

# Overcoming Institutional Barriers in Specialized Transportation

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The Delaware Authority for Specialized Transportation (DAST) has had to overcome some interesting and occasionally formidable institutional barriers in its 11 months of existence. DAST is a unique organization; it has no duplicate in the nation. Delaware is the only state to create a specific agency that is responsible for the coordination and provision of specialized transportation services statewide. The creation of DAST was timely in view of the current search for policy regarding transportation services for the elderly and the handicapped.

DAST currently provides transportation services for clients of 46 public and private health and social welfare agencies in Delaware. These clients are all Delaware residents who have some physical, emotional, or economic handicap. DAST provides services to these agencies under individual purchase-of-service contracts; the basic charge is \$8 per vehicle hour. However the state directly subsidizes these services for 20 percent of costs so that the charge to each agency actually is \$6.40 per hour. DAST actively encourages different agencies to share vehicle hours where service demands permit and so split the hourly charge. Although DAST dispatches now do much of this grouping, agencies are beginning to deal directly with one another in coordinating client transportation needs.

DAST accepts transportation requests from agencies only; responding to direct requests from clients is forbidden by the enabling legislation. Each contracting agency certifies its own clients' eligibility for DAST service; DAST does no client certification. (DAST, however, does carefully examine the certification process or mechanisms used by each agency at the time it executes the original contract.) Agencies contact DAST and give the appointment or service times of their clients. DAST then determines the pickup time, which in urbanized areas ranges from 30 to 45 minutes before the client's appointment and in downstate areas may be as long as 2 hours before the appointment. Client pickup times at the social service or medical facility range from 15 to 20 minutes after the termination of the client's appointment.

DAST is attempting to renovate its fleet, but currently has a preponderance of standard "off-the-shelf" vehicles that have few provisions for clients with physical disabilities. Currently, DAST provides service to a number of different types of clients on board the same vehicle. DAST plans to purchase a number of vehicles that have interchangeable facilities for seats or wheelchairs.

DAST has the ability to subcontract with public and private carriers for needed transportation services; it has generally sought to do so for large groups that could be accommodated in conventional transit vehicles and small groups or single individuals who could be accommodated in taxis. For example, DAST has contracted with private charter operations to take large groups of senior citizens on shopping trips to and from

a senior citizens center while continuing to carry them to and from the center in its own vehicles. DAST is currently discussing with taxi operators the possibility of contracting for some services to individual travelers.

Although it has a waiting list of social service agencies wanting to purchase transportation services, DAST is at the limit of the service it can provide with its current fleet or its current subcontract authority. The Delaware Department of Public Instruction is negotiating with DAST for carriage of all its handicapped students in the next school year; that service alone may use all the increased capacity made available by the new vehicles purchased this year.

This paper will define DAST's mission and then identify and discuss some of the issues and problems DAST has had to deal with. The primary areas of concern are the enabling legislation that created the authority, planning requirements, funding and budget development, liaison with other transportation providers and administrative agencies, labor and grant problems, and equipment availability.

## ENABLING LEGISLATION

DAST is the successor of the Delaware Interagency Motor Service, Inc. (DIMS), a private, nonprofit corporation that was created in 1971 to provide specialized transportation services. Problems with DIMS, including the demand for service exceeding its capability, were analyzed, and a decision was made to recommend that a new specialized transportation authority be created. Such a mechanism would allow for (a) a means of subsidizing operations directly, (b) access to capital funds through the omnibus bond bill, (c) cost reduction through tax exemptions, and (d) a more stable position as a result of being formally "legitimized" by the General Assembly. The format of the bill presented to the assembly was basically the same as that of the state's mass transit authority, the Delaware Authority for Regional Transportation (DART). One major difference was that the specialized authority was to be statewide; the mass transit authority is limited to the urbanized Wilmington area.

The bill was introduced late in the first session of the 127th General Assembly. It passed the Senate rather quickly and moved to the House, where it was not passed until late March 1974. Governor Sherman W. Tribbitt signed the bill into law in April, making DAST a legal entity.

On December 1, 1974, the transition between DIMS and DAST occurred smoothly. All transportation services continued without interruption. One problem that developed quite early was differences of opinion about the definition of a public authority, its duties and obligations. DAST comes under the Delaware Department of Highways and Transportation, but it is not subject to merit system regulations nor are its employees covered by merit protections. DAST is exempted from state taxes but does have federal tax liabilities, which are paid directly or are paid through the state. It became a real challenge for DAST accountants and attorneys to resolve these issues, and some are still unresolved, such as DAST's liabilities for unemployment compensation insurance under state law. The state law refers to the federal criteria, and opinions differ over the intent of the federal statutes. These problems have created administrative problems that could have been eliminated if either the enabling legislation was more specific or a more detailed analysis of the obligations of a public authority had been undertaken prior to the formal start-up of the operation.

