency Role	Risk Implications
Payment Structure	**Net-Cost**	Plan and operate service; retain fare revenue	Oversee contract and provide fixed subsidy; cover operator revenue shortfalls	Revenue risk assigned to operator
	Gross-Cost	Operate service for a fixed management fee and/or variable fee on basis of service provided	Oversee contract, plan service, collect fare revenue	Public agency assumes revenue risk
	Quality-Incentive	Similar to a gross-cost agreement but with financial bonuses for exceeding performance targets and/or penalties for underperforming	Oversee contract (including bonus and penalty administration)	Public agency assumes revenue risk
Geograhpic Structure	**Area Contract**	Plan service within relatively self-contained areas	Approve contractor service plans	More route control, and therefore risk, assigned to operator
	Route Contract	Operate service as planned by the agency, potentially including detailed scheduling	Plan and assign service levels to routes	Net-cost route contract assigns more risk to operator, while gross-cost route contract assigns more risk to agency

42 Partially adapted from: World Bank and Public Private Infrastructure Advisory Facility, **Urban Bus Toolkit: Tools and options for reforming urban bus systems**, 2011, https://ppiaf.org/sites/ppiaf.org/files/documents/toolkits/UrbanBusToolkit/assets/home.html.

While this model was supposed to incentivize high-quality service, the opposite happened. Under net-cost contracts, London Transport paid the operator a subsidy, if required, and operators retained the cash fares. (Any fares paid for with paper multi-ride passes were distributed among operators based on passenger-volume estimates gleaned from passenger surveys done by London Transport.) Operators took on revenue "risk": if they provided good service and grew ridership, they retained the profits, but they also could be subject to financial losses if ridership fell. Because the contracts rewarded only low costs and fare revenues, not high-quality service, contractors focused on providing cheap service to those who did not have many alternatives.

During the time net-cost contracts were administered (1993–1998), quality of service deteriorated, performance targets (such as on-time performance, safety standards, etc.) were not met, and private operators invested little in updating and improving the buses.[43] Furthermore, London Transport's passenger surveys were expensive to administer, and the resulting passenger counts were inconsistent, leading to significant under- or overestimation of payment to operators. It was very difficult for London Transport and operators to forecast how changes or additions to the system would affect ridership and revenues. This made the entire system risky and costly for both parties.

43 Transport for London, **London's Bus Contract and Tendering Process**, http://content.tfl.gov.uk/uploads/forms/lbsl-tendering-and-contracting.pdf.

Table 2:
Contracting for Public Transit in London

Name	Description	Operation	Ridership for 2014/2015 (millions)	Lines/routes in operation
Underground	Subway rail network	Transport for London	1,305	11 lines
Overground	Regional rail network	Single private concession, Arriva UK Trains Ltd.	139.8	6 routes
Bus	Urban bus network	Line-by-line concession, over 16 different operators	2,385	675 routes
Docklands Light Rail	Urban light rail network	Single private concession, KeolisAmey Docklands Ltd.	110.2	5 routes
Croydon Tramlink	Suburban light rail network	Single private concession, FirstGroup	30.9	4 routes

Sources: Transport for London, "Travel in London reports," https://tfl.gov.uk/corporate/publications-and-reports/travel-in-london-reports; "Quarterly High Frequency Excess Waiting Time," content.tfl.gov.uk/quarterly-high-frequency-excess-waiting.pdf.

Contracting in the London urban rail network

Despite the success and track record of reducing costs and improving service for bus operations, the Underground has not been contracted out and Transport for London directly operates and maintains the system. This is the result of several factors. First, many of the Underground's trains and tracks are old, complex, and require special maintenance and upkeep. Therefore, the uncertainty associated with maintaining and operating such a system creates unacceptably high risk and costs for the potential private contractor. Bidders would have to increase their prices so significantly to account for the unknown risk that it would reduce any possible monetary savings. Secondly, there has been much more organized opposition to contracting from rail labor unions, making it much more difficult to implement.

On the other hand, the Docklands Light Rail (DLR) and Croydon Tramlink systems are each contracted to a single operator. These systems differ from buses in large part because they are new or upgraded infrastructure that is mostly above ground. The DLR was constructed in stages, the first part opening in 1987. The DLR is a driverless light metro, operating on dedicated right-of-way, whereas Tramlink, opened in 1999, has considerable street-running light rail sections and also incorporated substantial sections of track formerly operated by British Rail. Since these were new systems without an incumbent workforce, there was no significant resistance from labor to contracting.

Transport for London (TfL) contracts the London Overground to a single operator. Although the Overground is part of the national rail network, which the UK government manages, TfL has become responsible for the Overground's contracting arrangements. TfL has constructed a new form of contracting for this network that has led to better performance and higher passenger satisfaction compared to other London commuter lines still contracted by the national government. TfL's contracting for the Overground is, like its bus contracting, based on quality-incentive contracts (similar to gross-cost contracts, but with the ability to increase profits based on performance relative to agreed-upon service targets). Interviewees, including union representatives, reported that trade unions have generally viewed these contracts favorably in light of agreed-upon improvements to working conditions.

Incentives to improve service quality yield results

The UK's Conservative government intended to fully deregulate the London bus network over time. But following victories in the 1997 election, the Labour Party made changes to the transit contracting system to incentivize quality and reinforce the government's role in overseeing London's transit service.[44] Realizing the issues with net-cost contracting and the decline of the bus system, the new government implemented significant changes in the hopes of improving operations, ultimately leading to the creation of Transport for London.

In 2000, London Transport underwent significant internal restructuring and was replaced by Transport for London (TfL), coinciding with the newly created position of Mayor of London.[45] TfL, run by the mayor, oversees the urban transit network, including buses, light rail, subway, and several regional rail systems (see Table 2). As part of the reform, the mayor became the official chairman of the TfL board, creating a direct link between local elected officials and transportation, rather than an indirect link to the Department for Transport at the national level. This reform brought more local accountability and control to the London regional transportation system, prompting a greater focus on improving public transit service.

Coinciding with TfL's creation, the agency changed its contracting method from using net-cost contracts to using *quality-incentive* contracts (improving upon the method that London Transport used prior to 1993). Instead of attempting to improve service quality through fare-revenue risk, quality-incentive contracts provide for a modest baseline profit margin against gross operating costs, which can be increased if the operator exceeds agreed-upon performance targets.

The new contracting model also changed some other important features of how bus service is contracted. First, each of TfL's 675 bus

44 Bryan Matthews, Abigail Bristow and Chris Nash, "Competitive tendering and deregulation in the British bus market – a comparison of impacts on costs and demands in the London and British Metropolitan Areas" (paper presented at the 7th Conference on Competition and Ownership in Land Passenger Transport, Molde, Norway, 2001), http://www.thredbo-conference-series.org/downloads/thredbo7_papers/thredbo7-workshopA-Matthews-Bristow-Nash.pdf.

45 Transport for London, **London's Bus Contract and Tendering Process**.

lines is tendered separately (staggered so that every year roughly a fifth of the network is contracted), and set for a base contract term of five years, with an option to extend for an additional two years. Operators can and do bid on multiple routes; TfL currently has 16 different private operators running its bus services. Second, TfL, via its London Buses subsidiary, sets route structure in the contract. Third, the contracts use consistent reliability metrics to set performance standards for each route, against which TfL measures operator performance. TfL then levies bonus payments for exceeding targets or penalty deductions for underperforming up to caps of 15 and 10 percent of the total contract price, respectively.[46]

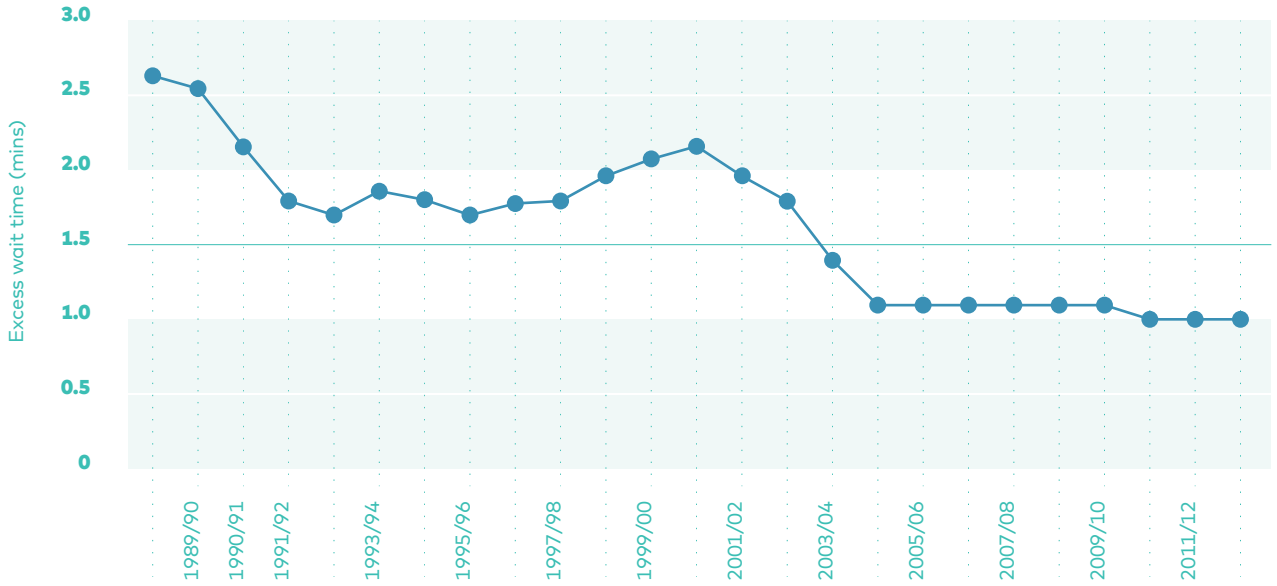
Reliability indicators in the bus contracts are excess wait time (which measures the average difference in actual versus scheduled passenger wait time) for high-frequency bus routes and on-time performance for low-frequency routes. These reliability metrics are measured using data collected from GPS-based vehicle tracking. Because no two bus routes are the same, TfL's performance standards vary by route depending on the level of congestion or other external factors affecting the route's reliability. TfL also regularly monitors perceptions of the service, performing customer satisfaction surveys, mystery traveler surveys, and driver assessments. Contract extensions and the prospect of being awarded future contracts are other incentives for good performance. TfL decides whether to extend its bus operations contracts near the end of year four of the five-year contracts, though automatic extension offers can also be triggered by exceeding the reliability performance standard.[47]

This incentive system harnesses the private sector's profit motive to improve reliability and service quality. By tying performance indicators to the aspects of service quality that TfL values most, the agency aligns its contractors' goals with the agency's priorities. Over time, TfL has tightened standards for key performance indicators, like excess wait time, in order to ensure continued performance improvement (see Figure 2). In a low-margin business, even relatively small bonuses and penalties can incentivize significant operator changes to improve service delivery. (The average profit margin in the London region was reportedly just over 3 percent as of 2014,[48] and most transit operators admit that making money is a challenge.)

"By tying performance indicators to the aspects of service quality that TfL values most, the agency aligns its contractors' goals with the agency's priorities."

46 Ibid.
47 Ibid.
48 Chris Cheek, The Economics of Bus Operation (North Yorkshire, UK: TAS Publications, 2014).

Figure 2:
Excess Wait Time on TfL High-Frequency Bus Routes Over Time



Source: S. Reed, "Best Practices: Transport for London—Using Tools, Analytics and Data to Inform Passengers," Journeys, September 2013.

Aside from meeting performance targets, operators compete mostly by trimming their own costs in order to make tendering proposals more competitive. About 60 to 65 percent of TfL operator expenses relate to labor, providing an inherent incentive to reduce administrative and middle management staff, for example, by using computerized scheduling programs, GPS tracking, and other technologies to improve planning and administrative productivity.

Establishing clear institutional arrangements between agency and contractor

Beyond merely creating good incentives, TfL's years of contracting experience make the agency an expert in contract management. TfL designs its contracts to eliminate ambiguity by clearly delineating the responsibilities of the contractor and the public sector.

The current arrangement calls for the following responsibilities for TfL:

- **Prepare and manage proposal process**
- **Determine the route and specify the frequency**
- **Set and monitor quality and safety standards**
- **Agree on the schedule prepared by the operator**
- **Set fares and retain the revenue**
- **Supply and maintain ticket machines and radio and vehicle tracking equipment**
- **Provide and maintain bus stops, stands, bus stations, and other infrastructure**
- **Provide rider communication, sales, marketing, and advertising services**
- **Collect data from the operator and make it broadly available to the public in standardized formats**

The private-sector operators must:

- **Develop and submit bids**
- **Create timetables (subject to TfL approval) and set staff schedules**
- **Provide and maintain bus depots and vehicles (unless TfL specifies otherwise)**
- **Maintain vehicles**
- **Recruit, train, and manage staff**
- **Manage day-to-day operations**
- **Provide day-to-day supervision of routes to maintain quality and safety**

This allocation of responsibilities represents a balancing and assignment of risks and has been refined over time. The private sector is responsible for working with labor to maintain buses and must also procure its own depots. TfL takes on the risk of designing the route network, setting and collecting the fares, and covering the cost of volatile commodities such as fuel. For example, TfL initially found it could use its large purchasing power to procure specialty double-decked buses and then provide them to the private operators. While the contractor is expected

to maintain the vehicles, TfL did not charge the operator for use of the buses. Operators are now responsible for purchasing their own vehicles, with a standardized design established by TfL.

The tasks listed above are clearly defined in the contracts that TfL creates with each operator. TfL views its contracts as documents in which the agency can explicitly state its goals and create incentives to achieve them—they are not merely an administrative necessity. The agency also publishes all of its performance indicators quarterly so that customers can understand how particular lines are performing and who is accountable for bad or good service.[49] London has been iteratively improving on its performance indicators and targets for years and continues to tweak its model.

Contracting implications of London labor relations

After a contentious transitional phase, there has been a constructive relationship between labor and private operators. The UK currently provides an important basic labor protection to unionized employees via a national law that requires continuity of employment between contractors. If a route or series of routes are tendered, the existing employees working those routes have the right to continue working under the subsequent operator. Drivers are also able to move between operators as they would between any private-sector employers.

But other UK labor laws, along with the route-by-route bus tendering structure, weaken the unions' overall bargaining power. The most significant of those laws prohibits sympathy strikes. This type of strike happens when employees of one company recruit employees of companies outside the bargaining agreement to strike on their behalf—bus workers striking for bus operators of another company or for rail workers, etc. Prohibiting this type of strike significantly limits the bargaining power of the unions because the London transportation system is large enough to absorb a few bus routes shutting down. TfL can also just source a replacement operator for the service.

By comparison, the Overground and Underground (rail systems operated by a single private operator and TfL, respectively) form a significant part of London's transportation network, and a strike

49 Transport for London, "London Buses Performance, Financial Year 2016/17," http://content.tfl.gov.uk/annual-performance-summary.pdf.

on either system would shut down a large swath of the network all at once. Partly as a result, rail employees—where the workers have stronger leverage—have seen significant wage increases, while bus drivers' wage increases have been comparatively modest.

Skill requirements also account for the pay discrepancies between rail and bus workers. British law requires a minimum of 30 weeks of training for rail engineers, which makes them much more difficult to replace and prices their skills much higher than bus operators. This requirement makes rail unions much stronger than bus unions, whose political power peaked prior to labor law reforms in the 1980s. Bus drivers have recently found, however, that they have been able to secure wage increases by taking advantage of the small margins that operators make. Particularly in the mature London bus market, where operators have streamlined their operations and cannot compete on much more than the performance bonuses, the private operators often determine that it is more cost-effective to increase workers' compensation than suffer TfL penalties for not providing service.

Transit workers' wages and benefits are also limited because TfL actively avoids any negotiations with the workers of contractors, as they are considered direct employees of the private operator. Since each agreement is negotiated separately, there have been wage and benefit discrepancies between operators. As a result of this independent negotiation, London Mayor Sadiq Khan has recently introduced a common starting wage for all drivers at £23,000 (about US$29,000), irrespective of operator.

Now that their relationship has matured, operators and organized labor have a less adversarial relationship. Both union and operator leaders stress the need for open dialogues and positive relationships. Stakeholders in the London region agree that TfL's contracting methods, refined over the past fifteen years, have improved service for the region's riders.

Future procurements and barriers to entry

While the London bus market is vibrant, significant barriers to entry might erode robust competition in the future. For one, TfL requires the bus companies to have their own bus depots to store and maintain vehicles. Real estate prices are high, so finding appropriate land for a bus depot at the right time is a logistical and

financial challenge for a bidder who doesn't already have a physical presence in the region. This barrier discourages new competitors from entering the market. Likewise, existing operators whose contracts expand, shrink, or expire may end up with facilities too big or too small for current needs or with "stranded assets" in the event they lose the contract for an area of town where they own a depot. The barriers and risks associated with these uncertainties get priced into the operators' bids and are ultimately borne by the public. Transit agencies outside London commonly choose to retain public ownership of garages for this reason.

Also, depending on the size of the contract, preparing bids for TfL routes can cost upwards of US$150,000—money that is for naught if a company does not win a bid. These types of costs make it difficult for new or small bus companies to compete with incumbents.

Over time, an increasing number of the bus companies competing in London have been private rail operators owned by foreign governments. RATP Dev, for example, is a corporation owned by the French government, the German government owns Arriva, and Abellio is owned by the Dutch government. These companies rely on large capital resources to invest in expensive depots, and as public-sector holdings, they are more comfortable with smaller returns than wholly private firms.

London: summary

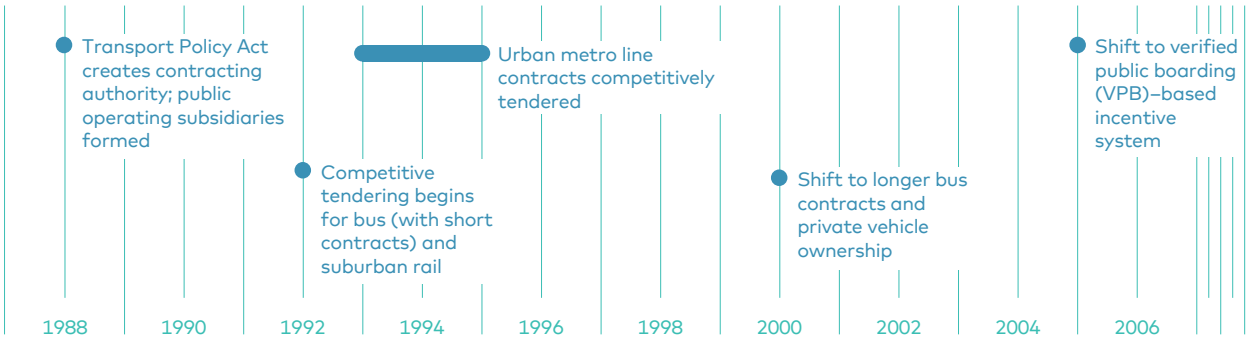
"Contracting alone is not a panacea"

London's quality-incentive contracting approach, featuring strong, simple performance standards and clear incentives, with the potential for substantial financial bonuses as well as penalties, is a model for large cities around the world using contracted systems. But contracting alone is not a panacea—in addition to these strong performance incentives, London's increased investment in its transit system, along with congestion charging for cars and centralized, long-range planning, have helped to push ridership and satisfaction levels to all-time highs. TfL's current approach—enabled by the agency's formation and refined over decades—reflects a rider- and service-oriented approach rather than the agency's initial focus on cost reduction.

Stockholm: A Measured Transition from Vertically Integrated to Delegated Service Planning

Over a period of two decades, the Stockholm region shifted from government-operated transit, in which a government agency employs government employees to operate government-owned rolling stock (the standard operating model in the US), to a contracting model. Today, Stockholm contracts nearly all aspects of its public transit services, including buses, ferries, subways, commuter trains, and trams. Under this system, the region delegates most route-planning responsibilities to its bus contractors, offering a financial incentive to increase ridership. Stockholm's gradual transition provides many lessons about both the potential and pitfalls of different approaches and shows how a public agency can evolve from being a day-to-day operator of transit to a setter of standards and overseer of contractors.

