Analysis of Transit Contracting Models and Proper Incentives for Long-Term Success

FPTA October 2014  ●  Stephen Reich & Janet Davis
Presentation Outline

• Background
• Literature Review and Analysis
• Synthesis and Case Study Results - General Findings
• Final Report Summary
• Contracting Evaluation Process
Background

• Florida’s public transit systems challenged to operate in most cost-effective manner
• Need to maintain effectiveness as budgets tighten and demand for service increases
• A renewed interest in the area of contracting for fixed route service in the U.S.
• Issues surfaced surrounding a perceived or real tendency for U.S. agencies to be overly prescriptive in contract terms and conditions
• If true, may be stifling flexibility of private operating entities to employ creative means to offer more value and enhanced service to the public
Objective

• Inventory and synthesize previous work on types of transit operating contracts in the U.S. and Europe
• Assess benefits and drawbacks
• Develop situational guidance for FDOT to help determine if a particular model may be appropriately considered
• Provide findings to Florida’s fixed route transit operators - not to provide prescriptive contracting approaches for local operating decisions
Scope of Work

• FDOT funded project through NCTR
• P.I. - Jan Davis
• P.M. – Ed Coven
• Late 2012 start
• Emphasis on “Delegated Management” Contracts
• Tasks
  – Literature Review
  – Investigation of North American Experience
  – Presentation of Findings
  – Final Report with Decision-Support Guidance
Literature Review

• Extensive research piece – 90+ pages
• Contracting practices in Europe and identifying performance-based metrics
  – Service standards
  – Non-performance penalties
  – Contract length and renewals
• Differences between practices and performance measurements in Europe and the U.S. noted
Literature Review

• Lays out the evolution and context of Delegated Management contracts primarily in France (other countries as well)

• Identifies differences
  – Operating Contracts
  – Management Contracts
  – Delegated Management Contracts

• Reviews data from U.S. agencies
Literature Review

• The Transit Contract is a mechanism used to procure the services of a private firm through a competitive bid process
  – Contractors compete to provide transit services
  – Agency benefits from bidders offering best possible price to win contract

• Contract for a portion of the system (bus route) or for system-wide management

• Agency maintains ownership of the service and authority over setting policies
Literature Review

• Service operated by a private provider through a contractual relationship can be referred to as “privatization,” however, the U.S. system contrasts with full privatization efforts in the United Kingdom and Europe, where private firms actually own and operate public transit service.
Literature Review

• Typical transit contracts include responsibility for:
  – Management
  – Services that incorporate Operations and/or Maintenance

• Under a new type of contract - *Delegated Management* - the private operator’s role is expanded
  – All agency functions are delegated to the contractor
  – Contractor shares in the revenue risk
Risk & Accountability - Veolia

CASE STUDY AND SYNTHESIS OF CONTRACTING EXPERIENCE
Overview

• Contractual arrangements in the states of California, Georgia, Louisiana, New York, and Florida were examined
• Researchers explored the nature of contracting for rail and fixed route bus service reported by all transit agencies in those states
## Monetary Nature of Contractual Relationship – Bus

<table>
<thead>
<tr>
<th>Description</th>
<th>CA</th>
<th>GA</th>
<th>LA</th>
<th>NY</th>
<th>FL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fixed Route Bus Service</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agencies</td>
<td>80</td>
<td>15</td>
<td>9</td>
<td>36</td>
<td>30</td>
</tr>
<tr>
<td>Purchased all or some service</td>
<td>59</td>
<td>5</td>
<td>3</td>
<td>11</td>
<td>12</td>
</tr>
<tr>
<td>% purchased all or some service</td>
<td>73.8%</td>
<td>33.3%</td>
<td>33.3%</td>
<td>30.6%</td>
<td>40.0%</td>
</tr>
<tr>
<td>Directly operated all service</td>
<td>21</td>
<td>10</td>
<td>6</td>
<td>25</td>
<td>18</td>
</tr>
<tr>
<td>% directly operated all service</td>
<td>26.3%</td>
<td>66.7%</td>
<td>66.7%</td>
<td>69.4%</td>
<td>60.0%</td>
</tr>
<tr>
<td>Purchased service from sister agency</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Contracted with multiple providers</td>
<td>14</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Different monetary arrangements with providers</td>
<td>9</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Number of service providers</td>
<td>29</td>
<td>4</td>
<td>2</td>
<td>17</td>
<td>14</td>
</tr>
<tr>
<td>Negotiated rate per unit of service delivered</td>
<td>47</td>
<td>5</td>
<td>1</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>% negotiated rate per unit of service delivered</td>
<td>79.7%</td>
<td>100.0%</td>
<td>33.3%</td>
<td>81.8%</td>
<td>66.7%</td>
</tr>
<tr>
<td>Cash reimbursement of all of seller’s deficit</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Cash reimbursement of some of seller’s deficit</td>
<td>6</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Fixed fee + variable fee</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Agency provided vehicles</td>
<td>41</td>
<td>4</td>
<td>1</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Agency leased maintenance facility</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Paid or assisted with costs of fuel/other supplies</td>
<td>11</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>
Specific Contracts Examined

- Transit Services Agreement awarded on January 1, 2007, by the City of Petaluma, California, to MV Transportation, Inc.
- Management Agreement awarded on October 3, 2008, and amended on September 1, 2009, by the New Orleans Regional Transit Authority, Louisiana, to Veolia Transportation Services, Inc.
- Management and Operations of Public Transportation Services Agreement awarded on September 15, 2011, by the Parish of Jefferson, Louisiana, to Veolia Transportation Services, Inc.
- Delegated Management Agreement awarded on January 1, 2012, by Nassau County, New York, to Veolia Transportation Services, Inc.
- Transit Management Agreement awarded on April 1, 2012, by Escambia County, Florida, to First Transit, Inc.
Specific Contract Review