To clarify some ambiguity, the governor issued 2 executive orders. The first defined the roles of the Division of Transportation of the Delaware Department of Highways and Transportation and the 2 transportation authorities, DAST and DART. The division became the monitor of both carriers to ensure that they did not overlap or compete. This formal mechanism was necessary to apply for capital and operating assistance grants and also to be certain the legislative mandate against competition with other public or private providers is fulfilled. The second executive order formally limited the service area of DART to New Castle County and the greater Wilmington area; this left the door open for a possible switch to public, demand-responsive operations for DAST in other areas in the future.

## PLANNING REQUIREMENTS

One of the major problems DAST had to overcome was meeting planned requirements on the state and federal levels. To secure operating subsidies from the General Assembly and capital money from the state and eventually the federal government required that comprehensive plans be prepared. DAST really began midstream. When DIMS terminated, DAST had to immediately pick up the service. Any changes or adjustments in the program had to occur as the project continued to operate.

DAST found an immediate need to devise a strategy to replace deteriorating DIMS vehicles. Since DAST was a legitimate transportation authority, a decision was made to pursue the same funding format as mass transit: apply for a section 3 capital assistance grant from the Urban Mass Transportation Administration (UMTA). The grant application for \$1.5 million had 3 phases. Phase A was for the replacement of 25 vehicles, the addition of 2-way radio equipment, and the purchase of administrative equipment. Phase B was for additional vehicles and funds for possible construction of an operations center in Wilmington. Phase C was for vehicles and related equipment for rural operations. The application was filed with UMTA on December 31, 1974, and within 2 weeks preliminary approval was received and DAST was instructed to move ahead with the public hearings, planning, labor certifications, and final application. The speed with which the application received approval was unexpected and threw DAST completely out of cycle.

DAST was now faced not only with processing the grant request but also with generating the planning data and certification. A completed application was required by March 15, 1975, to be eligible for fiscal year 1975 funds. DAST proceeded with the clearinghouse reviews (state and A-95). The planners really had problems understanding the project and then trying to relate to the grant request. DAST had formulated the grant based on DIMS experience and then projected that to what DAST felt it could do. DAST had no Transportation Development Plan or any form of planning, either short or long range, and took much criticism for not having plans available for study or review.

One factor that did help was an award to the Division of Transportation in February 1975 of a section 9 technical study grant from UMTA to accomplish the planning for DAST. This lessened some of the planning criticism, for DAST was able to demonstrate positive movement toward meeting the planning needs and as a result was able to secure the needed clearinghouse approval. The planning process and the DAST system design have progressed well and are in the final stages of this phase of development.

The DAST Commission was also subjected to great pressure to set up advisory councils of user agency and rider groups to act as a clearinghouse for plans and policies. The secretary of transportation took the position that the commission allowed citizen participation in the authority and wisely advised against a proliferation of advisory councils. An alternative idea was developed: the use of open, public forums to provide a sounding board for the commission. Forums held thus far have proved successful, and plans call for forums to be held whenever significant decisions require public response and input.

One thing should be noted at this point. DAST learned early in the project that handicapped advocate groups and elderly advocate groups are often quite at odds. They see their groups as completely separate and will occasionally try to downplay the needs of the other. Anyone involved in transportation of the handicapped and the elderly should be alert to differences in their transportation needs.

## FUNDING AND BUDGET DEVELOPMENT

DAST began in the middle of a fiscal year in which no money had been appropriated for its operating or capital needs. All funds were to be derived from the purchase of service contracts. DAST inherited the DIMS contracts, in which the income from service charges was less than the cost of operations. Vehicle repair costs had risen dramatically as had the general cost of operations due to heavy inflation. Increased ser-

vice demands and rising operations costs required quick moves to stabilize finances.

The immediate answer was a bank loan of \$40,000 to provide enough operating capital to permit some flexibility. DAST had and continues to have cash flow problems. DAST increased the level of service each month, but the money from billings to the agencies did not flow in with any regularity. State and county agencies took from 90 to 120 days to process bills and send the checks. In the interim, no money was available to meet immediate expenses.

The social service and health programs DAST provided service to were strict in accountability procedures. The guidelines of the U.S. Department of Health, Education and Welfare and the state plan mandated individual client service records. An elaborate system of authorizations and verifications was established. All of these meant slowdowns on getting bills paid.

Approximately 80 percent of the existing purchase of service funds come from HEW programs (Title 19, Medicaid, and Title 20, Social Service Program), the Older American's Act (senior nutrition programs), and the Federal Rehabilitation Act. These programs require individual client accountability, which is accomplished by individual authorizations for each trip provided. At the end of the month, DAST must collect the authorizations and submit them along with the monthly bill.