Timeline



Historically, metropolitan transit in Stockholm was directly managed and operated by Storstockholms Lokaltrafik (SL), a public-sector agency that also oversaw long-range public transport planning for the Stockholm metropolitan region, home to 2.2 million people. SL is overseen by the Stockholm County Council, which is responsible for healthcare, transportation, and other public services in the 26 municipalities within the county's jurisdiction.

Similar to London's rationale for contracting, SL's desire to rein in administrative and operational costs, paired with an unhappy public (customer satisfaction hovered near 50 percent for local transport services) led the agency to pursue competitive tendering. The Swedish government reformed its transportation policies via the 1988 Transport Policy Act.[50] In addition to introducing vertical

50 Gunnar Alexandersson and Staffan Hultén, "The Swedish Railway Deregulation Path," **Review of Network Economics** 7, no. 1 (2008): 18–36, https://doi.org/10.2202/1446-9022.1136.

separation of the national rail infrastructure from operations (later followed by further steps toward deregulation and market opening), this act granted regional public transportation authorities the ability to contract for operational services. Rather than rushing to implement a new contracting regime immediately for the entire transit system, SL undertook a more incremental implementation process, with the goal of eventually contracting all of its operations.

Restructuring the agency with operating subsidiaries

The transition to contracting required SL to undertake significant institutional changes prior to bidding out its first services. A dramatic reduction in the agency's directly employed staff reflects the magnitude of these institutional changes: SL had employed 15,000–20,000 staff but now directly employs fewer than 800 people, with the vast majority of labor shifted into the private sector. Instead of focusing on day-to-day management, operations, and maintenance, SL's core mandate evolved into metropolitan-area planning; setting standards, policies, and priorities; and overseeing contractor service provision. The transition process necessary to undertake this change was incremental and started with the initial introduction of competitive contracts.

"SL's core mandate evolved into metropolitan-area planning; setting standards, policies, and priorities; and overseeing contractor service provision."

Starting in 1988, SL took the departments previously focused on operations and created several subsidiary operating entities—still part of SL but operating under contract-like agreements. This step, which could be considered SL contracting with itself, allowed the agency to slowly and safely gain experience in administering contracts for public services before transitioning to a competitively contracted public transportation system.

Introducing competition and refining the contracting model

In 1992, after several years of SL subsidiary operations, SL began to contract out its bus system via a competitive tendering process, welcoming private companies to bid on services in addition to SL subsidiary bids. The first contracts in the suburban (tram-like) rail system were also tendered in 1992, followed by the three urban metro lines in 1993, 1994, and 1995.[51] A subsidiary of the Swedish State Railways (SJ) won the first round of tendering for the individual metro lines, but eventually these lines would be combined into a single contract. For the period of 1999–2009, the French operator Connex (later part of the Veolia Group) won the metro contract. The subsequent tender, encompassing greater responsibilities and requirements, was won by MTR in 2009 (see Table 3).[52] While at

51 Alexandersson and Hultén, "Swedish Railway Deregulation Path."

52 MTR Corporation, "Six-Year Extension of MTR's Stockholm Metro Concession, New Records Set for Train Service Punctuality" (press release), September 9, 2015, https://mtr.com.hk/archive/corporate/en/press_release/PR-15-073-E.pdf.

first the SL subsidiaries won most of the bids, private companies gradually took over the routes through both competition and mergers. Following the entry of large foreign private operators like Keolis and Arriva into the Swedish market, all of the SL subsidiaries were either bought by larger companies or dissolved.

Table 3: Contracting for Public Transit in Stockholm

Name	Description	Operation	Daily average ridership	Lines/routes in operation
Tunnelbana	Metro/subway	Single private contract, MTR Corporation	1,200,000	3 lines
Buss	Bus network	Multiple private contracts for defined service areas	1,100,000	504 routes
Pendeltåg	Commuter trains	Single private contract, MTR Corporation	300,000	2 lines
Färja	Ferries	Contracts to private operators, handled through SL subsidiary Waxholmsbolaget	229,000	4 lines
Spårvagn	Street tramway	Contracts to private operators	156,000	6 routes

Source: Stockholm County Council, "Storstockholms Lokaltrafik, SL [Stockholm Public Transport, SL]," 2016. http://www.sll.se/verksamhet/kollektivtrafik/sl/.

In the early years, operators were compensated exclusively for service delivery through gross-cost contracts, with the two factors according to which contractors were compensated being the number of buses required to satisfy service levels and the number of kilometers traveled. SL found that this calculation led to difficulties in managing costs, as operators would insist that they needed to increase the number of buses on a route to retain service. Unless SL did their own analysis that proved otherwise, they had to pay the operators for the increased service costs. So, in 1996, SL began experimenting with performance metrics and payment incentives as a way to better measure and improve quality and

reward operators for being more responsive to customer needs.[53] Initial contracts included incentives and penalties for delays, vehicle cleanliness, staff behavior, and information quality.[54]

At first, bus service contracts were for three years, with options for two one-year extensions. This contract length allowed for the agency to gain experience and correct mistakes that it might have made in early years without locking the agency into a long-term commitment. If one takes into account the costs carried by commercial operators for the bidding process as well as their limited incentive to invest in the service, however, these contracts' short duration placed constraints on their scope and cost-effectiveness and left SL with many of the investment responsibilities.

The contracts were eventually lengthened in 2000 to the current eight-year term with a four-year extension. These contracts are longer than other cities (London uses a five-year contract with a two-year extension) in part because bus companies in Stockholm are required to procure their own vehicles. In order to make vehicle purchases worthwhile, SL found that having an eight-year term—the typical vehicle life in Stockholm—brought down costs and minimized risks for operators, while still providing the ability to periodically revisit the contracts to update incentives, terms, and other factors that can change over an eight-year time frame. SL's contracts also stipulate that buses can be a maximum of 16 years old, equivalent to two eight-year terms. In contrast to London, however, SL retains ownership of the bus garages, which it leases to the winning operators.

53 Kjell Jansson and Roger Pyddoke, "How Has Quality Incentives in Stockholm Bus Services Worked? A Pilot Study" (paper presented at the 9th Conference on Competition and Ownership in Land Passenger Transport, Lisbon, Portugal, September 2005), https://ses.library.usyd.edu.au/handle/2123/6131.

54 Ibid.

Contracting Stockholm's metro system

SL's contracting approach for the metro system differs from their approach to buses, in part because the subway operator lacks the bus operators' flexibility to alter routes but can control schedules, driving trains, and maintaining cleanliness. Typical metro contracts are ten years with a four-year extension. The metro contract includes operations as well as station facilities management and rolling stock maintenance.

The contractor's maintenance practices are subject to frequent and random spot audits by SL and must meet standards set in the contract and national law. The agency found this arrangement to be more cost-effective because train technology is more specialized and has a 30-year life span. SL contracts out maintenance of the infrastructure to commercial maintainers using a similar time-restricted contract that emphasizes cost efficiency and performance requirements for both planned and corrective maintenance. Other large-scale or inherently public tasks—such as security, infrastructure maintenance of commuter railways, and station commercial development—are not currently in the operating contracts and are instead managed by national infrastructure managers or other public entities.

Introducing ridership incentives to drive agency goals

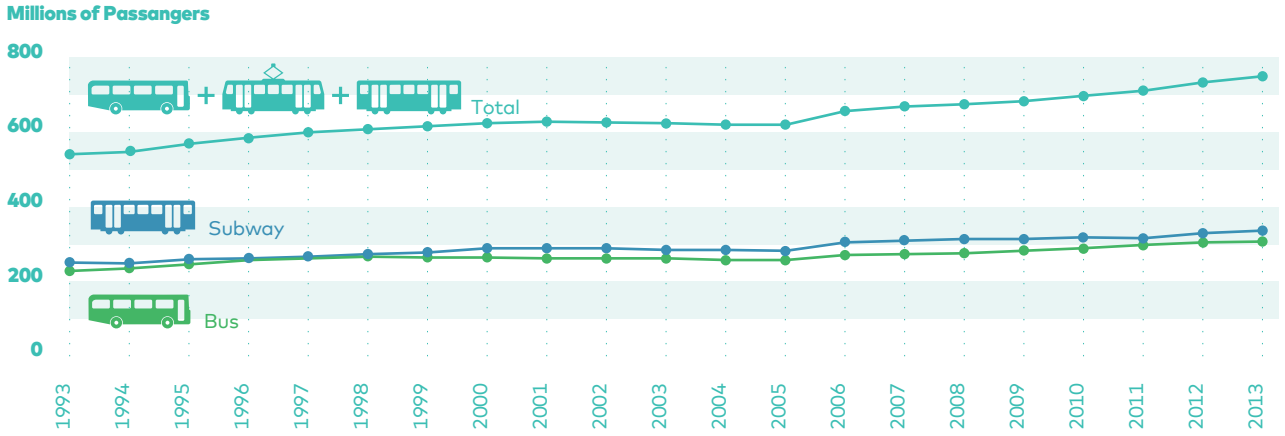
Stockholm also chose to divide the region into subareas and contract out the bus services on that basis, meaning operators are responsible for proposing the route map for that area, rather than bidding on set routes drawn by the public agency, as in London. This subarea approach complements Stockholm's distinctive geography: the city is spread out over fourteen islands and naturally has several distinct, unconnected landmasses. This method has allowed operators to tailor their services to the transit needs of each subarea.

Along with the creation of subareas, SL transitioned to a model where bus operators were paid a fixed fee plus bonuses based on "Verified Paid Boardings" (VPB) starting in 2005. Under a VPB-based system, operators are compensated according to the number of paid riders (bonuses and penalties are also based on other factors, such as cleanliness). If an operator increases ridership—either through faster and more frequent service, excellent customer service, or other methods—they are compensated accordingly. Using a per-passenger metric insulates the private companies from fare policy changes, which are often politically driven and could reduce revenue. Also, the operator can innovate and design its service to maximize ridership, which SL sees as a proxy for both customer service and regional accessibility. SL is still involved in centralized long-range planning and coordination, but the operators have partial flexibility to design services according to guidelines provided by SL.

"Contracted operators may offer valuable insight into designing transit networks that are as responsive as possible to ridership demand."

Contracted operators who manage day-to-day service operations may offer valuable insight into designing transit networks that are as responsive as possible to ridership demand. When they have the ability to design services, routes, stations, and other aspects within a clear, agency-provided framework—and subject to input and final approval by public agencies—private companies can provide experience that efficiently improves service. Since the introduction of VPB in 2005, ridership on the bus has increased nearly 20 percent.

Figure 3:
SL Ridership by Mode, 1993–2013



Sources: Stockholm County Council, Årsberättelse 2002. http://www.sll.se/Global/Verksamhet/Kollektivtrafik/%C3%85rsber%C3%A4ttelser%20f%C3%B6r%20SL/arsredovisning-2002.pdf; Stockholm County Council, Årsberättelse 2009. http://www.sll.se/Global/Verksamhet/Kollektivtrafik/%C3%85rsber%C3%A4ttelser%20f%C3%B6r%20SL/arsredovisning-2009.pdf; and Stockholm County Council, Årsberättelse 2013. http://sl.se/globalassets/rapporter-etc/sl_arsberattelse2013.pdf.

While both the VPB performance incentive and the ability to design services can prompt private operators to increase ridership, this is not the only goal. VPB incentives encourage increased ridership but, in doing so, steer focus toward routes with high passenger volumes over short distances. This can result in declining investment and reduced service levels for lower-density areas as well as for long-distance and commuter bus routes, which tend to carry higher per passenger-mile costs. The use of VPB also made operators initially uncomfortable with all-door boarding because of the potential for fare evasion and thus a loss of revenues due to lower ridership counts. SL worked with operators to allay this concern by installing card validators on station platforms.

Assigning risk and monitoring other performance metrics

For both the rail and bus operations, contracts are often tied to indices for wages, fuel costs, and interest rates. This helps defray some of the operators' risk so that they can focus on designing and implementing effective service rather than pricing the risk of uncontrollable costs. On the other hand, the operators are subject to penalties if their service does not meet certain standards. For example, SL conducts thousands of customer service interviews every month and fines the operators if satisfaction drops below 75 percent. While customer service is somewhat subjective, the surveys ask passengers to rank their satisfaction on specific metrics, such as cleanliness, safety, and frequency.[55] In the case of a train or bus delay of more than 20 minutes, the operator is obligated to reimburse passengers for a taxi trip along the route.[56]

In addition, SL has very high standards for energy efficiency and cleanliness. SL enforces these standards through regular audits and inspections. SL has also put a stringent bonus and penalty structure in the concession agreement in order to incentivize service quality. These incentive schemes include both passenger-perceived experiences as well as actual delivered services (e.g., punctuality, cleaning, etc.). Recent metro rail contract incentives have ranged from as much as 89 million kronor (US$10 million) in penalties to 56 million kronor (US$6 million) in bonus opportunities in a given year. The risk of such high fines means that the companies spend significant resources on delivering high-quality service, which also drives contract costs up. For some agencies, such fines may, as a result, be considered too large, but any agency must make its own trade-offs between flexibility and maintaining strict standards.

55 Stockholm City Council, **Upplevd kvalitet [Perceived quality]: SL och Waxholmbolaget 2015** (in Swedish), http://www.sll.se/Global/Verksamhet/Kollektivtrafik/Upplevd%20kvalitet%20i%20SL-trafiken/Upplevd-kvalitet-2015.pdf.

56 SL, "Refund for delays and disruptions," http://sl.se/en/eng-info/contact/delay-compensation/.

Structuring the procurement process to improve outcomes

For most contracts, SL invites all interested parties to respond to a request for information (RFI) and comment on the request for proposals (RFP), which allows SL to refine its scope and eliminate unqualified operators and lets operators prepare for the coming RFP. When contractors submit bids, SL reviews and evaluates them based on an established and transparent set of criteria, including but not limited to price. Any questions during the procurement period are made public through posting all correspondence online. After candidates are shortlisted, SL begins a negotiation period with each candidate before selecting the final winner.

Labor relations under a strong social safety net

Labor unions in Sweden resisted the introduction of contracting, fearing wage and benefit cuts as well as work-rule changes. While contracting in Stockholm has achieved unit-cost savings, those savings have not come from drastic wage cuts. While some staff positions were cut and unions had to compromise on work rules, retained employees have not had wages or benefits cut.

The switch to contracting did alter the lines of authority, since under the public system, organized labor negotiated directly with the government. In the contracted system, organized labor negotiates with the private operators and has no direct access to SL. Bus unions, however, are protected against job loss and differences in pay by a single collective agreement with all the operators. This allows employees to carry over their seniority among companies and provides job security during contractor transitions. For rail, there are different terms for those who work on the tramways versus the metro system, but the collective agreement still encompasses all workers on the modal network. Despite the changes, those interviewed expressed no desire to revert to a publicly run system.

The ease of the transition in Stockholm is in large part due to the progressive labor laws common in Scandinavia. Sweden has mandatory rules for all employers, public and private, that make the stakes of Swedish labor negotiations lower than in the US. Many of the overarching policies are established through a national collective

agreement negotiated between representative organizations for labor unions and employers. For example, national policy sets the maximum workweek at 40 hours and any overtime quickly escalates to 240 percent over hourly base pay. Unlike in the US, Swedes who change employers or lose their jobs still retain their access to health care, nationally mandated vacation, family- and sick-leave policies, and higher education for themselves and their families.

Stockholm: summary

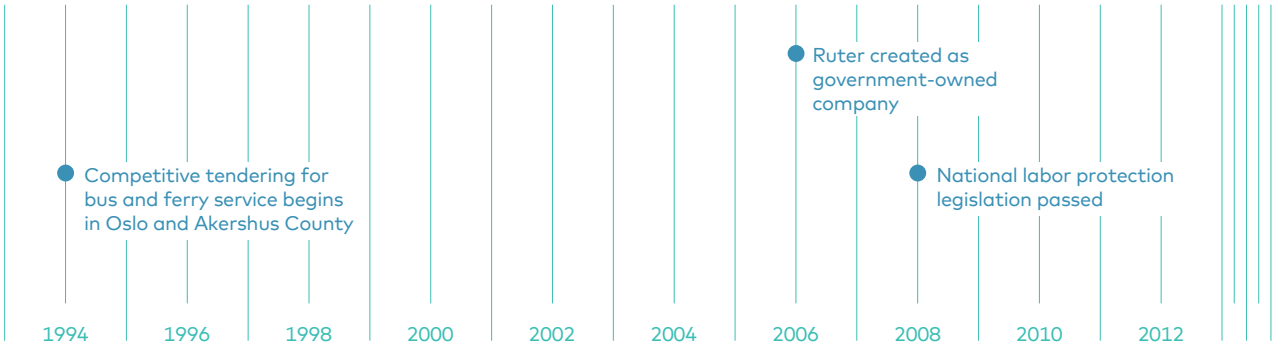
Stockholm's contracting experience shows that transit agencies can devolve more route and service planning to private operators, provided the right incentives and oversight are in place. In an appropriate geographic setting, public agencies can provide contractors with the flexibility to design routes and plan service, provided the contract remains oriented toward rider satisfaction and service quality. This heavy delegation of responsibilities in Stockholm was implemented through a gradual, intentional transition—from direct service operation to internal contracting to competitive tendering with short contracts and internal contractor participation and, ultimately, to today's model with longer contracts and full market competition.

"This heavy delegation of responsibilities in Stockholm was implemented through a gradual, intentional transition"

Oslo: Competitive Contracting Complements City-County Governance Overhaul

Oslo's shift to competitive tendering enabled the most significant governance overhaul among the cases presented in this report. While increased competitive tendering in London and Stockholm accompanied gradual evolutions in the roles of TfL and SL respectively, Oslo created an entirely new agency, Ruter. Ruter's structure as a government-owned company enshrines a rider-focused mentality that guides the agency's strategy in general—including its approach to contracting.

Timeline



Two public authorities in the Oslo region managed the regional transit network, one for the municipality of Oslo and another for the surrounding Akershus County. These agencies began rolling out competitive tendering for urban bus and ferry services in 1994, largely in response to nationwide initiatives to decrease subsidies. The transition to competitive contracting did not happen overnight but ultimately led to a big reorganization of the public-sector side of the ledger. As in many European cities, the contracting process began incrementally by restructuring the agency and dividing it into a planning and oversight organization with several operating subsidiaries. When the ferry and bus services were initially tendered, both the publicly owned subsidiaries and private companies bid for the services. While private firms did end up securing many routes, the competitive nature of the bidding process also allowed the publicly owned entities to retain a significant amount of service.

Initially the largest opposition to the transition to service contracting in the Oslo region came from the labor unions. As drivers and mechanics had long been public-sector employees, they were threatened by the change to private operations and were afraid of losing pensions and other benefits. Resistance

from labor was not as strong as it has been in other European countries, however—in part because Norway's strong social safety net helped ease the negotiations—and the unions were able to maintain important work standards and rules from the national government. Nevertheless, labor was not satisfied with the initial contracting system because workers risked losing their jobs during a transition from one contractor to the next.

The workforce won a major victory in 2008, when the national government created a collective agreement that set national wage standards as well as guaranteed jobs during contractor transitions, among other terms. This has resulted in wage increases and has alleviated many of workers' early concerns about contracting.

Similar to London and Stockholm, the early contracts in Oslo for buses and ferries focused on cost savings. In this case, the region did see cost reductions in the range of 10 to 20 percent relative to the previous system.[57] The first contracts were gross-cost agreements, in which operators were reimbursed for the miles and hours of service they delivered. With little reduction in labor and pension costs, the savings came almost entirely from gains in workforce productivity and vehicle utilization. Prior to the switch to contracting, there were redundancies in transit routes and agency staff roles, particularly in administrative and planning areas. The contracting process allowed the public agency to bring its structure and its operational model into closer alignment.