- Contract Type
- Compensation Method
- Roles and Responsibilities
- Service Adjustment Provisions
- Public Asset Use
- Personnel – Operator Requirements, Drug/Alcohol Testing...
- Liability

- Service Standards
- Maintenance Provisions
- Incentives
- Liquidated Damages
- Fares, Routes & Schedules
- Contract Administration
- Performance Metrics
- Management Policies
- Labor Provisions
Final Report Overview

• Reasons to Consider Contracting
• Reasons for Not Contracting
• Summary of Contract Provisions
• Lessons Learned
• Contracting Decision Approach
Reasons to Consider Contracting

- Improve operational cost-efficiency
- New/expanded service
- Additional flexibility
- Minimize public employment and unionization
- Political concerns
- Maintain service levels
- Access to contractor resources
Reasons Not to Contract

- Maintain control and agency accountability for quality of service and safety
- No projected cost savings
- Union contract
- Lack of competition, too few bidders, and lack of qualified firms
- Federal labor rules 13 (c)
- Level of service, not cost, is major operational decision-driver
# Summary of Contract Provisions (selected sample)

<table>
<thead>
<tr>
<th>Type of Contract</th>
<th>Transit Services Agreement</th>
<th>Delegated Management Agreement</th>
<th>Management &amp; Operations of Public Transportation Services Agreement</th>
<th>Delegated Management Agreement</th>
<th>Transit Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractor</td>
<td>Independent contractor</td>
<td>Independent contractor</td>
<td>Independent contractor</td>
<td>Independent contractor</td>
<td>Independent contractor</td>
</tr>
<tr>
<td>Contract Term</td>
<td>3 years</td>
<td>5 years</td>
<td>3 years</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Renewal/Extensions</td>
<td>2 one-year upon mutual consent of parties, subject to city council’s approval</td>
<td>Option to renew automatically upon (1) contractor meeting performance criteria, and (2) contractor’s significant investment in the transit system, or by mutual consent</td>
<td>No reference to renewal or extension</td>
<td>5-year renewal at County’s discretion</td>
<td>2-year extension upon mutual consent of parties</td>
</tr>
<tr>
<td>Services</td>
<td>Fixed route operations, administrative and maintenance-related functions</td>
<td>Manage all transit system functional responsibilities, operations, and maintenance</td>
<td>Manage and operate</td>
<td>Manage and operate</td>
<td>Manage, operate, and maintain</td>
</tr>
<tr>
<td>Revenue Vehicles</td>
<td>City provides after joint inspection</td>
<td>Agency delegates to contractor after joint inspection</td>
<td>Agency provides after joint inspection</td>
<td>County licensed contractor to use County-owned transit system property</td>
<td>County provides</td>
</tr>
<tr>
<td>Non-revenue Vehicles</td>
<td>Contractor responsible</td>
<td></td>
<td></td>
<td>Cost to maintain during first budget year may not exceed $20k</td>
<td></td>
</tr>
<tr>
<td>Facilities</td>
<td>City provides access to its transit and maintenance facilities</td>
<td>Agency delegates to contractor</td>
<td>Agency provides</td>
<td>County licensed contractor to use all County-owned transit system property</td>
<td>County provides and maintains</td>
</tr>
<tr>
<td>Service Plan</td>
<td>City provides and reserves right to adjust</td>
<td>Contractor develops schedules and routing, subject to agency approval</td>
<td>Agency provides and reserves right to adjust to meet agency’s needs</td>
<td>Contractor provides, subject to Transit Committee approval</td>
<td>Contractor, but County may adjust in writing</td>
</tr>
</tbody>
</table>
Lessons Learned

- Tailor request for proposal to meet service needs
- Conduct cost analysis prior to award and/or contract extension to ensure fiscally responsible bid
- Consider factors other than cost in selecting successful bidder
- Ensure contract provisions are enforceable and oversight is prescribed
- Contract performance and procurement compliance must be monitored
- Internal audit of contractor compliance
- Skepticism of unrealistic savings potential
- Potential conflicts between corporate and community goals
- Examples of return to public management
  - Cost savings
  - Direct accountability
  - Control over management staff and costs
  - Flexibility in service quality
Lessons Learned

• Unification of agencies can achieve many goals of contracting
  – Purchasing power/economies of scale
  – Consolidation of operations
  – Enhancement of regional connectivity

• Labor Issues
  – Low wage rates can cause turnover issues
  – Significant labor concessions can be difficult to realize once contractor/union negotiations proceed
  – Agency’s ability to impact benefits, wages, and working conditions is significantly restricted
“Contracting Decision Tree”

1. Conduct Detailed Cost Analysis of Current Operation
2. Cost-Efficiency Strategy Development
3. Consider Agency Operating Environment
4. Input from Peer Agencies
5. Route Level Assessment
6. Considerations
   - Minimum compensation levels
   - Part-time policies
   - Develop performance measures
   - Cultivate competition
7. Contract?
   - Yes: Identify Elements to Contract
   - No: Process/RFP Issue?
8. Process/RFP Issue?
   - No: Bids Competitive?
   - Yes: Execute Contract
9. Work Rule Changes
   - Adjust Routes/Schedules
   - More Efficient Vehicles
   - Other Strategies Identified