The level of service and the accounts receivable are quite adequate, but the necessary administrative procedures create cash flow problems. An alternative is a pre-payment system under which DAST would apply a credit-debit method of accounting. Another option is to establish a demonstration program to allow an easing of the restrictive accountability requirements. If the system proves workable, it could be adopted permanently.

At one point the whole process ground to a paperwork halt, and DAST had almost no accounts receivable for 60 days. The Governor intervened, and the process began again and actually speeded up. Despite the increase in the volume of service provided, the difference between the accounts receivable on paper and the money in the bank was still large. A supplemental appropriation for \$50,000 was drafted and submitted. It passed the House but was not acted on by the Senate before the end of the legislative session on June 30.

DAST, therefore, entered fiscal year 1976 with a \$43,000 deficit, but with some hope. It was included in the Division of Transportation budget for an operation subsidy of \$225,000 that was to be applied to all agency contracts equally. After working out an hourly cost of operations based on labor expenses, fleet expenses, and fixed costs (such as insurance, rents, utilities), DAST arrived at an expense rate of \$8 an hour. DAST expects to operate 62,000 hours in 1976, and the subsidy will then cover 20 percent of contract costs, which means the agencies receive a discount of \$1.60 an hour or a charge of \$6.40. This has proved to be an incentive to agencies. Within 2 months, 10 new agencies had contracted for service.

Existing transit services and those being planned should explore the funding potentials of the health and social service programs within their service areas along with the traditional UMTA and state and local sources. Innovative ways of funneling categorical health and social service funds into transit services can provide new revenue and increased ridership. Funding coalitions can be assembled that are limited only by one's imagination and creativity.

## LIAISON WITH OTHER SERVICE PROVIDERS

There was concern that DAST could adversely affect other transportation providers unless safeguards were built in. DAST not only is a service provider but also is mandated to be a transportation broker and coordinator. DAST is to seek the most cost-effective method of meeting the specialized needs of the transportation disadvantaged. This includes the use of taxicabs, charter buses, volunteer agencies, and mass transit service where practical.

This greatly broadens DAST's mission. Until recently, DAST was forced to concentrate on improving its own in-house capabilities. It purchases service from charter

bus operators when demand exists for greater vehicle capacity (DAST's largest vehicle is 20 passenger) and has now begun exploring the possibilities of contracts with taxi operators. The results have been interesting.

The cab operation in Wilmington is controlled by one set of owners who operate 3 separate cab companies and who maintain that DAST has significantly cut into their ridership. DAST has never seen documentation of this, but it is logical to assume some riders have been transferred to DAST by sponsoring agencies.

DAST has presented the Wilmington taxi operators with a proposal for a contract to provide services to eligible persons during periods when DAST does not operate. (DAST now operates Monday through Friday from 6 a.m. to 6 p.m. and on weekends by advance notice only.) To purchase this service would be more cost effective than to expand to 24-hour service at this time. DAST could also refer riders to the taxi for single-passenger transport because it is not cost effective for DAST to serve single riders. DAST could also use the taxi service in periods of peak loads and thus lessen the need for capital expenditures. DAST is also exploring the possibility of shared dispatch and maintenance capability with the cab operators.

DAST will have to be assured that the cabs will provide a level of service equal to that DAST now provides. Taxi drivers will have to be trained in special techniques of assisting elderly and handicapped riders. The cab operation will also have to be able to process the service authorizations DAST must submit for payments and to guarantee response times when called. DAST is now writing all service contracts for third-party providers of service. This concept seems acceptable to the agencies provided they do not have to pay what they consider a high taxi fare rate. DAST will negotiate all contracts with taxi operators on a competitive basis that will be equitable for all concerned.

DAST is also exploring ways to interface with existing volunteer providers of service. The Red Cross, the Easter Seals, and other volunteer agencies now provide limited specialized transportation services. One major factor in DIMS' initial development was the inability of volunteer groups to provide a higher level of dependable service. Often these groups schedule riders, then volunteers do not report for duty, and promised service is not provided. At other times, the demands for service exceed their ability to provide the service. The volunteers lack funds to contract with DAST, and DAST is forbidden by law from providing free service. DAST and the United Way of Northern Delaware are now trying to devise a plan to assist the volunteers. Operations include use of DAST control dispatch by volunteer agencies and the purchase of vehicles by DAST at fleet rates and lease to volunteer groups on a full-service basis to include fuel and maintenance. A revision to the DAST enabling legislation would be needed to allow for referrals from nonpaying agencies who are capable of certifying riders' needs.