"The contracting process allowed the public agency to bring its structure and its operational model into closer alignment."

57 Hensher and Wallis, "Competitive Tendering as a Contracting Mechanism."

Table 4:
Contracting for Public Transit in Oslo

Name	Description	Operation	Total annual boardings (2015)	Lines/routes in operation
T-banen	Metro/subway	Contract to Oslo-owned company: Sporveien T-banen	87,920,000	5
Buss	Bus network	Multiple contracts to 2 private and 2 publicly owned contractors	131,880,000	49
Ferje	Ferries	Multiple contracts to 2 private contractors	3,140,000	5
Trikk	Street tramway	Contract to Oslo-owned company: Sporveien Trikken	50,240,000	6

Source: "About Us," Ruter website, 2016

Redesigning transit governance with the rider in mind

While contracting did help increase the efficiency in service, the region lacked a system-wide view of public transit. Prior to the mid-2000s, the region's two public authorities were responsible for transit: one for the trams, subways, and buses within the city, and a second that served the surrounding county with bus and ferry services. The region wanted a more comprehensive approach to planning and implementing public transit, with a focus on customer service. In 2006, the agencies merged into a newly created entity named Ruter, which was tasked with procuring and managing all modes of the transit system for the entire region.

Ruter is a government-owned company, instead of a traditional public authority, with 60 percent owned by the Municipality of Oslo and 40 percent by the Akershus County Council. While there is little legal difference between a government-owned company and a public authority, the 'company' designation is intended to communicate the service orientation of Ruter, both to the public

and to political officials. Public officials in the region respect Ruter's decisions, and leaders within the organization focus on its transportation and social goals, like reducing greenhouse gas emissions. Ruter's connection to broader social goals is strengthened by its institutional affiliation with the city and county governments.

Contracting had been established for more than a decade prior to Ruter's creation, which allowed Ruter to focus on its core mission of planning, coordinating, and marketing public transit in the region. As was the case for Stockholm's SL and London's TfL, interviews in Oslo suggest that when the public agency relinquished responsibility for day-to-day operations, it was able to shift its attention to improving customer service. Ruter has a staff of approximately 150 people, and stakeholders in the region consistently see it as a competent and knowledgeable handler of the bidding and oversight processes needed to manage incentive-based service agreements.

"When the public agency relinquished responsibility for day-to-day operations, it was able to shift its attention to improving customer service."

Mode-and market-specific approaches to contracting

Ruter revamped its contracting method to encourage greater efficiency and higher-quality service. The bus and ferry contracts are quality-incentive contracts with seven-year terms and an option for three one-year extensions. The contracts are staggered so that not all lines are procured during the same year. Instead of bidding each line or route or by geography, as its peers in London and Stockholm have done, Ruter divided up the core network into eighteen bus and three ferry contracts. While operators must purchase and maintain their own equipment, Ruter defines the route structures, general service plans, and standards to maintain its public brand, such as bus color and design.

The incentive and penalty structures vary across Ruter's contracts, but they are generally based on the number of passengers, customer satisfaction levels, and system reliability. To manage risks, Ruter has also indexed most costs, such as labor and fuel, to inflation or other benchmarks and pushes the private operators to improve service quality and find ways to increase the operational efficiency of the network. During the first rounds of tendering under Ruter, there was a learning process as the organization dealt with new governance and balancing the right blend of incentives for operators. It took time and good leadership to create a culture that could think strategically about the region.

In contrast to the bus and ferry lines, Oslo made an explicit decision not to competitively bid its metro and tram networks. Contracting for rail systems, particularly urban rail networks, can be difficult because of the specialized equipment and skills needed to run the service and maintain the infrastructure. If there were an open bidding process, cost savings would be harder to achieve because the risk associated with maintaining rail cars and underground tunnels would be priced into the contract. Instead, the subway and tram systems are operated under a direct award to Sporveien, an entity owned by the city of Oslo with subsidiaries that directly operate and maintain the metro and the tramway system on a contractual basis, supported by funding from Ruter.

Despite the metro and tram networks being publicly operated, Ruter holds Sporveien and its subsidiaries to the same standards

as the bus and ferry systems. Sporveien also understands that Ruter could decide to contract out the system if it is not meeting Ruter's standards. If the street trams were to become too expensive, it would be relatively simple for Ruter to convert the system to bus lines and contract them out to a private entity. Interviewees believed that this potential for competition creates an added incentive for operators to exceed their performance targets.

Embedding contract goals in RFP evaluation criteria

"Ruter view of the contracted operators as partners in service delivery."

The procurement process for these bids happens over nearly two years. Ruter gives operators twelve months to view the public request for proposals (RFP) and prepare their bids, and then it selects a finalist. During the procurement process, there are many opportunities for discussion between Ruter and the prospective bidders. This dialogue underscores Ruter's view of the contracted operators as partners in service delivery. When the bid is released, Ruter allows bidders to ask questions prior to the prequalification stage. After the prequalified bidders are announced and then formally invited to bid, there is another point of dialogue during which bidders are invited to a conference to ask Ruter questions to help inform their bids. Bidders are also invited to tour the depots. Submitted bids are evaluated, and then three negotiation rounds occur. Ruter then selects an operator based on the following criteria:

- **Price: 40–55%**
- **Service performance: 10–20%**
- **Bus quality: 10–15%**
- **Description of the planned efficiency of the service according to Ruter's timetable: 15–20%**
- **Environmental effects: Up to 20%**

For a company to win a bid, it must demonstrate not only that its cost is competitive, but that its proposal is competitive in other aspects of service that Ruter considers important. This has created a market that not only prioritizes financial efficiency but also emphasizes other public-sector goals such as low- or no-emission buses and clean, punctual operations.

There are two months of contract negotiations, followed by nine months in which the selected firms can prepare depots, purchase buses, and make other preparations prior to beginning service. Ruter then engages in an oversight process, meeting monthly with its contracted operators in what it calls "co-operation meetings," during which they address service quality, agreement compliance, and performance metrics. Ruter recognizes that the private sector's goal is to make a profit and that it needs these private operators to be successful so that service does not collapse. Maintaining open channels of communication is valuable for working through concerns before they become larger problems.

Preserving competitive market conditions with operating subsidiaries

In Oslo, given the size of the city and that two of the bus operators are essentially public entities (Unibuss and Nettbuss), the market is more limited than in other parts of Europe. As such, there are four operators bidding on service in the region. Norgesbuss and Nobina are two private entities, while Nettbuss and Unibuss are publicly owned companies whose subsidiaries are able to bid on service contracts in Norway. Nobina is the only foreign-owned firm in the Oslo region, in part because the market is small and thus not particularly attractive to some of the large, international firms operating in the larger European cities.

While a large city like London can attract more than a dozen international firms to bid on service agreements each worth millions of dollars, a region with only 1.1 million inhabitants does not offer the same market opportunity, especially given the time and money required to prepare proposals. Ruter spends a total of US$280 million on bus contracts in a given year, and bus companies report making a 1 to 3 percent annual profit margin.[58] With the total earnings from the entire system likely being around US$5 million annually, shared among four operators, it is hard for some private operators to justify preparing a bid for the service. International firms such as Stagecoach, Veolia, and Keolis have submitted offers on previous tenders, but as the profit margins have remained low, they have largely withdrawn

58 Ruter, **Ruter in 2014, Summary from the annual report**, https://ruter.no/globalassets/dokumenter/aarsrapporter/summary_annual-report_2014.pdf.

from the Oslo markets. Conversations with operators in the region indicate that circumstances seem to be improving for companies, but some interviewees maintained that the market might never be large enough to attract the level of competition that is seen in other cities.

Working closely with unions to address labor concerns

Part of overcoming labor union resistance to contracting was the government's creation of a unified agreement for workers that would apply throughout the country. The agreement includes provisions that require operators to allow drivers and mechanics to remain employed during a contract change and also maintains unions' right to strike when negotiating wages. Unions have had to concede some work rules, but interviewees cited the recent increases in wages and pension benefits as more generous than in other sectors, and academic research suggests wages have increased in real terms.[59]

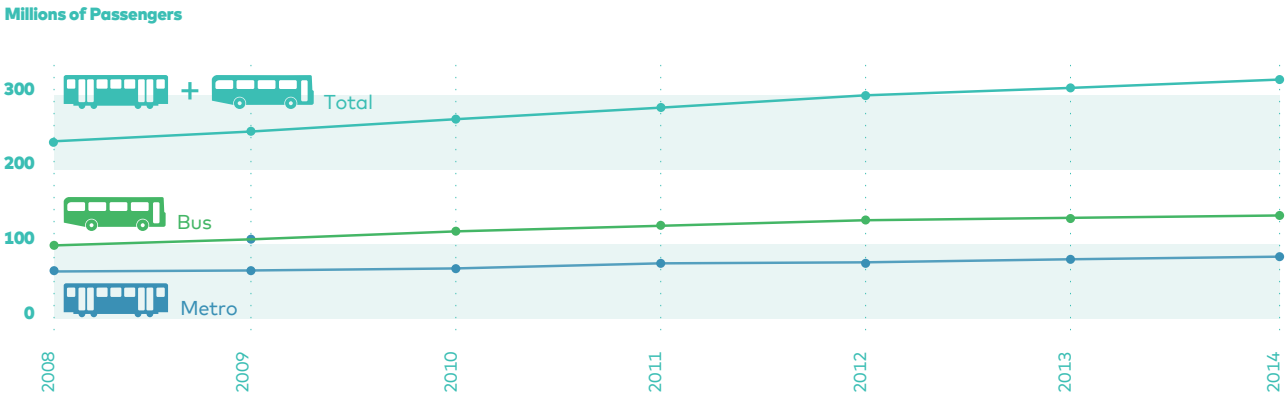
Labor unions in Oslo report dissatisfaction with the lack of direct communication with Ruter, having to communicate only with the operators to negotiate wages and work rules. This tension arises from workers' misgivings about how Ruter's service planning can affect work conditions (for example, affecting time available for bathroom breaks between runs) and a perceived unwillingness of operators to address these concerns for fear of facing a disadvantage in the next contract bid. In general, however, labor seems to be content with the current arrangement, conceding that the system might even be better with increased competition. As they see it, more competition means better service, which means more passengers and more revenue to hire more workers.

"more competition means better service, which means more passengers and more revenue to hire more workers."

Norway is fundamentally different from the US in many ways, especially after Norway instituted national wage standards and job protections in 2008. There is also a strong national social safety net, which means fewer agency obligations for pensions, healthcare, and other benefits that can drive labor costs up, and less concern on

59 Frode Longva and Oddgeir Osland, "Investigating the cost savings of competitive tendering—an example from the Norwegian bus industry (paper presented at European Transport Conference, Noordwijkerhout, the Netherlands, June 10, 2008), Association for European Transport, 2008, http://abstracts.aetransport.org/paper/download/id/2914.

Figure 4: Ruter Ridership by Mode, 2008–2014



Source: Ruter, Ruter in 2014, Summary from the annual report, https://ruter.no/globalassets/dokumenter/aarsrapporter/summary_annual-report_2014.pdf.

the part of workers that a change in operators will break the union and deprive them of employment and/or benefits. Nevertheless, ensuring fair pay and benefits and respectable working conditions is likely to yield benefits for both the public agency and its customers.

Oslo: summary

All three European cases include substantial governance changes, but Oslo stands out for its wholesale approach to change in comparison to the more gradual shifts undertaken in Stockholm and London. The creation of Ruter alongside contracting implementation has institutionalized a rider-centric, performance-based, and regional approach. The agency has also taken important steps to preserve a competitive environment despite the region's relatively small size in part by maintaining public operating subsidiaries to bid on contracts, which also fosters continued learning within the agency itself.

The results speak for themselves. Since its creation, Ruter has increased ridership by 50 percent (see Figure 4), bringing in fare revenues that cover more than 50 percent of its total budget, with the remaining amount of its budget derived from public subsidies and regional toll revenues. Public- and private-sector stakeholders in the region estimate that contracting has created operational efficiencies yielding long-term cost savings. Interviewees in the region consistently had high regard for Ruter and its staff, commending its forward-thinking focus on riders and customer experience.

New Orleans: Improving Agency Oversight after Missteps in the Wake of Rebuilding

The New Orleans Regional Transit Authority (RTA)'s contracting method has its roots in the aftermath of Hurricane Katrina, which decimated the region and its transit system, leaving the agency with a need to rebuild infrastructure and staff capacity alike. The RTA's delegated management approach to contracting meant that, until hiring an executive director in 2017, the agency contracted out management, planning, communications, and operational responsibilities to a single firm starting in 2008.

From 2008 to early 2017, the agency undertook this new operational model with only one full-time employee, the secretary of its board. The RTA's complete lack of in-house staff expertise has limited the agency's ability to effectively oversee such extensive contracting, particularly during Transdev's first five-year contract from 2009 to 2014. While the RTA's transit service has grown substantially since 2008, it did so in spite of a flawed first approach to competitive tendering and contract oversight. The agency's 2014 contract renegotiation, and its recent hiring of a full-time executive director, reflect an acknowledgment of the first contract's limitations and a commitment to improve on the region's contracting model.

Timeline

The RTA's delegated management contracting structure and its history are divisive among New Orleans stakeholders. Transit advocates critique the process by which service has been restored and emphasize that funding and bus service remain sparse relative to pre-Katrina levels, especially relative to the rapid recovery and expansion of streetcar service (see Figure 5). Agency officials and contractors are proud of having gotten transit service in New Orleans running again following Hurricane Katrina's devastating impact.

The New Orleans case is consistent with the other case studies in this report in demonstrating that contracting for the first time is likely to have some flaws and that iteration through subsequent contracts will help refine an agency's approach to contracting and achieving long-term success. In 2009, the introduction of the RTA's delegated management contracting structure brought needed expertise and management capacity to the RTA during a time of crisis. However, the agency's lack of staff expertise made it heavily reliant on Transdev, limiting the agency's ability to independently set and pursue a vision for public transportation's role in the region's future. The RTA's experience highlights the need for expert staff who can develop a clear public-sector vision and maintain strong agency oversight to preserve public confidence, transparency, and trust in an agency that contracts out for service operations.

Legacy of private transit operation lays contracting groundwork

Private-sector participation in New Orleans public transportation is an integral part of the region's history. A single streetcar line, the St. Charles Line—running from the suburb of Carrollton into the city since 1835—blossomed into a network of streetcars totaling 210 miles at its peak. Several different private companies managed and operated separate lines, but the services were not well coordinated and eventually became costly to deliver.

In the early 1920s, private companies exited the public transit market because of lack of profitability. In response, the city of New Orleans consolidated management of public transit, electricity, and gas under the banner of New Orleans Public Service, Inc. (NOPSI), a private subsidiary of Middle South Utilities, Inc. (later Entergy Corporation). NOPSI ran the streetcars, as well as the electricity and gas, until the late 1950s, when it converted all but the St. Charles line into bus routes.

After two decades of operating the buses, NOPSI's transit division was replaced with a new public transit agency, the New Orleans Regional Transit Authority (RTA). The RTA was created in 1979 as a political subdivision of the state. Since its creation, the RTA has provided bus and streetcar service throughout Orleans Parish and currently operates one route in adjoining

Jefferson Parish. A volunteer Board of Commissioners—appointed by the mayors of the jurisdictions in the RTA's service area—oversees the RTA. Of its eight members, the Mayor of New Orleans appoints five, and Jefferson Parish appoints three.

From its creation, the RTA was designed to be a small agency with only a handful of staff. To manage operations, the RTA created the Transit Management of Southeast Louisiana (TMSEL), a public benefit corporation. Pre-Katrina, TMSEL employed a staff of 1,300 to plan routes, operate and maintain buses, manage contracts, provide customer service, and conduct other tasks associated with transit service in the region.

While the relationship between TMSEL and the RTA resembled a contractual one, they essentially acted as one agency, even sharing an executive director at one point. Under this management structure, transit unions negotiated directly with TMSEL. This arrangement was needed to conform to a Louisiana state law that prevents unions from collectively bargaining directly with government agencies, since TMSEL was construed as not technically a government agency, even though all its activity was funded via the RTA.

Contracting, with flaws, for Hurricane Katrina recovery

Hurricane Katrina in 2005 was a defining moment for the city and its transit system. The city was physically devastated, and government institutions across the region were severely strained, operationally and financially. Much of the RTA's infrastructure and equipment was damaged or destroyed, and much of its budget had been reallocated to emergency relief. The system's decline was self-reinforcing: New Orleans' public school system also pulled its participation in the RTA system, electing instead to hire private bus companies to run a traditional yellow school bus service. The RTA hemorrhaged ridership, lost funding, and was forced to dramatically cut service. But the disaster provided an opportunity for the city to transform a range of government services, including schools, housing, and economic development functions, as well as public transit.[60]

60 See, e.g.: Kevin Fox Gotham, "Disaster, Inc.: Privatization and Post-Katrina Rebuilding in New Orleans," Perspectives on Politics 10, no. 3 (2012): 633–46, http://www2.tulane.edu/liberal-arts/upload/GothamPerspectivesOnPolitics.pdf.

Post-Katrina, many senior TMSEL staff left the region (some lost their lives during the storm), leaving TMSEL and the RTA without the experienced personnel and technical expertise necessary to manage and operate service effectively—let alone during such a challenging time. In light of this management crisis, the RTA decided to contract out for "recovery service." This service was significantly scaled down from pre-Katrina levels, intended primarily to get buses out on the street to those who needed them.

After a competitive bidding process, the RTA selected Booz Allen Hamilton, a consulting firm, to manage the recovery service using TMSEL labor for operations. In 2008, after several years of bare-bones recovery service and a still-weakened TMSEL, the Federal Transit Administration encouraged the RTA to competitively tender transit operations and management functions together, a contracting structure employing what is known as "delegated management."

The RTA received three bids—from Transdev, First Transit, and the incumbent operator, TMSEL—in response to its initial request for proposals. The RTA eventually awarded the contract to Transdev. The award initiated a short-term contract, which would allow Transdev to understand the system, learn from TMSEL staff, and work with the RTA and labor unions to find a solution to the agency's unsustainable pension costs. Without learning more about the system and resolving the pension issue, there would have been too much uncertainty for Transdev—or any other bidder—to reasonably propose a long-term price for the contract.

Solving the pension-cost problem was an important and complex legal and financial feat. Mounting pension obligations—rooted in a "defined benefit" structure—and reduced state support for public transportation were leading the RTA down a path to bankruptcy. The RTA, Transdev, and the majority-employee pension board developed a shared understanding of the issue, and in light of the bankruptcy threat, the union agreed to freeze the old pension program before Transdev signed the final contract. This freeze was the key pillar of an eventual resolution that paired a 401(k)-style "defined contribution" model with social security income and the benefits that existing employees (above a certain seniority threshold) had already earned to date. Resolving the pension problem coincided with another shift for New Orleans transit unions, namely that they would now negotiate with Transdev directly.

In 2009, following a year of negotiations and review of RTA operations and obligations, Transdev and the RTA arrived at a long-term contract that included fully delegated management and operations of RTA service. Transdev negotiated a final contract term of five years, with an optional five-year extension based on good performance. While the RTA would continue to own the assets (buses, streetcars, garages) and the Board of Commissioners would retain final approval over agency policies, Transdev would be responsible for the route planning, scheduling, maintenance, community engagement, grant funding applications, and general management of the system.

Table 5: Contracting for Public Transit in New Orleans

Name	Operation	Average weekday ridership (2015)	Lines/routes in operation
Streetcar	Transdev	19,595	5
Bus	Transdev	30,788	34
Ferries	Transdev	2,724	2

Source: US DOT, "2015 Annual Database Service", National Transit Database. https://www.transit.dot.gov/ntd/data-product/2015-annual-database-service; New Orleans RTA Maps and Schedules, 2016, http://www.norta.com/Maps-Schedules/Overview.

> "This first attempt at contracting was successful in rebuilding a transit system in shambles but did not yield a model contract"

In the wake of the hurricane and under some time pressure from city government, this first attempt at contracting was successful in rebuilding a transit system in shambles but did not yield a model contract. To some degree, the unique context of post-Katrina New Orleans meant that the first contract—understandably focused on recovery—would inevitably look different from subsequent contracts. Yet the first contract failed to adhere to several basic principles of effective transit service contracting—principles like strong agency oversight; performance-based incentives memorialized in specific, goal-oriented performance metrics; and clear outlining of the roles and responsibilities of the agency and contractor.

Some shortcomings are typical for first contracting attempts—as in London, for example, where the contracting model was refined over more than a decade—but these failures could have been mitigated by more carefully reviewing contracting best practice and building oversight capacity before contract negotiations (and ideally, before issuing the contract RFP). While the 2009 contract

"The RTA lacked the contract oversight capacity that is essential for an agency to oversee a $65 million contract"

terms managed to articulate specific performance metrics for platform service hours, safety, and on-time performance, the agency lacked the contract oversight capacity that other cases have shown to be essential for an agency (let alone one without any staff with transit expertise) to oversee a $65 million contract.

The first contract memorialized one important means of incentivizing increased service hours, though not by setting specific performance targets. The RTA paid Transdev based on the number of platform hours it was able to deliver. Transdev could make more money if it could deliver more platform hours, which aligned with the RTA's goal of restoring service in the region. With a fixed operational budget, the RTA thus incentivized Transdev to find ways to cut the per–platform hour costs while increasing overall service hours in order to maximize the company's profit. Increasing the quantity of service was especially important in New Orleans during the region's recovery efforts. Still, other important service elements like reliability and safety were not tied to Transdev's financial returns.

In this case, Post-Katrina funding uncertainty may have made adopting explicit performance standards or goals unappealing, but incentives are foundational to effective contracting. The RTA's lack of staff and oversight capacity also made the absence of strong incentives and performance standards especially problematic. The agreed-upon contract length and extension-option terms are common in the industry, but any future decision to extend the contract should have been based on how Transdev met the agreed-upon standards—yet there were few benchmarks in the 2009 contract that gave either party a sense of what "good performance" meant.

The primary oversight tool the RTA employed was a management oversight committee (MOC) overseen by the RTA Board of Commissioners. The committee was composed of the board chair, the board secretary, the RTA's general counsel, and a small New Orleans–based consulting group called TMG Consulting. Rather than hiring its own staff, the RTA contracted TMG to provide the agency with additional technical capacity to evaluate Transdev's performance.

Although the RTA was responsible for creating a vision and setting transit policy for the region, it lacked the staff to fulfill those responsibilities. Without staff experts—and with the agency more concerned with restoring basic service in the wake of Katrina—the RTA board ended up deferring to Transdev to set the region's transit

agenda. Though the RTA board could modify any proposals and still needed to approve policies in order to enact them, for the most part, the RTA board acted in response to the policy proposals presented by Transdev. While the ability to source additional policy ideas from the private sector is among contracting's benefits, outsized influence from a single contractor has the potential to create conflicts of interest.

Transdev was primarily responsible for speaking on behalf of the RTA at community and city council meetings, except when the agency's board leadership intervened and assumed those responsibilities, volunteering their time to do so. Transit advocates point to community outreach, a responsibility that had been delegated to Transdev, as a weakness of the RTA during the first contract term. With its primary focus on rebuilding service in the region, the RTA did not have the resources to proactively engage communities in regional public transportation decision-making, and Transdev lacked a strong incentive or mandate to do so—instead responding to community concerns in a piecemeal fashion as they arose.

The RTA's transit service continued its recovery during the first contract term. The years following the first Transdev contract's signing showed a steady increase in service and ridership, with annual ridership increasing from 11.4 million in 2008 to 19.8 million in 2016, down from a peak of nearly 23 million by 2012.[61] Service hours have increased as well, but neither ridership nor service levels have yet come close to reaching pre-Katrina levels (see below, Figure 5).[62] Per–service hour costs are lower for all modes, though fixed management costs are higher for the RTA under the contract.[63]

Overall cost efficiency has improved since Katrina, from $247 per revenue hour in 2006 to $135 in 2014, approaching pre-Katrina cost efficiency.[64]

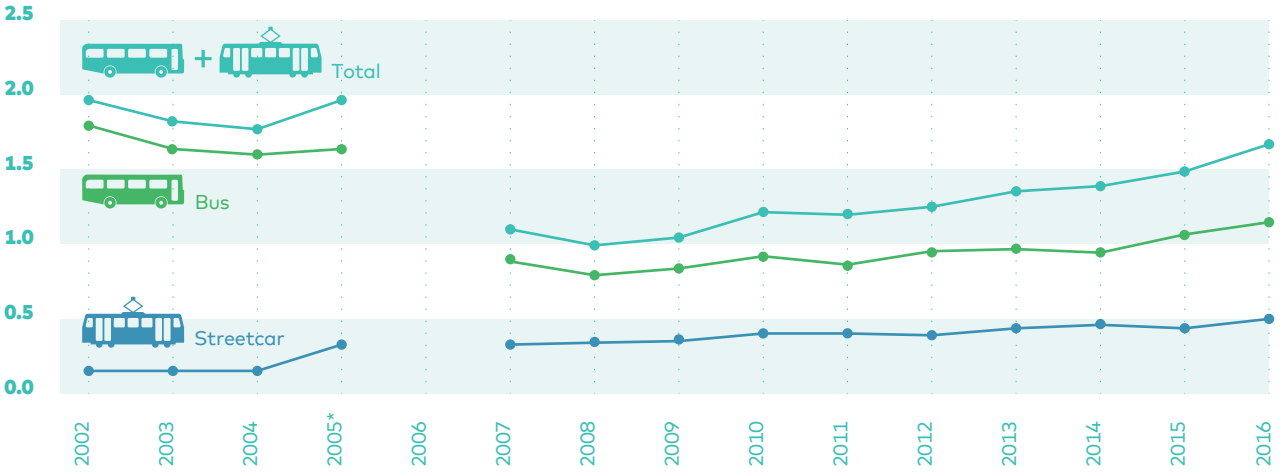
61 Federal Transit Administration, "Monthly Module Adjusted Service Database," **National Transit Database**, January 2017, https://www.transit.dot.gov/ntd/data-product/monthly-module-adjusted-data-release.

62 Ride New Orleans, **The State of Transit in New Orleans: Ten Years After Katrina**, 2015, http://rideneworleans.org/wp-content/uploads/2015/08/sots2015new.pdf.

63 Hiroyuki Iseki, Charles R. Rivasplata, Rebecca Houtman, Adam L. Smith, Carl Seifert, and Tiffany Sudar, **Examination of Regional Transit Service Under Contracting: A Case Study in the Greater New Orleans Region**, Mineta Transportation Institute, 2011, http://transweb.sjsu.edu/PDFs/research/2904_Regional_Transit_New_Orleans.pdf.

64 Board of Commissioners, New Orleans Regional Transit Authority, **Rebuilding for Tomorrow: Our Progress and Vision for the Future (DRAFT)**, 2015 (provided by Transdev staff via mail).

Figure 5:
RTA Vehicle Revenue Hours Per Capita by Mode, 2002–2016



Source: FTA National Transit Database, Monthly Module Adjusted Service Database May 2017; American Community Survey and US Census Population Estimates 2016 *2005 totals adjusted to account for January-July data only

Contract renegotiation yields important improvements

The RTA renewed Transdev's contract in 2014 following a renegotiation led by the MOC, extending the contract through 2019. The renegotiation was an opportunity for the RTA to update the 2009 contract to reflect the changing post-Katrina context and address some shortcomings of the initial contract. The amended contract reduces Transdev's profit margin, adds performance targets connected to RTA goals, adds several oversight measures, and more explicitly defines the roles of the RTA and Transdev under the delegated management contracting model. The added oversight measures include a regular financial audit; the addition of a new executive director to be hired by the RTA directly; and RTA board approval requirements for Transdev subcontracts, RTA marketing campaigns, and a greater number of Transdev senior management hires.

The renegotiation process lasted longer than expected—six months—and abutted the previous contract's expiration date. This pressure could have caused the agency to rush the renegotiation process; Transdev, however, agreed to continue operating under the terms of the existing contract for as long as necessary to ensure the continuity of service delivery. Negotiations were contentious, ultimately leading the mayor's office—which was renewing its focus on transit—to intervene to resolve disagreements among negotiation stakeholders.

"Stakeholders in the region consistently agreed that the 2014 RTA-Transdev contract renegotiation was a step forward for the agency."

Stakeholders in the region consistently agreed that the 2014 RTA-Transdev contract renegotiation was a step forward for the agency. The amended (and current) contract ensures greater accountability for the private operator to the RTA, creates clearer performance standards, clarifies agency and contractor roles, gives the RTA board a stronger say in Transdev's senior management hiring processes, requires a regular third-party financial audit, and paved the way for adding permanent RTA staff beyond the board secretary.

Delegated management contracts and market size

A delegated management contract can be structured to achieve intended policy and practice outcomes if an agency is in a position to create and oversee the appropriate incentives and performance standards, but this contracting model presents some inherent challenges. A fully delegated management structure creates a major additional risk for the contracting agency: if Transdev had exited New Orleans prior to the RTA's hiring of an executive director, the RTA could have been left with virtually no New Orleans–specific transportation planning and management expertise. This can be avoided by directly employing staff with relevant transit planning, policy, and operational knowledge.

A complementary approach to mitigating this risk is dividing contracts into smaller pieces—individual bus routes in London or geographic service areas in Stockholm, for example. But some agencies are too small in size and budget to create sufficient competition, which is needed to make such a piecewise contracting approach desirable. At an industry standard rate of 4 percent operating profit, the RTA's $65 million contract would yield $2.5 million annually for Transdev, a total that may or may not be sufficient to attract strong competition if it were divided into smaller pieces. Each agency should evaluate its own market for competition within its own context.

In smaller transit markets, delegated management contracts can help public agencies implement transit service. A city government, for example, that lacks transit expertise but possesses the capacity and ability to oversee contracts can benefit from using a delegated management model to introduce transit expertise in the short- or long-term. This is supported by the experiences of LADOT and Foothill Transit, which are discussed in the Los Angeles case study.

New Orleans: summary

In the wake of the Katrina crisis, political leaders within the New Orleans region elected to dramatically change course with respect to transit service delivery. The RTA's delegated management approach leveraged external experience to quickly restore basic agency capacity and bring service back to hard-hit communities. A volunteer board dedicated substantial time and energy to manage the recovery and oversee Transdev's contract, and Transdev in turn restored operational health to a dilapidated transit system. The first five-year contract's weak performance-incentive system was nonetheless stronger than those in place at many transit agencies today.

Still, the RTA's single-employee workforce was insufficient to properly oversee and manage a $65 million annual contract. Inadequate oversight from the beginning of the contracting process led to a lack of strong performance incentives and shortcomings in public engagement. The renegotiated 2014 service contract improves upon the first contract, both adapting to the then-current state of post-Katrina recovery and adding stronger oversight mechanisms and incentives. The RTA's recent hiring of a directly employed executive director will also better position the agency to engage productively with Transdev and future operators to support continued transit service improvements in New Orleans.

Vancouver: Provincial Politics Creates Conflicting Directions in Contracting

Metro Vancouver's transit agency, TransLink, engages in limited contracting. Its only major competitive tendering agreement has been with a consortium of private companies to design, build, maintain, and operate the Canada Line, which opened in 2009. This limited contracting regime is not for lack of trying—TransLink leadership worked to create a management structure that would support contracting for bus and even rail services, following the example of Stockholm in creating internal operating subsidiaries to manage its bus and rail operations. The political tides changed before contracting was ultimately implemented on a large scale, however, highlighting the importance of consistent political leadership when pursuing contracting.

Timeline

While contracting on a larger scale could strengthen TransLink's operations and improve service quality, the agency already has a reputation for effectively managing its service. Ironically, the agency's competency could have undermined its own pursuit of contracting—without a major crisis to respond to, there was not the same urgency present in New Orleans, for example (or in Los Angeles, in the next section). Even without full implementation of competitive tendering, merely wielding a "credible threat" of contracting out to private companies helps ensure continued operational efficiency on the part of the public operating subsidiaries. Under the Canada Line contract, however, the agency lacks some operational flexibility, suggesting that agencies considering long contracts in particular should ensure that they preserve their ability to modify service as needed.

"Under the Canada Line contract, TransLink lacks some operational flexibility"

Unlike in London, Stockholm, and Oslo, where the move toward competitive tendering was gradual and guided by steadfast, unwavering political direction from the national level, the Metro

Vancouver region began the process of creating a contracting regime that never fully materialized. The resulting system looks like a contracted service from the outside, but in reality the transit agency, TransLink, directly manages its own operating subsidiaries.

Metro Vancouver's provincial public transportation authority was created more than 30 years ago. In an attempt to consolidate the several planning and operating agencies in the region, the provincial government of British Columbia created BC Transit in 1983. This agency, headquartered in Vancouver and with an office in the capital, Victoria, managed all public transportation services in the province. BC Transit was a traditional public authority in Vancouver and Victoria, operating and planning transit services with in-house staff.

Soon after its creation, BC Transit rolled out the backbone of the Metro Vancouver region's rapid transit system: the elevated rail system known as SkyTrain. The Expo Line, the first of the system, opened in 1986. As the region's population grew, BC Transit expanded SkyTrain to connect downtown Vancouver with several suburban areas while continuing to operate the region's extensive bus network.

Tentative steps toward contracting under new regional governance

Eventually, political leaders in the region wanted more direct control of the transit agency, instead of relying on a provincial institution. In 1998, the British Columbia government created the regionally focused Greater Vancouver Transportation Authority (GVTA), known publicly as TransLink. This change of authority altered the structure of the organization and created a new, locally appointed board of directors. While the BC provincial government tends to be conservative (in the American sense of the word—not the Canadian political party) relative to Vancouver, the provincial government in power at the time was liberal and had close ties to labor.

Agency leadership seized the opportunity to prepare the agency for a shift toward competitive tendering during the transition. They intended to do this by splitting BC Transit up into subsidiary operating companies, mirroring the approach to contracting transitions undertaken in Oslo and Stockholm.

When a CEO was chosen in 1998 to lead the new GVTA, however, he did not view competitive tendering as a priority, and

the agency ultimately created only one subsidiary each for bus and train operations. This reorganization created the Coast Mountain Bus Company (CMBC), a wholly owned subsidiary, to run nearly all bus service in Metro Vancouver. The GVTA retained BC Transit's rail operating arm, the BC Rapid Transit Company (BCRTC), to continue operations of the SkyTrain. Under its new structure, the GVTA formed contractual agreements with its subsidiaries to operate the service, retaining the control of transit planning, fare policy, and route design within the GVTA. (BC Transit continued operating buses in all areas of the province outside Metro Vancouver.)

Table 6: Contracting for Public Transit in Vancouver

Name	Description	Operation	Average weekday ridership (2015)	Lines/routes in operation
SkyTrain	Automated Rail	BCRTC	~255,000	2 lines
SkyTrain	Automated Rail (Canada Line)	ProTrans (private)	~125,000	1 line
Bus and community shuttles	Regional & local bus	CMBC (some shuttles privately operated) and West Vancouver Blue Bus	~785,384	276 routes
West Coast Express	Commuter rail	Bombardier	10,400	1 line
SeaBus	Ferry	CMBC	18,170	1 route
HandyDART	Paratransit	Private operators	~7,600	n/a

Sources: TransLink, 2015 Transit Service Performance Review, 2015 HandyDART Customer Service Performance; Office of the Seniors Advocate, "BC Seniors Advocate launches largest ever survey of HandyDART service in BC" (press release), October 3, 2016.

The GVTA's original intention had been to create three separate bus subsidiaries—rather than just the CMBC—which could eventually be prepared for competitive tendering. But the newly created GVTA board was filled with regional elected officials, many of whom had strong ties to labor groups, and unions opposed contracting because of concerns over losing compensation and jobs. Union members pressured the board to halt this movement toward competitively tendered services.[65] The political risk of pushing for widespread contracting was perceived to be too great, and the system continued operations with its subsidiaries, the CMBC and BCRTC, serving as sole-source providers.

"The subsidiary issue was not one we placed at the top of the list," the first CEO of the GVTA, Ken Dobell, said. "There was an existing company, which was not a bad company, so why would you fragment it? Why would you split off Surrey or Delta when the transit lines cross those boundaries anyway? ... Sure, there would've been some joy in multiple subsidiaries, in competition, and privatization, but it wasn't a large priority then. We had other issues to deal with."[66]

Business as usual following politically driven governance change

TransLink underwent another governance restructuring in 2008, driven by a more conservative provincial government. The provincial parliament restructured the board of directors as a non-partisan, expert board rather than one composed primarily of local elected officials. The new board, however, has not pursued competitive tendering for operations.

TransLink's subsidiaries remain closely integrated into agency operations, though they are legally distinct from their parent agency. The executives of the CMBC and BCRTC are TransLink employees, for example, and both subsidiaries are consulted for their operational expertise in TransLink planning processes. TransLink itself reports that it employs close to 7,000 people, but the number

65 TransLink, **The Road Less Travelled: TransLink's Improbable Journey from 1999 to 2008**, (2008), http://www.translink.ca/-/media/Documents/about_translink/corporate_overview/corporate_reports/history/translink_history_nov_2008.pdf.

66 Ibid.

is technically closer to 450—on paper, the vast majority of transit workers in the region work for the subsidiaries, which coordinate closely with TransLink as part of its "family of organizations."[67]

TransLink does, however, contract out several of its niche services and functions, such as its Compass Card payment system, elevator maintenance, HandyDART paratransit, and community shuttles. It routinely transfers the management of these contracts to the CMBC and BCRTC in light of their operational expertise. There are also a handful of cases in which TransLink subsidiaries compete with each other on operations contracts—for example, on the Burrard Inlet ferry service, which the CMBC operates.

The CMBC cannot subcontract out its services to private entities, but TransLink is not bound by this restriction. TransLink must, however, meet certain conditions in order to contract—most notably, subcontractors must employ a unionized workforce that receives similar compensation to that of CMBC employees. TransLink has used this authority to contract for the operation of community shuttles, paratransit, and other smaller services, and assigned the CMBC to manage those contracts. In some cases, the CMBC has itself bid on and won some such contracts directly. This indicates that the possibility of losing ground to other contractors may incentivize the CMBC to remain competitive in maintaining reasonable costs. In other words, it can be powerful just to have the option on the table, realistically, to contract for service operations.

"Subcontractors must employ a unionized workforce that receives similar compensation to that of CMBC employees."

67 TransLink, **Translink 2013 Financial Information Act Filing & Remuneration Report**, http://www.translink.ca/-/media/Documents/about_translink/corporate_overview/corporate_reports/translink_employee_remuneration/2013_financial_information_act_filing_remuneration_report.pdf#search=%226%20700%20employees%22.

Contracting with emerging mobility providers

New players in the transportation market, especially on-demand transportation services, continue to grow in ridership and service area. In response, some public agencies are using tax dollars to subsidize transportation network companies (primarily Uber and Lyft) and on-demand transit companies like Via and Chariot to provide paratransit services, first- and last-mile transit station access, or even to replace expensive fixed-route transit service.

An interest in testing new ideas, a renewed commitment to riders, and in some cases financial constraints have driven a number of agencies to contract with these emerging mobility providers—mostly short-term contracts to date, structured as pilot projects.[68] These emerging-mobility pilot projects represent a shift of public resources away from skilled, full-time, unionized labor to unskilled, unscheduled, and often independent contractors who may not receive benefits.

While contracting experience around the world is strongest for traditional bus and rail services, emerging mobility contracts share many of the same fundamental challenges. Any time that public dollars pay for services from a private company, the public has a right to set standards for how that dollar is spent and understand what value the public is receiving in return. As a result, most of the lessons in this paper apply to any type of service contracting, including those with emerging mobility providers.

68 Shin-pei Tsay, Zak Accuardi, and Bruce Schaller, Private Mobility, Public Interest: How public agencies can work with emerging mobility providers, TransitCenter, 2016, http://transitcenter.org/wp-content/uploads/2016/10/TC-Private-Mobility-Public-Interest-20160909.pdf.

A lack of flexibility under long-term public-private partnership

The only true form of service contracting on a large scale in Metro Vancouver is the Canada Line public-private partnership (P3).[69] In 2000, the provincial government decided that it would only fund development of the next line of SkyTrain if it were to be developed through a P3. In this P3, the 12-mile Canada Line, which connects the airport and neighboring Richmond to downtown, was to be designed, built, financed, operated, and maintained by a single private consortium for a 30-year contract term (later amended to 35 years). The Canada Line's stand-alone nature—not connected to other lines nor constructed as an extension of an existing line operated by BCRTC—made this P3 contracting structure feasible. The contract to begin the project was signed in 2005.

TransLink's board did not take the decision to proceed with a P3 lightly, but they ultimately moved forward in part because the P3 was one of the political conditions to obtain funding from the provincial government. The Canadian federal government also put pressure on Vancouver stakeholders to move forward with the P3, having rarely funded urban transportation projects up until this point in time. The provincial and federal governments wanted the line finished prior to the 2010 Olympic Winter Games, and they saw a P3 as a means of ensuring the project's on-time delivery. From an infrastructure delivery standpoint, the line was successful, meeting its deadline and remaining within its budget.[70] While labor unions have generally opposed P3-style procurements, the GVTA promised that buses running along the route would be redeployed around the region to improve connections to the new line without threatening existing jobs.

The Canada Line contract is with the InTransitBC consortium, led by Montreal-based SNC-Lavalin. The contract, administered by the BCRTC, has a 35-year term that includes ongoing service operations. With so much focus on ensuring that the line would be open prior to the Olympics, less thought was given to the contractual details of

69 Partnerships British Columbia, "Canada Line," http://www.partnershipsbc.ca/files/documents/CanadaLinecasestudy.pdf.

70 SNC-Lavalin, "Canada Line: an outstanding project from end to end," http://www.snclavalin.com/en/canada-line.

service operations.[71] The operational plans were designed prior to construction and do not allow TransLink much flexibility to alter the contractual service levels, either in response to changing demand or major events like concerts or sporting events. Other SkyTrain lines can easily increase service frequency to handle crowds, but TransLink must negotiate with the private consortium every time it wishes to make such a service change. If TransLink wanted to change this provision, the agency would need to renegotiate the entire contract. For this reason, most operations-only transit service contracts range from five to ten years—a time frame that would likely be too short to make financial sense in a design-build-finance-operate-maintain P3 agreement like the Canada Line.[72]

71 Kenneth Chan, "Short platforms and trains: is the SkyTrain Canada Line under built and nearing capacity?" **VancityBuzz**, August 14, 2014, http://www.vancitybuzz.com/2014/08/short-platforms-trains-skytrain-canada-line-built-nearing-capacity/.

72 Canada Line Rapid Transit Inc., **Canada Line Final Project Report**, 2006, https://www.partnershipsbc.ca/files-4/documents/Canada-Line-Final-Project-Report_12April2006.pdf.

Vancouver: summary

> "Agencies should approach contracting strategically and be prepared to seize opportunities when they are presented."

Shifting from directly operated to contracted service provision is a significant change that is likely to be politically contentious even when strong labor protections are in place. As a result, agencies will find it challenging to implement contracting during a period of changing agency leadership, and especially challenging in the absence of consistent political support. Agencies should therefore approach contracting strategically and be prepared to seize opportunities when they are presented. While contracting may still offer an opportunity to improve service in Metro Vancouver, full implementation is less important when agencies are already operating relatively efficiently.

Nevertheless, maintaining the authority to contract is itself valuable in incentivizing good performance on the part of existing operations staff, or in TransLink's case, its operating subsidiaries. The provisions for operational management under the Canada Line contract reflect some shortsightedness on the agency's part, especially given the contract's 35-year term. Without flexibility to alter schedules as circumstances demand—which should be especially straightforward with a driverless rail system—TransLink has put itself at the mercy of its contractor, and pursuing changes to the operational management provisions could open up the entire 35-year contract for renegotiation.

Los Angeles County: Competitive Forces Coexist with a Pro-Labor Political Climate

With nearly 10 million residents, Los Angeles is the most populous county in the United States. Most transit ridership in the county is on directly operated buses and trains, but several agencies have used contracted services for more than three decades, providing 15 percent of transit trips in the region.[73] With more than two dozen operators in the region, Los Angeles County provides a spectrum of lessons regarding organizational dynamics and labor-management relations. This case demonstrates how the City of Los Angeles was able to use contracted and unionized workers to expand its downtown DASH bus network, how the regional Metrolink rail network has refined its contracting process, how the suburban Foothill Transit network has used contracted drivers and management for all of its operations, and how the largest agency in the region (LA Metro) uses contractors to supplement its core network.

During the 1970s and 1980s, the provision of public transit in Los Angeles County was dominated by two agencies. The Southern California Rapid Transit District (SCRTD) was the primary operator of the bus network, and the Los Angeles County Transportation Commission (LACTC) was in charge of funding distribution and regional transit planning. The LACTC was also the oversight agency responsible for developing the region's new rail network. These capital expansion initiatives created substantial tension between the two agencies.[74]

Problems began in the 1980s when the LACTC began constructing new rail lines, which the SCRTD feared would divert passengers from its bus network.[75] Despite both agencies recognizing that their fighting was causing delays, wasting money, and duplicating efforts, the discord continued.[76] As the tensions escalated in the early 1990s, the state legislature combined the agencies into a single entity to serve the entire county.[77] The agencies

73 Calculated from "2015 Service" data in the Federal Transit Administration's **National Transit Database**, https://www.transit.dot.gov/ntd/data-product/2015-annual-database-service.

74 LA Metro, **Los Angeles Transit History**, http://media.metro.net/images/service_changes_la_history.pdf.

75 Mark A. Stein, "Warring Transit Agencies Prepare for Merger," **Los Angeles Times**, December 1, 1991, http://articles.latimes.com/1991-12-01/local/me-823_1_transit-agencies.

76 Ibid.

77 Ibid.

officially merged on April 1, 1993, to form the Los Angeles County Metropolitan Transportation Authority, also known as Metro.

During this period of governance change, the SCRTD was under public pressure to rein in costs and reverse declining ridership, particularly on the bus network. It spun off several local bus lines to municipal governments, and some cities created new joint powers authorities to operate parts of the system that the regional agency cut from service. LA Metro is still by far the largest operator of rail and bus service in the region, however, and acts as the primary transit planner and funding allocator for the local municipal operators.

Contracting for service in the region varies by agency, each with its own unique history and lessons. Table 7 demonstrates a division typical of the industry in the US more generally: agencies in Los Angeles County tend to either contract out all of their operations or almost none.

Table 7:
Contracting for Public Transit by Operator in Los Angeles County

Transit agency	Average weekday ridership	Percentage on contracted services
Antelope Valley Transit Authority	11,881	100.0%
Culver CityBus	20,822	0.0%
Foothill Transit	48,412	100.0%
Gardena Municipal Bus Lines	12,875	0.0%
Long Beach Transit	89,722	0.0%
Los Angeles County Metropolitan Transportation Authority	1,439,259	4.6%
Metro: Small Operators*	41,295	100.0%
City of Los Angeles Department of Transportation ("DASH")	78,697	100.0%
Metrolink	49,745	100.0%
Montebello Municipal Bus Lines	24,858	1.5%
Norwalk Transit District	5,573	1.5%
City of Santa Clarita Transit	11,502	100.0%
Santa Monica Big Blue Bus	61,856	0.1%
Torrance Transit	13,659	0.0%

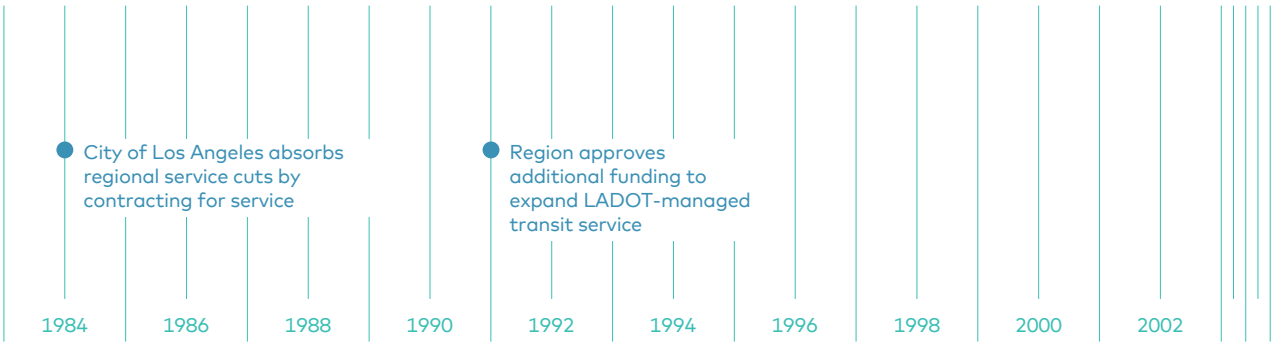
Source: FTA National Transit Database, 2015
*The Federal Transit Administration lists "small operators" under LA Metro's purview.

Los Angeles uses contracts to achieve safety goals

The DASH, run by the City of Los Angeles, is one of the largest transit systems in the United States run entirely with competitive contracts, despite being in a city and state that one might not expect to support contracting given unions' relatively strong political position. Instead of creating a full in-house operations team, the City of Los Angeles Department of Transportation (LADOT) decided to contract out the operations and focus agency staff on contract administration and management.

This contracting regime came about amid threats to cut service in the city and built on initial success by adding regional funding resources to support service expansion over time. The City of Los Angeles has also used its authority as both a transit operator and streets manager to align contractor incentives for DASH with its Vision Zero commitment to eliminate traffic fatalities by 2025.

LADOT Timeline



The city government first ventured into bus operations as a result of the regional agency's unwillingness to provide an adequate level of service in the urban core. In 1985, the Southern California Rapid Transit District proposed cancelling several bus routes in downtown Los Angeles because of low ridership. City leaders stepped in to take over those routes with municipal funds, delegating responsibility for the routes to LADOT.

Despite the desire to maintain these routes, the city council, which oversees LADOT, had reservations about taking over bus operations directly. At the time, LADOT was not recognized formally as a transit operator, nor did it have staff to manage transit operations, and subsequently did not have access to federal and

"LADOT chose to contract as a way to both enter the business and preserve routes while also hedging its commitment to being an operator."

state funding streams typically available to transit operators. Under a fiscally constrained environment and general apprehensiveness about taking on operations, LADOT chose to contract as a way to both enter the business and preserve routes while also hedging its commitment to being an operator. The first contracts were thus short and uncomplicated: three-year gross-cost contracts (i.e., payment by revenue hour of bus service) with the option of a two-year extension.

After the experiment proved a success, the network expanded, becoming what is now known as the DASH bus. In 1991, an agreement with the LACTC gave LADOT access to a share of dedicated sales-tax revenues and provided the needed resources to plan and expand the network. Over the following decade, the DASH service proved popular with riders, and LADOT further increased its operations.

As in the other case studies, LADOT's contracting process and framework has evolved as the network expanded and the agency became more experienced. Contracts are now a base length of five years, instead of three, with no extensions, and require the contractors to provide both bus operations and bus maintenance.

Because the agency oversees both local streets and transit operations, LADOT is also able to align DASH contracts' financial incentives with the agency's other policies. Most notably, the agency has recently added road-safety financial incentives to support the City of Los Angeles' Vision Zero commitments. LADOT's other primary performance targets for contractors are 85 percent on-time performance, no late preventative maintenance inspections, and

completion of at least 99 percent of scheduled service hours. LADOT can assess penalties to contractors who fail to adhere to these standards, and the agency can use performance history to evaluate contractor bids. Operators in the region believe there are too many financial penalties relative to potential financial benefits.

The agency plans, designs, and contracts out routes by geographic area and currently maintains contracts with two private operators, MV Transportation and Transdev, down from a high of six as the city has consolidated routes and contracts over time. As part of operator oversight, contract managers meet with LADOT every two weeks to review all problems and complaints. They also have monthly safety meetings. LADOT approaches its relationships with operators collaboratively by facilitating feedback and fostering continuous dialogue. While the contracts have many potential penalties, the contract manager has discretion about whether to impose those penalties or not.

LADOT originally required bidders to have their own garages but has found that only larger and more established operators have the financial capacity to do so. In an effort to reduce barriers to entry and increase the number of potential bidders, the agency is in the process of acquiring bus depots, which would be available for contractors, thus eliminating a large part of the operators' upfront investment. LADOT's ownership of the depots enables small operators to enter the market without the financial and practical hurdle of speculatively securing valuable real estate in Los Angeles for a garage.

Private contracting allowed the City of Los Angeles to test (and eventually increase) service without needing to manage a massive hiring process. Over its long history, LADOT has developed an experienced in-house team for contract tendering and management that can thoroughly monitor contracts and their specific performance incentives.

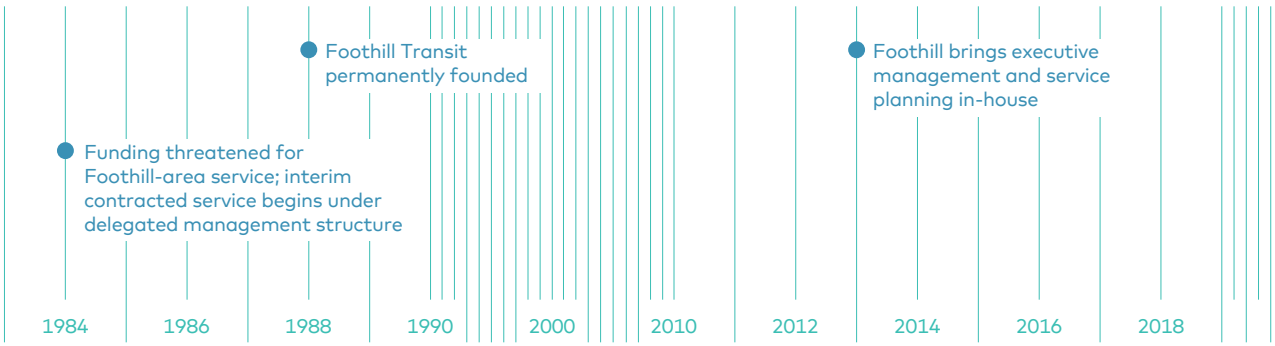
Foothill Transit brings management in-house

Much like the LADOT's DASH service, Foothill Transit was created as a means of preserving service that the regional agency was no longer able to financially support. Foothill has adapted its contracting approach over time, hiring full-time staff in 2013 to oversee

service planning and manage the agency's operations contracts following 25 years of using a delegated management approach.

In 1984, the SCRTD proposed significantly reducing routes in the San Gabriel Valley, which had relatively low ridership and high costs.[78] A local Los Angeles County Supervisor saw the eliminated routes as essential to those communities and spearheaded the initiative to provide transit service, with the intention that it could be done at reduced operating costs. As a means to create that service, local municipalities and Los Angeles County created a joint powers authority (JPA) that formed Foothill Transit. It began operations in 1988.

Foothill Timeline



From the start, the new entity contracted out not only transit operations but also all management and administrative functions under a delegated management contract, similar to that used by the New Orleans RTA after Hurricane Katrina. At the time, this approach was relatively unknown in the US.

Foothill Transit initially began as a three-year pilot program. Stakeholders scrutinized the use of contracting, particularly in terms of reducing public costs. Because the temporary service area used LACTC funding, LACTC staff required that, in order to be made permanent, Foothill Transit demonstrate at least 25 percent cost savings over the SCRTD-operated service. Absent clear guidance regarding how Foothill Transit should measure and report these cost savings, the LACTC and SCRTD commissioned competing cost-saving evaluation studies, the latter—with labor

78 Jonathan Richmond, **The Private Provision of Public Transport** (Cambridge, MA: Taubman Center for State and Local Government, John F. Kennedy School of Government, Harvard University, 2001).

union support—arguing that the privately operated service was no more cost-efficient. The consultants hired by each agency arrived at wildly different conclusions that supported the agencies' relative positions.[79] Ultimately, the LACTC decided that the temporary service area did achieve cost savings and made it permanent in 1988.[80]

For nearly 25 years, Foothill Transit operated under a fully contracted management-operator model, contracting with one company that planned and oversaw operations and with other private companies to directly operate service out of the agency's two operation and maintenance facilities.

In 2013, Foothill Transit shifted away from the delegated management model, bringing executive management and service planning in-house while still contracting out service operations.[81] So, for the first time, Foothill Transit hired its own management staff, many of whom came from the last private management company on contract, Transdev. Despite this

79 John O'Leary. **Comparing public and private bus transit services: A study of the Los Angeles Foothill Transit Zone** (Policy Studies No. 163). Reason Foundation, 1993. http://reason.org/files/0fb4b4c2a077ddeda22fbae1f5990f3c.pdf

80 Craig Quintana, "Private Bus Zone Given Final OK by 20 Cities, County to Start in July," **Los Angeles Times**, April 21, 1988, http://articles.latimes.com/1988-04-21/news/ga-2653_1_foothill-transit-zone.

81 Foothill Transit, **Foothill Transit Business Plan and Budget, Fiscal Year 2014–2015 Adopted**, http://foothilltransit.org/wp-content/uploads/2015/12/Foothill-Transit-FY-14-15-Business-Plan-and-Budget-Adopted_ReducedFileSize.pdf.

change, Foothill Transit's internal processes to procure operators and oversee contracts have largely remained the same.

The operating contracts are now four years with the option of a four-year extension, with Foothill Transit staggering the contracts so they do not expire at the same time. As is common with most contracted services, Foothill Transit compensates contractors based on the amount of service they provide, which includes a fixed monthly fee, rate per revenue hour, and rate per revenue mile. Special services and extra work beyond the regular transportation services in the contract are charged at rates specified in the contract.

Foothill Transit's procurement process currently allows for multiple question-and-answer periods, followed by submissions for prequalification and technical capacity. The agency issues an RFP and then allows both a site visit and two rounds of questions from proposers, who can request clarifications, which may result in modifications to the RFP (this is common practice for agency procurements). Foothill Transit then receives a proposal package consisting of a prequalification submission, a technical proposal, and a price proposal. Each proposer either passes or fails based on its prequalification submission. A technical evaluation team provides scoring based on different evaluation factors. This is combined with a price score that is done by formula, typically weighing 75 percent for technical factors and 25 percent for price. The process also includes reference checks, interviews, and a "best and final offer" opportunity to allow contractors to submit an improved price.

Once the contractors are in place, Foothill Transit oversees the contract and meets with the firms regularly to evaluate performance. Current contracts outline 41 potential penalties, which are in place to ensure that the contractor meets a minimum threshold of service.[82] Specific limits on everything from schedule adherence and preventative maintenance to data collection have standards and penalties that Foothill Transit can assess if contractors fail to meet agreed-upon expectations. On the other hand, if the contractor exceeds standards for any of six different measures,

"If the contractor exceeds standards for any of six different measures, it can receive bonus payments."

82 For full details on oversight, performance metrics, and other specifications, see: Foothill Transit, "Foothill Transit: Operation of Transit Services Request for Proposals No. 17-001," October 25, 2016, http://www.bidnet.com/bneattachments?/407647580.pdf.

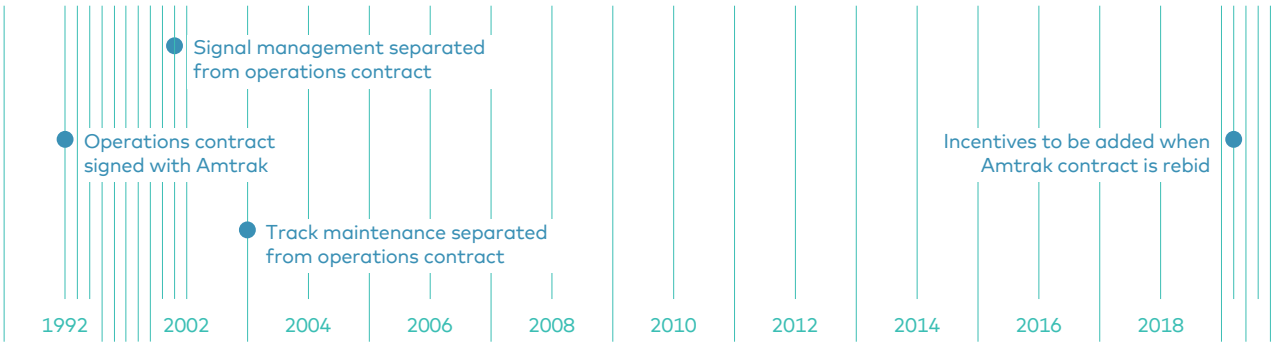
including on-time performance, customer complaints, and miles between service disruptions, it can receive bonus payments.

Foothill Transit's creation helped preserve transit service in several Southern California communities, though not without political complications. Foothill Transit has developed a strong, incentive-driven approach to service contracting in the decades since and has in recent years brought operations oversight in-house.

Metrolink adopts performance standards

Nearly all of the contracting in Los Angeles County is for bus services, and the majority of the rail network ridership is on Metro's publicly operated subway and light rail lines. However, the regional railroad network, Metrolink, provides an example of using contractors to launch a completely new service where there was no capacity to build internal expertise.

Metrolink Timeline



In 1990, Los Angeles, Orange, San Bernardino, Riverside, and Ventura Counties created a joint powers authority (JPA) to build a regional passenger rail network. The JPA and member agencies purchased operating rights or outright ownership of 173 miles of underused or abandoned rail lines from longstanding privately owned companies, like the Southern Pacific Railroad. The goal was to run new passenger services on a network of lines—many of which were also used for privately operated freight train service—radiating from Union Station in downtown Los Angeles. There were no existing regional rail services at that time, and the counties did not have the capacity or knowledge to start running a railroad. Therefore, the counties decided that

the JPA, named Metrolink, would contract out service operations as well as infrastructure and equipment maintenance.

Service began in 1992 under a contract with Amtrak, bundled to include operations and maintenance of equipment, tracks, and infrastructure. Amtrak was a natural choice for the contract since it already operated long-distance and state-supported service in the region, had a large maintenance facility, and had existing operating agreements with freight railroads. The early contracts with Amtrak were for four years with the option of two one-year extensions.

While Amtrak retained the Metrolink contract for 13 years, during this time Metrolink began to unbundle the contract with Amtrak, in part because of growing ridership from the creation of three additional lines within three years.[83] Metrolink awarded competitive contracts for communication and signal maintenance in 2001 and track maintenance services in 2003. In 2005, in part because of Metrolink's dissatisfaction with its relationship with Amtrak, Connex (now Transdev) won the service-provision agreement in a competitive bid.[84] Three years into that contract, a Metrolink train collided with a Union Pacific freight train, fatally injuring 25 people. After a National Transportation Safety Board investigation, it was

83 Metrolink, "Case Study: Metrolink, Los Angeles California" (provided by Metrolink staff via email), 2016.

84 Metrolink,"New Rail Operator Gets On Board with Metrolink," **Metrolink Matters**, February 2005, http://www.metrolinktrains.com/pdfs/MetrolinkMatters/metrolink_matters_2005_february.pdf.

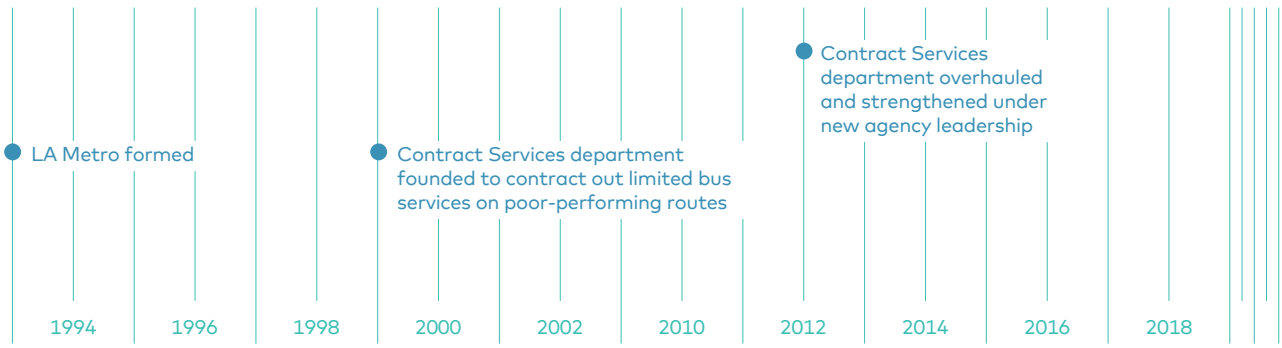
found that the engineer who caused the crash was texting and failed to yield right-of-way to the Union Pacific train. This incident in large part prompted Metrolink to re-award the contract to Amtrak, which is the current operator. The current contract with Amtrak is for four years with the option of two three-year extensions.

The agency is seeking a new provider for service operations to begin when the current contract expires in 2020. The high cost of the current Amtrak contract and a desire to emphasize performance-based incentives—which are absent from the current contract—led to the decision to competitively rebid the contract. In a shift from previous procurement rounds, Metrolink outlined overall performance standards while allowing the bidding operators to specify their own detailed models of service delivery. The ongoing open solicitation has already helped balance the Metrolink-Amtrak relationship, with Amtrak—previously unwilling to negotiate—now willing to reduce contingency and management fees.

LA Metro invests in needed support for contracting unit

LA Metro, created in 1993 out of the merger of the SCRTD and LACTC, is the main transit operator in the region and runs the majority of its rail and bus services with its own staff. Metro contracts 18 out of its 170 bus routes, however, to private operators. While the agency's initial approach to contracting on these routes was haphazard, the agency refreshed its contracting approach and has provided the contracting department with the resources to improve its management and oversight of contracts.

LA Metro Timeline



Contracting began in the late 1990s when LA Metro was looking for ways to reduce costs and service on less productive bus routes. Metro identified the routes that had the highest per-rider subsidy but, instead of canceling them (like it did for the routes that ended up with LADOT and Foothill Transit), decided to bid them out to several different operators.

To manage, oversee, and administer these contracts, LA Metro created a separate department called "Contract Services." But the staffing for this group was pulled from the operations department and given a vague mandate and insufficient internal support. Furthermore, the staff reassigned to the group were not properly trained to be contract managers. Their experience in operations had not prepared them for managing external operators and holding them accountable to service standards. The routes that were contracted continued to suffer from low ridership.

In addition to the management issues, the contracted services division managers did not have specific performance criteria to judge the quality of the service. Instead, they relied on widespread use of "liquidated damages," which are cost penalties imposed on the operators for not meeting contract provisions. When an operator missed a target or was subject to a penalty, division managers exercised their right to impose fees. This often did not address the root of a problem but instead made it more and more financially difficult for the private operators, and service quality consequently worsened.

In 2012, then-Metro Chief Executive Officer Art Leahy refocused the overall mission of LA Metro on quality service provision in addition to safety and security, and in doing so elevated the Contract Services Department. It received more funds, greater internal support, and a new sense of coherence with the other Metro departments. For example, the vehicles used for contracted routes were placed on the same fleet-replacement cycle as those for in-house operations, and Metro equipped buses on the contracted routes with updated technology similar to those used on in-house buses, such as electronic fareboxes, automatic vehicle locators, and computer-aided display machines.

Performance for contracted routes is now monitored through Metro's internal management program, which evaluates all its departments. This program, carried out by Metro's Office of Management and Budget, uses key performance indicators (KPIs) to

link financial costs with service performance. These KPIs also helped the contracted services division develop incentives for the private operators through increasing focus on their on-time performance.

Currently, Metro contracts with three private operators: Southland Transit, MV Transportation, and Transdev. Metro's operations contracts are for five years with no extensions, and operator compensation is based on revenue service hours. When evaluating bids, Metro compares proposals with the agency's internal estimate, which is useful to quickly detect and disqualify bids that are suspiciously high or low.

The use of clear performance indicators as well as a revised internal mandate has facilitated a much more productive and cooperative relationship between Metro and its operators as well as significantly improved the service quality of the contracted bus routes. Now, the Contracted Services team conducts quarterly check-ins with all operators as part of its oversight.

There are no recent proposals to shift more routes from directly operated to competitively tendered, even though service quality is reported to be higher on contracted routes. In fact, Metro's current bargaining agreement with its labor union prohibits expanding the system's current contracting practice. The success of LA Metro's contracting efforts is recent and is the result of a clear vision, administrative prioritization, strong staff support, and a focus on performance measurement.

"The success of LA Metro's contracting efforts is recent and is the result of a clear vision, administrative prioritization, strong staff support, and a focus on performance measurement."


ADA SPECIAL
Metro Local
HIDDEN FIGURES

Labor fragmentation and state protection in a diverse region

The entire transit workforce in Los Angeles County is unionized, with multiple labor unions and local chapters representing employees of both public- and private-sector operators. Three different unions represent drivers and operators in the county's transit industry: the International Brotherhood of Teamsters; the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART); and the Amalgamated Transit Union.

Los Angeles is a large region with multiple labor markets and a fragmentation of transit service, which creates disparate agreements across and sometimes within agencies. Labor unions negotiate separate bargaining agreements for each public agency as well as different agreements for each contract, leading to wage discrepancies within the region. Thus, the onus falls on individual union leaders to negotiate their members' wages and benefits. Although it is not uncommon for large agencies to have multiple bargaining units, the fragmentation is amplified in the Los Angeles region because of the complexity of the transit system.

While the labor force is fragmented and the memberships of all three unions consist of both public- and private-sector employees, the unions are unified in their general opposition to transit contracting on the grounds that private operators provide lower-paying jobs with fewer benefits compared to their public-sector counterparts.

Some private-sector unions have been able to negotiate wages and benefits near public-sector levels, and state laws provide some protections for private contractors' employees. For instance, one state law requires agencies to add a 10 percent bonus in scoring when evaluating bids that would retain existing drivers, regardless of the contractor. The same law also requires the retention of existing employees for 90 days after a contract transition, which provides employment security and an additional incentive to keep workers employed.[85]

85 California Labor Code, Part 3, Chapter 4.6, Section 1072, Paragraph B, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1072.

Los Angeles summary

The heterogeneity of both Los Angeles County's politics and its transit makes it a laboratory of different approaches to providing transit service. In a state and city where organized labor is relatively powerful, the city of Los Angeles was able to contract out its DASH bus service using entirely unionized workers and uses its dual status as transit operator and streets manager to align the city's Vision Zero goals with transit-operator incentives. In the San Gabriel and Pomona Valleys, Foothill Transit has recently hired management and planning staff to more directly guide the agency's planning and operations efforts. Regional rail provider Metrolink has recently seen success in negotiating with its operator by preserving a credible threat of competitive tendering in the coming years. Even the very large LA Metro uses contracting effectively for a handful of routes, following a leadership change that helped place the agency's contract management unit on more solid footing with greater clarity of mission, a stronger connection to the agency's performance-measurement division, and more organizational resources to support its work. These agencies demonstrate the opportunities for contracted—and fully unionized—services to bolster regional transit networks.

Lessons Learned

The case studies in this report provide examples of how transit contracting is carried out in six distinct contexts. Different cities and metropolitan areas have different cultures, governance structures, politics, rules and regulations, and transportation priorities. As a result, their experiences in contracting vary substantially. Nevertheless, lessons and considerations that are universally important for cities and transit agencies to consider when pursuing service contracting have emerged from this report's case studies. These lessons—explored in more depth below—are:

Government cannot contract out the public interest.

Contracting presents a major strategic opportunity for public officials and transit agency leaders, provided they maintain a laser-like focus on serving the public interest. This requires public-sector leaders to have clear transportation goals. These leaders have a larger strategic opportunity to use contracting to improve governance and/or reform agency management. As the case studies repeatedly demonstrate, contracting can be a powerful means of improving agency management practices in general—by reducing political influence on operational decisions, for example. Agencies are only likely to seize these strategic opportunities if they are prepared to do so proactively, not merely in reaction to regional political dynamics or financial crises.

Competitive market conditions can maximize contracting's efficacy. The size and competitiveness within the market for private transit operations have important implications for agencies' structural approach to contracting. Agencies pursuing contracting need to understand their specific markets in order to attract sufficient competition to make contracting worthwhile.

Government leaders must take steps to ensure that essential labor protections are in place to maintain expertise in the transit workforce and that the transit industry can compete for high-quality employees. While those protections are most important for operations staff, agencies also need to ensure that they are staffed at more senior levels with the internal capacity and expertise necessary to oversee complex operations contracts.

Clear contracts can align contractors' profit motive with agency goals.

Transit agencies can use service contracting to yield major service improvements to benefit riders, and the contract itself is the agency's means of delivering those improvements. Structurally, contracting enables agencies to focus more efforts on policy and strategies to improve service and rider experience, rather than primarily managing the nuts and bolts of service operations.

Ensuring that those operational nuts and bolts are strengthened by contracting requires clear incentives and requirements embedded in the contract. Effective contracting demands that the public sector take responsibility for aligning service contract incentives with overall transportation goals by way of specific performance metrics tied to financial rewards and penalties.

Contracting for the first time is an imposing and complex undertaking, so agencies seeking to do so will strongly benefit from learning directly from peer agencies who have relevant experiences. US agencies have a number of domestic peers with experience and expertise, but international counterparts will also offer valuable perspectives.

The contract itself will change based on a diverse set of judgments that agencies must make according to their own interests—including how to define the specific roles and responsibilities of contractors relative to the agency itself, how to allocate financial risks, who will procure and own vehicle and infrastructural assets, and how long the contract should be. While agencies may wish to make many of these decisions unilaterally, agencies should also strive to strike a balance in their requests for proposals between being prescriptive and flexible in order to ensure that contractors know what they are bidding on but still have room to propose new or unforeseen solutions.

Public agencies contracting with private companies should be mindful of the heightened importance of transparency needed to ensure public funds are being used appropriately. It is incumbent on agencies to establish accountability mechanisms to track and report on contractor performance, both financially and operationally.

Symbiotic agency-contractor relationships can improve operations and foster innovation.

Contractors can strengthen agencies by bringing valuable expertise and perspective to transit operations from their work in other contexts. To best take advantage of contractor expertise—and to more generally ensure positive contracting outcomes—it is important to maintain a positive relationship with contractors. While good contracts are a precondition to improving service through contracting, the contract's execution is built on personal relationships.

A clear contract is an essential foundation for this relationship, but the contract's execution should also be consistent and respectful. Agencies should strike a balance with respect to how strictly to enforce penalties, and they should make clear to contractors what this balance will be, thus administering the contract in a way that provides contractors with predictability.

Contractors serve as an extension of the agency's staff, and as transit operators, contractors will often be better positioned to identify on-the-ground needs and challenges as they arise. Private companies—especially those working in many places—can also provide valuable insight into industry trends and best practices. Agencies should thus build not just an operational but a strategic relationship with contractors. This will ensure that they are able to use these insights to inform agency planning and policy with respect to operations and beyond.

Once contracting is relatively well established, agencies can benefit from adapting their own staffing to complement the skills provided by contractors and avoid staffing redundancies.

Figure 6 summarizes some of this report's basic lessons for contracting for transit operations, starting with defining clear goals, then defining contract evaluation criteria, issuing an RFP that clearly articulates those goals and criteria, consistently and respectfully overseeing the final contract, and reviewing contract efficacy to inform future bidding rounds.

Figure 6
A Virtuous Transit Agency Contracting Cycle

The following lessons highlight steps that transit agencies and other stakeholders need to take:

Lesson 1
What to do before issuing a contracting RFP.

Lesson 2
What to consider while designing the contract.

Lesson 3
What to do after the contract is signed.

Each recommendation within these lessons also contains specific action items, which together comprise a checklist for agencies that are exploring and/or pursuing a contracted service model.

Lesson 1

Government cannot contract out the public interest

A transit agency can outsource its operations, maintenance, and even planning and management functions, but it cannot outsource its responsibility to serve the public interest. Even in highly contracted systems, transit agency managers remain accountable to a public governing board and, ultimately, to elected public officials and the residents and taxpayers they represent. Agency management's approach to contracting must be shaped by the realities of its local or state political context.

Understanding the political context is an important precondition to setting a clear vision because this vision should reflect the needs and desires of the communities an agency serves. This context is also important to understand when developing a contract, because the contract's conditions must respond to an agency's unique constraints and goals. This understanding is also essential in establishing a healthy relationship between the agency and contractor once the service is in operation.

Contracting can spark major governance reform

An agency's governance structure and its internal organization have a substantial influence on its ability to realize its vision, and opportunities to alter governance structures are few and far between.[86] Several of the case studies featured in this report illustrate how major governance overhauls can accompany contracting implementation, either simultaneously or after contracting has been adopted. Contracting for service requires agency staff and resources for oversight and contract management, which need different skill sets and organizational structures than designing and managing operations in-house.

In Oslo, Ruter reinvented the structure of the region's transit governance with a stronger planning, contract management, and customer service orientation. SL in Stockholm has significantly reduced its directly employed staff as it transitions from a planning and operations agency into a planning and contract-oversight agency. In the Los Angeles region, the specter of service cuts in multiple instances provided an opportunity to counter-propose service contracting undertaken by either a new agency (Foothill

86 Schank et al., Getting to the Route of It.

Transit) or one that had never directly managed transit service (LADOT). In Vancouver, political dynamics created opportunities for both a change in governance intended to set contracting in motion and, later, TransLink's Canada Line contract. New Orleans restructured several different government agencies, including the RTA, in the wake of Hurricane Katrina.

Some governance changes are subtler, such as when agencies create operating subsidiaries. The agencies featured in this report frequently formed subsidiaries as part of the transition to full contracting, enabling them to bid against private companies for agency operations contracts. In some systems (like Stockholm), these subsidiaries are ultimately dissolved once contracting is firmly in place. In Oslo, where competition for international firms is less robust, public subsidiaries continue to bid on contracts against private firms. In Vancouver, the transit agency formed two operating subsidiaries—one for bus and one for rail—but never fully implemented contracting, so they continue more or less as an extension of the agency itself.

Service contracting presents a unique opportunity for transit agencies to address their internal governance challenges. Agency leaders thinking creatively and strategically can leverage contracting implementation to bring about more fundamental agency reform. Having a solid grasp of key contracting issues also helps agencies be prepared to seize opportunities to implement change, whether in the form of political realignment or in response to a hurricane.

- ☐ **Identify the strategic connections between your agency's governance challenges and the potential implementation of service contracting.**
- ☐ **Educate relevant leadership stakeholders in order to build awareness of and/or support for potential changes so that your agency can seize the opportunity when it arises.**

Pay special attention to labor and workforce concerns, laws, and regulations

Strife between management and operating staff creates a poor environment for high-quality transit service provision. The political and regulatory context with respect to labor rights is among the most important and complicated factors to understand when moving to a contracted service model. When state and federal protections are weak, agencies need to take steps to ensure the contracted firm retains a skilled workforce with a reasonable standard of living. Preserving wages and benefits through the transition (and minimizing inequities between public and private employees if/when both systems are in place simultaneously) and beyond was the primary concern of unionized labor in the six case studies reviewed in this report.

Workforce opposition to the contracted model in Sweden and Norway was mitigated by strong national labor protections and social safety nets, which reduce the magnitude of risk for transit agency employees. Nevertheless, in Stockholm the agency took additional steps to preserve wages and staff seniority under the contracting regime. In Los Angeles, the transition to contracting was similarly supported by relatively strong state labor protections and a city council responsive to the interests of workers.

Some of the parameters for contracting may be rooted in federal or state laws as well as in local codes or regulations. For example, in 1993 the Massachusetts legislature passed the "Pacheco law," which limits the circumstances under which the Massachusetts Bay Transportation Authority (MBTA) is allowed to contract for services.[87] The law mandates that any contracting must be proven to reduce MBTA expenses while providing equal or additional value compared to performing the same function with MBTA employees, limiting the agency's ability to contract. In 2015 Governor Charles Baker, who controls the MBTA, sought to expand the MBTA's contracting practices. In order to do so, he had to first negotiate with the legislature to suspend the Pacheco law for three years.

87 The law is named after its sponsor, State Senator Marc R. Pacheco. For more discussion, see: Michael A. Gordon, "Developing Strategies for Resource-Constrained Transit Growth through Increased Private Sector Involvement" (master's thesis, Massachusetts Institute of Technology, 2015), https://dspace.mit.edu/handle/1721.1/99547.

Absent state or federal protections, agencies can also use the procurement process itself to protect workers. The State of California requires that transit agencies give contracting proposals a 10 percent scoring bonus when applicants promise to retain existing workers, but agencies can also define their own proposal evaluation criteria to ensure that the winning contractor will commit to desired worker protections.

The federal, state, and local laws that govern public procurement are designed to prevent fraud, waste, and abuse. To the extent that contracting out is deemed procurement and the transit agency is subject to those laws, agencies need to carefully design their contract processes to comply with those laws, like the US federal government's 13(c) provision. Similarly, if contracting leads to significant service changes, the process could be challenged on environmental or civil rights grounds. Before a transit agency considers contracting for services, it must firmly understand the laws of the jurisdictions in which it operates to ensure that procurement and contracting comply with those laws.

- ☐ **Be mindful of local and state laws and regulations, and adopt agency policies to support and protect workers.**
- ☐ **Maintain open and routine dialogue between the agency and labor leaders to understand mutual concerns.**
- ☐ **Engage with state and local lawmakers to update laws if they inhibit the type of contracting your agency wishes to undertake.**

Approach contracting with a clear vision for transit's role and goals in your region

Community values and public opinion are more subjective than laws, but they can play an even more important role in affecting an agency's ability to contract. Transit agency managers need to be astute in understanding these factors. For example, in a state or region that tends to strongly support workers, a contracting process likely to result in reduced wages would be doomed to fail. In a state or region that suffers from poor air quality, the transit agency might benefit from adding evaluation points for bidders who pledge to use low-emission buses. In a state or region where corruption is an issue, an agency might emphasize a highly transparent contracting process. Each locality has its own political context, and transit managers, as stewards of a public agency, must carefully navigate that context.

Agencies can and do outline priorities for their service in several ways. Allocating service requires managing trade-offs within a fixed budget, typically done by following service guidelines regarding geographic coverage, frequency, reliability, and span of service that are approved by the transit agency board. Service and system characteristics are the technical manifestations of an agency's vision. If community stakeholders have a vision for a robust transit system, then transit agency leaders must make sure their contracting approach is dedicated to fulfilling that vision and that this dedication is ultimately memorialized in the contract itself.

In the context of contracting, agencies can turn their goals into realities through RFP evaluation criteria and performance incentives (as discussed in Lesson 2). Articulating a set of weighted criteria is an important policy exercise for agency leadership in order to develop a shared understanding of service-operations priorities, and it also helps potential bidders improve contracting outcomes and price their bids accurately. In Oslo, criteria including price (weighted for 40–55 percent of total points), service planning, and environmental impact are assigned specific weights during the evaluation process. Foothill Transit commonly assigns 75 percent of its evaluation points to proposals' technical merits and 25 percent to price.

- ☐ **Formulate a clear vision for how transit supports local or regional goals and priorities, identified through ongoing engagement with your relevant stakeholders.**
- ☐ **Memorialize these goals in weighted RFP evaluation criteria.**

Market conditions should dictate how you contract

Cities and agencies need to consider the size and competitiveness of their transit market because effective, sustainable contracting requires competition. A service contract that receives few bidders is unlikely to yield the same benefits that an agency could expect in the presence of serious competition. In short, agencies must offer a contract that seems attractive enough to ensure sufficient private-sector interest (in the form of bids).[88]

The cost of preparing a bid can be substantial. Some agencies offer bidders a pre-established stipend to offset this cost in exchange for ownership rights to the proposal's contents (regardless of whether bids are ultimately accepted).

Sufficiently large agencies benefit from ensuring that no single entity disproportionately operates transit. TfL operates one of the largest public transportation networks in the world, with over a dozen operators competing for contracts on more than 650 lines in the region. Contracting by bus route enables TfL to stagger their RFPs, creating continuous competitive pressure and reducing the agency's exposure to risk in the case of individual contract disputes. This market represents roughly £2 billion (US$2.5 billion) in annual operating costs, or roughly £40–95 million (US$49–119 million) in potential private-sector profits, assuming a return in the range of 2-5 percent.[89] Although significant potential profits attract many bidders, some contractors do not have the resources to bid on large contracts in the first place.

Stockholm contracts for service operations in geographic subregions rather than individual routes. Only three operators have won contracts in the region. Interviewees in Stockholm cautioned that allowing any single operator to secure over 50 percent of the transit market could become problematic. New Orleans—smaller

88 David A. Hensher and John Stanley, "Contracting Regimes for Bus Services: What Have We Learnt After 20 Years?" **Research in Transportation Economics** 29, no. 1 (2010): 140–44, https://doi.org/10.1016/j.retrec.2010.07.018.

89 For a review of typical bus industry profit margins, see: L.E.K. Consulting, **Review of Bus Profitability in England**, Department for Transport, 2010, http://webarchive.nationalarchives.gov.uk/20121105042306/http:/assets.dft.gov.uk/publications/review-of-bus-profitability-in-england/review-of-bus-profitability-england.pdf. The return on sales in this report are "before interest and tax revenue."

still—contracts its entire transit system to a single operator, having received only three bids. Dividing this market into subcontracts may not attract a similar quantity or quality of bids. Oslo maintains additional competition in its tendering market by maintaining its own operating subsidiaries for bus and rail service, which compete with private operators and add competition to the market.

- **The benefits of competition diminish when there are not enough potential contractors responding to an RFP.** When possible, a large transit market that supports an array of bidders, with no single operator constituting a majority share of routes, ensures continuous competitive pressure, particularly as contracts for different routes or geographies are staggered in time. Medium-sized jurisdictions pursuing contracting will need to adjust their approach depending on their available financial and staff resources—it may make sense to increase outreach to potential contractors ahead of releasing an RFP, reduce contract length to plan for increased iteration, or even to maintain an internal operating subsidiary as a means of benchmarking operating costs.
- **Agencies in small transit markets should balance their limitations with the potential benefits that contracting could bring.** For example, such agencies have trouble attracting high-quality management staff, which could increase the appeal of contracting for a broader range of functions, even some of those (planning, oversight, etc.) typically reserved for public agencies. Given that the contracts are small in value, however, small agencies struggle with attracting competition, which can put them at a disadvantage with respect to price. When small agencies do contract, maintaining appropriate agency staff to perform oversight is essential.
- **Experiences in Oslo, Vancouver, and at Metrolink in Los Angeles also suggest that there is value in merely having contracting as an option.** Stakeholders in each of these three regions perceive that cost increases have been smaller and service maintained at a high standard in part because the agencies could elect to competitively bid their service at a later date.

- ☐ **Use the likely monetary size of your contract to inform the scope of the contract itself, and reach out to potential contractors to gauge interest in order to ensure sufficient competition.**

Hire and maintain essential oversight staff

An agency needs trained staff in place to appropriately oversee the bidding process and the contract itself once it is in place. Even as it relinquishes its role as a direct operator, the agency needs to retain sufficient operational expertise to effectively and collaboratively manage the contractor.

In New Orleans, the RTA has recently strengthened its oversight not only by improving the contract itself but more recently by hiring an executive director for the first time since 1997. The RTA's 2009 service contract lacked accountability mechanisms, and the RTA did not have the industry expertise needed to effectively oversee the system's operator. Under its delegated management model, the RTA had also contracted for community engagement, which was neglected during the operational recovery following Hurricane Katrina. The agency's lone public employee—the board secretary—did not have the industry-specific experience and expertise necessary to oversee the $65 million contract. Agencies must be prepared to invest in appropriate in-house expertise prior to signing such a large contract.

- ☐ **Budget for, hire, and train experienced staff with appropriate expertise prior to issuing a major contracting RFP to ensure that your agency can appropriately oversee service contracts.**

Lesson 2

Clear contracts can align contractors' profit motive with agency goals

The success or failure of service contracting ultimately rests on the quality of the contract itself, a single document that establishes the foundation for every agency-operator relationship. Agreeing on a contract that clearly defines the service goals and balances incentives appropriately is essential. All six cases in this report point to valuable lessons, but no single lesson is more important than this one.

Agencies must pay careful attention to contract terms and their implications for service quality, transparency, cost, and the incentives created to achieve those (and other) goals agencies articulate. London spent many years and several contract iterations refining its performance metrics and standards. Several US and international examples demonstrate that poorly constructed contracts have been linked to reductions in safety and system performance as well as to the inability to meet public-interest goals.[90] Some problems associated with contracting arise from the lack of an appropriate budget and foresight from agencies, many of which seek out cost savings above all else—resulting in service problems that may in turn erode those cost savings.[91]

Public agencies need to align the private sector's underlying profit motive with the public interest by connecting the two in contract terms. Private companies go out of business if they do not provide a return to their shareholders. Agencies with successful contracting systems use this incentive to their advantage. Several contracting techniques help strengthen the connection between public-sector goals and private-sector profits via incentives and penalties.

90 Zusha Elinson, "Private Contractor Struggles to Deliver Public Bus Service, Records Show," **California Watch**, March 6, 2013, http://californiawatch.org/money-and-politics/private-contractor-struggles-deliver-public-bus-service-records-show-18823.

91 US Government Accountability Office, **Transit Agencies' Use of Contracting to Provide Service**.

Learn from peer agencies directly

While service contracting is relatively uncommon in the US, there is still plenty of experience in the US and abroad that agencies should learn from. Reading this report is a good start, but there is no substitute for talking to staff at peer agencies who have written RFPs, sat at the negotiating table, and seen the highs and lows of service contracting firsthand.

In New Orleans, the RTA spoke with several contractors, consultants, and experts at the Federal Transit Administration before pursuing contracting in earnest. Agencies from around the world turn to London to learn from the expertise that TfL has built up over decades. Agencies can augment what they have learned in initial conversations by more formally issuing requests for information or by requesting qualifications from potential bidders.

- ☐ **Do your homework in order to understand the key challenges and opportunities for contracting in your agency's context—talk to peer agencies, read up on best practices, and solicit further information from potential bidders.**

Clearly define agency and contractor roles and responsibilities

Agencies will need to tailor their institutional models for service contracting to their existing goals and contexts. Models vary according to a variety of factors, including existing (and desired) governance structures, local geography, funding, agency expertise, and other extenuating factors (for example, the RTA's imperative to bring in new expertise following the devastating impact of Hurricane Katrina).

Which parties will be responsible for route planning? For vehicle procurement and maintenance? How many (and which) routes should the agency include in the contract? Who will market the service and write grants for new project funding? Who will represent the agency in public meetings related to contracted routes? Agencies must address these and many other questions in order to define the institutional relationship between the public and private sectors under a service contracting regime. Many models have been successful, but they all require a clear definition of agency and contractor roles.

Public engagement suffered during the New Orleans RTA's first delegated management contract, but it has improved since the RTA clarified Transdev's responsibilities in this and other domains in the renegotiated 2014 contract. Because Transport for London contracts hundreds of routes individually, contractor responsibilities are very clearly defined. Before Foothill Transit hired its own management and planning staff, the agency had to be explicit about the respective roles of the management and operations contractors, since the former was responsible for holding the latter accountable.

- ☐ **Clearly define—and memorialize in the contract—core agency and contractor roles and responsibilities.**

Determine which party will carry which risk

Allocating risk has important structural and cost implications for both parties as an agency develops a service contract (summarized in Table 8). If labor-cost risk is transferred to the private sector—for example by agreeing on fixed hourly rates for vehicle revenue hours, and/or fixed overall management costs—the contractor is responsible for covering unexpected increases in workforce costs. This fixed-price model is common but can lead firms to build an excess price contingency into their bids. This can be mitigated by substantial competition in the bidding pool, and a fixed-price model provides a substantial incentive to contractors to tightly manage and monitor all aspects of their operations to maximize efficiency.

Table 8:
Allocating Risk in Transit Contracting

	Typical Allocation	Explanation
Labor Costs	To private contractor	The contractor employs its own workers and bears the risk of strikes, turnover, and staff-related costs.
Fare Revenue	To public agency	Ridership can vary with the economy and fares are often political decisions, so private companies price the risk of fare revenue high.
Ridership	Varies	When given control over service routes, schedules, and reliability, contractors have better control over ridership. Contracts can incentivize increased ridership with per-rider bonuses.
Fuel Costs	To public agency	While it might make sense to give the risk of fuel prices to the private sector to encourage lower fuel consumption, prices often swing with global trends. Contractors price this risk high.
Asset Ownership	Varies	Owning the buses or railcars carries certain risks that vary with the type of property and contract. Usually the contractor owns buses but not rail vehicles.
Penalties and Incentives	Shared	Creating a contract with penalties and incentives creates risks for both the private and public sectors. Agencies should consider the costs of these risks when developing the contracts.

A transit agency assuming fare-revenue risk will see revenue losses if ridership decreases, while operators would be unaffected. It often makes sense to bundle certain risks and responsibilities in order to align incentives—for example, combining revenue risk with responsibility for service planning and marketing, since those responsibilities could strongly influence ridership and thus revenue.

Public agencies should be mindful that the private sector typically assigns a high price to risk, particularly for factors beyond their control. For example, assigning fuel-price risk to private operators will incentivize them to operate more fuel-efficient vehicles, but the risk of unforeseen and uncontrollable

increases in global oil prices will lead contractors to add the cost of that uncertainty to the prices they quote an agency.

Few agencies share revenue risk with operators. In London, to combat decline in bus ridership in the late 1980s and early 1990s, London Transport, the transit agency at the time, experimented with incentivizing operators to provide better service by allowing them to keep fare revenue. Under these net-cost contracts (see Table 1), TfL paid the operator a flat subsidy based on ridership projections, and operators retained the cash fares. Under this model, operators took on revenue risk: if they provided good service and grew ridership, they retained the profits, but they also could be subject to financial losses if ridership fell. Because the primary source of income for operators was fare revenues and the contracts failed to set other standards (frequency, wait times, customer service) or offer any incentives for better service, the operators took advantage of the captive bus ridership and cut the service quality to save on costs. None of the other cities in this report have shared revenue risk in this form, although allocating revenue risks to operators is common in the Netherlands and France, for example.

- ☐ **Assign financial risks to operators when it helps create positive incentives, especially in areas that operators can directly influence, such as labor and insurance costs.**
- ☐ **Assume risks that the agency deems to be outside the contractor's control, including fuel-price risks.**

Determine who will own capital assets

Assigning asset ownership to contractors creates a significant barrier to entry for potential bidders, since many firms are not equipped or would not wish to own capital assets. Who owns what—assets such as vehicles, depots, and maintenance equipment, for example—in contracting relationships substantially affects contract incentives and agency costs, and agencies have different approaches to assigning ownership.

In London, bus operators are required to acquire their own depots in which to store and maintain vehicles. Finding the appropriate land for a bus depot in metropolitan London—where real estate prices are at all-time highs—can be a major challenge of timing and expense, since cost-efficient depot operations may require multiple contract awards. This and a combination of related issues create a substantial barrier to entry, thus limiting market competition. This was also an important consideration for the City of Los Angeles, which decided to purchase the land and garages for the winning operator rather than assigning that responsibility to the bidders.

Table 9:
Asset Ownership Models in Transit Contracting

	Public Ownership	Private Ownership
Buses	Contractor uses and maintains public buses. It can be less expensive for agencies to purchase in bulk.	Contractor procures its own buses and maintains them. This could reduce overall costs if the contractor uses a variety of bus sizes for different aspects of the service. Contract terms must be long enough for the contractor to recover the cost of the assets.
Railcars	Contractor uses and maintains public rail rolling stock. Often rail cars have 20+ year life cycles and are unique to systems. Contractors price nonstandard equipment high.	Contractor procures or uses its own railcars. This is most common in commuter rail systems where the track gauge and stations are standard. If the contractor loses a bid, then it must be able to move or sell its assets to another property.
Depots/ Garages	The public sector owns the real estate and buildings for storing and maintaining bus and rail cars and lets a single or multiple contractors use them. This helps reduce barriers to entry in regions with high real estate costs.	The contractor secures land and buildings to maintain its assets if it is successful in winning a contract. This limits the ability of new bus companies to enter the market, but contractors could save money if they are able to "right size" the depots. Private depots work better for bus operations than rail.
Maintenance Equipment	The public sector owns the tools, parts, and equipment needed to maintain the buses or railcars and lets the private sector use them as part of the contract. This works well when the public sector also owns the depots, but that is not necessary.	The private contractor must buy its own parts and equipment. This does increase a barrier to entry, but it could also allow the contractor to use more efficient methods of maintaining the vehicles.
Infrastructure	The public sector owns the track or roadway infrastructure, stations, and other assets. This is by far the most common approach in service contracting, as it would be very difficult to for a contractor to own the assets during a 5- to 10-year agreement.	The private sector would own the infrastructure (or at least be responsible for its maintenance and condition) over a set period of time. There are instances of public-private partnerships when designing and building a new system, but even then the public sector is the ultimate owner of the assets.

Agencies should also consider who would make decisions regarding which vehicles to purchase as well as who would buy them. Transit agencies often let bus operators procure buses, which creates a stronger incentive to carefully maintain vehicles. On the other hand, agencies may have better access to financing or desire direct control over vehicle purchasing. The lifespan of buses is short relative to railcars, and they are more easily adapted for use in other cities if the operator loses a future bid. As low-emission bus technology becomes more common, vehicle lifespan considerations will evolve. Generally, however, assigning ownership to contractors will inflate agency costs as long as the contract length is shorter than the vehicle lifespan. Railcars, on the other hand, are highly specialized. In most cases of rail contracting, the agency owns the assets and delegates railcar maintenance to the operator.

- ☐ **Determine which assets the agency wants to own and which it wants the private contractor to procure, carefully considering the potential for increased barriers to entry.**

Develop contract performance metrics that align with agency goals

Agencies can leverage the contract as an opportunity to explicitly state their goals and set the standards for the basis by which they will evaluate contractors. Agencies can accomplish this by establishing clear performance metrics that align with agency goals. Table 10 presents a list of the performance metrics referenced in this report.

It is hard to overstate the importance of this point—creating strong performance incentives is the most direct opportunity that contracting affords to agencies to improve service for their transit riders. The adoption of clear performance metrics is also common across all contracting cases in this report. The exercise of choosing specific performance metrics is another independently valuable strategic opportunity for transit agencies whose own performance reporting might be disconnected from agency goals.[92]

If an agency desires increased transit system reliability, it ought to use a performance metric like London's "excess wait time,"

92 Chris Pangilinan, Zak Accuardi, and Mel Plaut, **Evaluating Emerging Mobility Partnerships**, Federal Transit Administration, 2017 (forthcoming).

which creates a strong reliability incentive for high-frequency transit routes. Safety is a priority for all public transportation systems, but different systems prioritize different aspects of safety—driver safety, rider perception of safety on vehicles and at transit stations, pedestrian safety, or crash incidence, to name a few.

Not all performance metrics are created equal. When compensating a contractor for basic vehicle operations, payment based on vehicle revenue hours (operation of vehicles serving passengers) creates a stronger incentive for operational efficiency than vehicle platform hours (operating of vehicles, including layover and deadhead time) because revenue hours are the outcome that riders care about and that agencies seek to maximize. A contract that promises payment based on platform hours—like the RTA's contract with Transdev—fails to create an incentive for operators to minimize non-revenue vehicle travel time.

Performance metrics should be specific, achievable, easy to measure, and not contradictory, which also means there should not be too many metrics. Subjective performance metrics are hard to enforce and will inevitably create frustration and disagreement with contractors.

- ☐ **Establish a set of performance metrics in the contract that align directly with the agency's strategic goals and which will be used to evaluate operator performance.**
- ☐ **Choose a manageable list of core metrics that create clear incentives for performance improvements and which are specific, achievable, and consistent.**

Table 10:
Select Case Study Performance Metrics

Metric	Incentive for...	Reference Agency
Excess wait time (reliability)	Even headways (ideal for high-frequency routes)	TfL
Mileage operated	Proactive maintenance and appropriate staffing	TfL
Crash/incident frequency	Improving safety	TfL, LADOT
Verified paid boardings/ridership	Increasing ridership	SL, Ruter
Cleanliness	Cleanliness	SL
Major delays (greater than 20 minutes)	Avoiding catastrophic delays	SL
Customer satisfaction (survey-based)	Improving customer service	Ruter
Platform service hours	Maximizing time spent driving buses	New Orleans RTA
Revenue service hours	Maximizing time spent driving buses on routes	LA Metro
On-time performance	Operating service as planned (ideal for low-frequency routes)	TfL, LADOT, LA Metro, Foothill Transit
On-time preventative maintenance inspections	Proactive maintenance	LADOT
Percentage of scheduled service hours completed	Proactive maintenance and appropriate staffing	LADOT
Customer complaints	Improving customer service and service quality	Foothill Transit
Miles between service disruptions	Proactive maintenance	Foothill Transit

Carefully set financial bonuses and penalties

Financial bonuses and penalties tied to key performance metrics provide powerful incentives to service contractors. This report's case studies make clear that both incentives and penalties are important to ensure successful contracting regimes. Penalties ensure that baseline service standards are met for riders, while bonuses create a positive incentive for operators to find new ways to improve performance.

Vertically integrated transit agencies—even those with clear goals and established performance metrics—would typically find it challenging or politically infeasible to implement actual financial bonuses and penalties, hampering agencies' ability to incentivize employees or internal operations units to improve their practices. Adding a private contractor as an intermediary between the agency and transit workers allows the public sector to assign these financial incentives to independent institutions.

Not all performance metrics need to be tied to financial incentives, but an agency can use financial incentives to clearly designate its highest priorities. For example, TfL's contracts provide bonuses to bus operators when they exceed service reliability targets, a key goal for the London bus system. London's bus system reliability has increased substantially since TfL introduced its "excess wait time" metric for high-frequency routes, and over time these improvements plateaued as operators exhausted potential gains.

Stockholm's SL offers bonuses for operators if they can exceed transit ridership targets. This system incentivizes operators to attract more passengers using whatever strategies they deem most effective. SL gives operators significant flexibility to meet this key goal, because operators are also responsible for route planning within their service territories. Ridership in Stockholm has rapidly grown in the past decade since this incentive was first introduced.

The City of Los Angeles adopted a Vision Zero policy to eliminate traffic fatalities by 2025, and then prioritized safety in its operations contracts to align with this goal. The operators thus share the city's goal of eliminating crashes and traffic injuries.

Many incentives carry trade-offs. SL's ridership incentive places an emphasis on short, high–passenger volume urban routes rather than "coverage" or commuter routes with fewer boardings per mile

of operation. These trade-offs generally represent value judgments, which should be implemented consciously to reflect agency policy.

Financial penalties in a contract are important for ensuring a minimum level of service. Penalties that are too high can deter potential bidders or simply cause bidders to raise their prices if targets are deemed unrealistic or if the magnitude of penalties is deemed to be draconian. The manner in which penalties are levied is also important to maintaining a constructive relationship. LA Metro initially levied financial penalties on operators frequently and without discussion, which strained relationships and failed to provide a clear path to improvement.

- ☐ **Identify priority performance metrics for service-quality improvement, define reasonable targets, and include financial bonuses in the contract if operators can exceed those targets.**
- ☐ **Identify performance metrics with minimum thresholds of service quality, define those thresholds, and include financial penalties in the contract for operators who fail to meet those thresholds.**

Ensure contract term is appropriately long

Contracts for bus operations in this report's case studies range from about five to eight years, with an agency option to extend beyond based on good performance. Length varies depending on whether bus or rail service is being contracted—rail contracts tend to be longer—as well as other contracting considerations like the assignment of asset ownership. Shorter contracts add contract renewal uncertainty for operators, increasing bid prices; on the other hand, shorter contracts also increase the frequency of market competition. Agencies must strike a balance to give operators enough time to make bidding—which can itself be a substantial expense for prospective contractors—worthwhile, without giving them so much time as to breed complacency. Options for contract extensions with evaluations based on clear performance metrics can help strike this balance and further reduce the frequency with which agencies need to manage resource-intensive procurement processes.

Shorter contracts can also be favorable when an agency is experimenting and refining its contracting approach. In Stockholm, SL recognized that its first contracting model would likely be improved in future iterations. Its initial contracts were thus structured for three years, with options for two one-year extensions. This allowed the agency to gain experience and correct mistakes without making a long-term commitment. Bus contracts were later extended to eight years with a four-year extension option once SL was confident enough in its approach and its contractor pool to tender longer contracts. Los Angeles also started with shorter contracts and lengthened them over time.

- ☐ **Pursue shorter contract terms early on in the contracting experience to allow for course correction and plan to lengthen them over time to maximize cost savings.**
- ☐ **Allow an option for contract extension at the end of the term, at the agency's discretion and on the basis of the agency's evaluation of agreed-upon performance metrics.**

Balance the RFP to achieve clarity while maintaining flexibility

The request for proposals (RFP) should include a clear description of overall goals, desired contracting structure, key operational priorities, key performance metrics, and risk assignment—in short, all of the above considerations and any other factors that should be made clear to contractors. Agencies must carefully balance the tension between an RFP that is explicit enough to give bidders enough information to base a bid on, yet not so prescriptive that bidders cannot innovate. A well-designed RFP provides a strong foundation for an effective final contract.

A lack of clarity can have the opposite outcome—vague descriptions of service needs and priorities will force bidders to make assumptions about agencies' plans and could result in incomparable and/or undesirable project bids, potentially with widely variable prices. Enough specificity is needed to ensure that bidders understand what they are bidding on and know how to set prices.

There is a tension between ensuring sufficient specificity in the RFP and preserving enough flexibility for bidders to offer creative solutions to the challenges the agency articulates. Some agencies have found that allowing potential bidders to comment and suggest changes on a draft RFP can help refine the final RFP prior to formally issuing it.

Sophisticated agencies do not base their decisions wholly on price. In Oslo, for example, when Ruter evaluates bids, price only represents 40–55 percent of the overall bid score, with the remainder composed of service-plan efficiency, bus quality, and environmental impact. By going beyond price in evaluations, agencies are more likely to achieve their goals.

Agencies should also be mindful of preserving their own operational flexibility. In its Canada Line contract, TransLink has limited authority to enact service changes in response to major events like sporting events or concerts—a limitation that is especially problematic given the contract's 35-year term.

- ☐ **Draft an RFP that provides enough specificity for bidders to set prices but allows for contractors to propose creative solutions to operational challenges.**

- ☐ **Give prospective bidders and the general public the opportunity to comment on a draft RFP.**
- ☐ **Set transparent evaluation criteria that reflect key agency goals beyond contract price.**

Include transparency and oversight provisions

Under any contracting model, public agencies retain responsibility for ensuring transparency, both procedurally and with respect to financial and performance reporting. If the contract is clear in setting out contractor responsibilities, ongoing engagement with the contractor can focus on the extent to which those responsibilities are being fulfilled, including both specific performance metrics and other less quantifiable issues.

TfL publishes performance metrics for the bus system—some at the route level—and contract awardees are easily searchable on a route-by-route basis. Forthcoming tenders are published on TfL's site more than a year in advance. The New Orleans RTA added an annual financial auditing requirement during its 2014 contract renegotiations with Transdev, ensuring that the agency has a consistent means—undertaken by a separate, third-party firm—of reviewing its contractor's financial reporting.

- ☐ **Assume responsibility for ensuring transparency in the procurement process and reporting on performance on an ongoing basis.**

Lesson 3:

Symbiotic agency-contractor relationships can improve operations and foster innovation

While the contract is the foundation of the relationship between the transit agency and operating contractor, the relationship extends beyond a few pieces of paper. Implementation inevitably requires the personnel of the transit agency and the personnel of the contractor to interact professionally and respectfully. The two contracting parties should share an interest in smooth operations and responsiveness to changing circumstances. Multimillion dollar contracts require strong public oversight, but that oversight should be grounded in respectful relationships.

The relationship between a transit agency and a contract operator is between a willing buyer of services and a willing seller. It is not a "partnership"; the transit agency's fundamental responsibility to provide value and service to its taxpayers and residents is not the same as the contractor's fundamental responsibility to provide profits to its shareholders and management. These goals are both valid and should be recognized as such. While the goals are different, they are not necessarily in conflict if both the contract and the relationship make them attainable. Each organization's desire to achieve these different goals can be harnessed by a common ambition to optimize service for riders. A clear contract implemented by mutually respectful transit professionals who maintain a healthy relationship can create that outcome.

Maintain a relationship with contractors that is not just operational but strategic

At an operational level, frequent contact is necessary to connect your agency's system-oversight responsibility with contractors' day-to-day operations management. From micro issues like customer service complaints to macro issues like route design, the agency and contractor bring different and often complementary perspectives and expertise to the table.

In Stockholm, SL meets with each operator monthly for a half day to discuss operations, revenue, and possible service improvements. This keeps SL staff informed about what is happening throughout the system, and it gives operators a chance to weigh in on the broader transportation policy issues being implemented by SL. In London, TfL also has regular meetings with its operators to plan for anticipated operational issues.

It can also be strategically valuable for agencies to conduct regular meetings with contractors to discuss broader challenges

like increasing ridership, piloting new technologies, or improving community outreach practices. Such regular meetings can provide a forum where agencies and contractors can together explore ideas for pilot projects and potential service improvements. In Oslo, for example, Ruter and its operators frequently discuss how new technology can improve their operations. Ruter recently introduced mobile ticketing, but prior to implementation the agency worked with operators to best understand mobile ticketing's likely impact on riders.

- ☐ **Regularly meet with operators—for example, at a standing monthly meeting—to discuss potential service changes and other new operational improvements or experiments that could help improve service quality.**

Set a respectful and consistent tone for the agency-contractor relationship

Agencies can set the tone of the relationship and should do so intentionally. Having clearly defined the contract's incentive and penalty structure, levying bonuses or penalties should be done consistently and in line with the contract terms, not in an adversarial way. Agencies should be positioning operators for and celebrating success, not looking for every opportunity to levy fines.

At the same time, penalties are in place for a reason, and an agency should transparently define its approach to levying penalties on its contractors to ensure predictability. The waiving or partial forgiveness of penalties should also be done transparently and with clear justification to ensure that such forgiveness is merited and does not instead represent excessive chumminess between individuals at the agency and individuals at the operator. Also, agencies should give operators the ability to explain missed performance targets. For example, buses could be arriving late for reasons completely outside of operator control, such as road closures or special events.

Parties can formally commit to good-faith interactions. In Australia, some agencies and contractors endeavor to enshrine aspirational "behaviors in contract" by spelling out their intentions for the conduct of the relationship.[93] While these norms are

93 David A. Hensher, "Contract Areas and Service Quality Issues in Public Transit Provision: Some Thoughts on the European and Australian Context," **Journal**

hard to enforce, they set the right tone. Hypothetical examples of those norms are 'the contractor should never say 'no' to the agency's request without explaining the basis for the 'no,'' and 'personnel of one entity complaining about the performance of the other entity will couch the complaint as one about the other organization rather than the character of a single individual.'

The balance between being accommodating and strict is ultimately a matter of preference. In Stockholm, fines for relatively minor cleanliness violations may be perceived as inflexible, but the agency has made its priorities clear by strictly levying substantial penalties and incentives to ensure contractors take the agreed-upon priorities—cleanliness included—seriously.

- ☐ **Establish communication norms within the contract that allow for productive conversation between the agency and the contractor. Allow both sides to suggest ways to improve the relationship, targeted at the organization rather than specific people.**
- ☐ **Arrange a standing monthly meeting between the contractor and the agency to review recent performance and its implications for bonuses and penalties as well as any other issues as they arise.**

Adapt staffing over time to complement contractor competencies

The type of personnel and skill sets that the agency and contractor bring to the table shape the relationship, as does the manner in which those skill sets are deployed. Agencies need not duplicate operator positions in-house, which can result in the perception and practice of micromanaging and inefficient resource allocation. The transit agency's oversight function in a contracting relationship requires the agency to have sufficient operational expertise to judge whether a contractor's operations meet the contract terms and to write and negotiate those terms in the first place. Once a contracting regime is relatively stable, it makes sense to reconsider long-term staffing decisions in light of a changed management structure.

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Oslo's Ruter and Stockholm's SL have been deliberate in developing staff who are marketers and planners, retaining just enough in-house operational expertise to effectively administer the operating contracts. SL dramatically shrunk its directly employed staff as it increased its service contracting practice.

Foothill Transit began operating under close public scrutiny in light of its origin as a means to rescue service marked for massive cuts. The agency initially contracted a private firm to oversee separately contracted transit service operations. After nearly 25 years of using this model, the agency brought executive management and service planning functions in-house, with many hired from the company that had previously managed the operations contracts in order to preserve context-specific expertise.

- ☐ **Hire and allocate staff to complement and oversee contractor functions, not duplicate them.**

Conclusion

When contracting is implemented effectively, it can yield impressive transit service improvements that benefit the riding public. When contracting implementation is leveraged strategically, it can enable governance overhauls whose impacts may go far beyond increased service reliability by creating more adaptable, sustainable public institutions. Public officials interested in contracting must understand these potential rewards but also the real risks of contracting—risks for transit workers if key labor protections are not in place, and risks for the riding public if contracts are poorly structured and do not support enhanced transit service. Drivers and riders alike suffer when part-time bus drivers being paid low hourly wages and without customer service skills operate vehicles for companies who do not face strong performance incentives.

Public officials and transit agency leadership acting in the public interest should consider competitive tendering as a potentially valuable tool at their disposal. Understanding the benefits of effective contracting regimes provides insight into some of the shortcomings and blind spots of the vertically integrated management structure typical of US transit agencies. While contracting is not the only means available to help address those shortcomings, it can be a powerful one. If public officials and transit agencies use it wisely, the citizens will thank them for it.

Action Checklist

Lesson 1: Government cannot contract out the public interest

Contracting can spark major governance reform

- ☐ **Identify the strategic connections between your agency's governance challenges and the potential implementation of service contracting.**
- ☐ **Educate relevant leadership stakeholders in order to build awareness of and/or support for potential changes so that your agency can seize the opportunity when it arises.**

Pay special attention to labor and workforce concerns, laws, and regulations

- ☐ **Be mindful of local and state laws and regulations, and adopt agency policies to support and protect workers.**
- ☐ **Maintain open and routine dialogue between the agency and labor leaders to understand mutual concerns.**
- ☐ **Engage with state and local lawmakers to update laws if they inhibit the type of contracting your agency wishes to undertake.**

Approach contracting with a clear vision for transit's role and goals in your region

- ☐ **Formulate a clear vision for how transit supports local or regional goals and priorities, identified through ongoing engagement with your relevant stakeholders.**
- ☐ **Memorialize these goals in weighted RFP evaluation criteria.**

Market conditions should dictate how you contract

- ☐ **Use the likely monetary size of your contract to inform the scope of the contract itself, and reach out to potential contractors to gauge interest in order to ensure sufficient competition.**

Hire and maintain essential oversight staff

- ☐ **Budget for, hire, and train experienced staff with appropriate expertise prior to issuing a major contracting RFP to ensure that your agency can appropriately oversee service contracts.**

Lesson 2: Write a clear contract that aligns agency and contractor goals

Learn from peer agencies directly

- ☐ **Do your homework in order to understand the key challenges and opportunities for contracting in your agency's context—talk to peer agencies, read up on best practices, and solicit further information from potential bidders.**

Clearly define agency and contractor roles and responsibilities

- ☐ **Clearly define—and memorialize in the contract—core agency and contractor roles and responsibilities.**

Determine which party will carry which risk

- ☐ **Assign financial risks to operators when it helps create positive incentives, especially in areas that operators can directly influence, such as labor and insurance costs.**
- ☐ **Assume risks that the agency deems to be outside the contractor's control, including fuel-price risks.**

Determine who will own capital assets

- ☐ **Determine which assets the agency wants to own and which it wants the private contractor to procure, carefully considering the potential for increased barriers to entry.**

Develop contract performance metrics that align with agency goals

- ☐ **Establish a set of performance metrics in the contract that align directly with the agency's strategic goals and which will be used to evaluate operator performance.**
- ☐ **Choose a manageable list of core metrics that create clear incentives for performance improvements and which are specific, achievable, and consistent.**

Carefully set financial bonuses and penalties

- ☐ **Identify priority performance metrics for service-quality improvement, define reasonable targets, and include financial bonuses in the contract if operators can exceed those targets.**
- ☐ **Identify performance metrics with minimum thresholds of service quality, define those thresholds, and include financial penalties in the contract for operators who fail to meet those thresholds.**

Ensure contract term is appropriately long

- ☐ **Pursue shorter contract terms early on in the contracting experience to allow for course correction and plan to lengthen them over time to maximize cost savings.**
- ☐ **Allow an option for contract extension at the end of the term, at the agency's discretion and on the basis of the agency's evaluation of agreed-upon performance metrics.**

Balance the RFP to achieve clarity while maintaining flexibility

- ☐ **Draft an RFP that provides enough specificity for bidders to set prices but allows for contractors to propose creative solutions to operational challenges.**
- ☐ **Give prospective bidders and the general public the opportunity to comment on a draft RFP.**
- ☐ **Set transparent evaluation criteria that reflect key agency goals beyond contract price.**

Include transparency and oversight provisions

- ☐ **Assume responsibility for ensuring transparency in the procurement process and reporting on performance on an ongoing basis.**

Lesson 3: Foster a symbiotic relationship with your contractor(s)

Maintain a relationship with contractors that is not just operational but strategic

- ☐ **Regularly meet with operators—for example, at a standing monthly meeting—to discuss potential service changes and other new operational improvements or experiments that could help improve service quality.**

Set a respectful and consistent tone for the agency-contractor relationship

- ☐ **Establish communication norms within the contract that allow for productive conversation between the agency and the contractor. Allow both sides to suggest ways to improve the relationship, targeted at the organization rather than specific people.**
- ☐ **Arrange a standing monthly meeting between the contractor and the agency to review recent performance and its implications for bonuses and penalties as well as any other issues as they arise.**

Adapt staffing over time to complement contractor competencies

- ☐ **Hire and allocate staff to complement and oversee contractor functions, not duplicate them.**

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Published by
TransitCenter
1 Whitehall Street, 17th Floor
New York, NY 10004

Cover Illustration Adam Avery
Design ObjectiveSubject
Printing ...
Typefaces Mark by Hannes von Döhren, Christoph Koeberlin and FontFont Type Department; Lyon by Kai Bernau


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