The potential interface of DART and DAST in the realm of specialized transportation will be minimal. By executive order the Division of Transportation is to monitor the operations of DART and DAST to ensure neither adversely impacts the other. DAST riders by definition cannot make use of the conventional, line-haul bus service provided by DART. DART's service area is now limited to urban New Castle County; DAST's service area is statewide. DAST is therefore well contained with respect to any competitive position with DART. DART and DAST will cooperate and coordinate for funding and planning purposes. The sharing of information and expertise is only natural, but the 2 authorities were established to perform separate functions.

DAST will maintain a close liaison with the state Division of Transportation. The division can offer technical services such as grant writing, budget preparation, and technical operating help that would otherwise have to be done by DAST internally or contracted for from consultants. Since Delaware is a small state, it is not logical for each authority to build a large administrative capability that only duplicates the existing resources.

## LABOR AND GRANT PROBLEMS

DAST is a nonunion transportation property. DART's bus drivers, however, are unionized and are represented by Local 842 of the Amalgamated Transit Union (ATU). The



National Mass Transportation Assistance Act of 1974 requires labor protection assurances in any capital or operating assistance grant applications. Section 13c of the act outlines the format for the assurances that UMTA-funded projects will not adversely affect the working conditions of those employed in mass transit within the service area of the project. These protections and provisions for payment of damages must be included within the contract between UMTA and the recipient before funds can be released.

These agreements are usually negotiated between the management of a transit property and the local union officers. The U.S. Department of Labor has an active role in the process. The secretary of labor, not the secretary of transportation, must certify the acceptability of the employee protections. UMTA is not involved at all and only wants to see the approval from the Department of Labor.

The section 13c process can be long and involved. After the preliminary grant application for section-3 capital assistance funding had been prepared and submitted, DAST began to study the requirements of section 13c. In early February 1975, a draft agreement was prepared by ATU and forwarded to DAST through the state transportation department. The draft was similar to that negotiated by DART for its capital grants and had several clauses that made it unacceptable to DAST: (a) All labor standards for the project were to be those that existed at DART (to include wages, hours, and benefits); (b) the ATU Local 842 was to be recognized as the bargaining agent for all employees of the project; and (c) DAST was to acknowledge it was operating in competition with and supplemental to DART. DAST does have a lower pay scale than DART. Health and social service agencies could never afford the rates DAST would be forced to charge if it adapted the DART scale. DAST was advised that recognition of the DART local as the bargaining agent for DAST employees would be an illegal unionization attempt and thus a violation of the rights of DAST drivers and labor laws. In no way could DAST admit a competitive or supplemental condition that did not exist. The commission, therefore, rejected this document.

Several meetings were then held with U.S. Department of Labor officials for guidance and clarification of issues. Several drafts were developed of a guarantee form of agreement to protect DAST employees from any adverse impacts of the project. These were not felt to be legally sufficient, for it became clear that the major emphasis of the DAST 13c document had to be to protect DART's drivers, not its own. Although it appears strange, the U.S. Department of Labor advised DAST that its drivers would be protected by the Department of Labor and that DART drivers would be protected by the formal 13c agreement.

DAST undertook an investigation to determine whether any precedents existed in which nonunion operations that were within the service area of a unionized property had gotten 13c agreements signed. Several were located. DAST studied these agreements, formulated its own draft, and submitted it to the Department of Labor and Local 842 in May 1975.

Within a week a meeting was arranged in Washington at the Department of Labor to discuss the proposed agreement. Representatives of ATU, Local 842, and DAST were to be present; state director of transportation indicated he would attend. The first meeting was consumed by discussions of the national implications of the paratransit nature of the project and the protections required. The specific DAST situation was not discussed, and further meetings were scheduled.

During the next few weeks, the Department of Labor suggested to the DAST staff how the 13c draft could be made legally sufficient; these changes were made, approved by the commission, and submitted to the Department of Labor and the union. In early August, another meeting was held in Washington in which a draft agreement was accepted by the union (local and national) and DAST. The accepted draft dropped the 3 major problem areas completely. The union only wanted an assurance of collective bargaining (which was deemed basically useless, for DAST has no union bargaining agent and does not interact at all with the DART union) and a clause from the preliminary grant application defining the project. The agreement was then put in final form and submitted to the Department of Labor and the union. The ATU attorney wrote the president of Local 842 indicating approval of the agreement and recommending that he sign it. The DAST commission accepted the agreement at its September meeting.

Several weeks passed, and nothing was heard from Local 842. A series of meetings and phone calls led to a promise of a signature on the part of the union, but nothing was ever done. In mid-September the union approached DAST drivers about joining the union and was turned down. Two days later the union local president indicated he could not sign the agreement but would not give specific reasons. The refusal to sign was relayed to the state Division of Transportation and the U.S. Department of Labor. On advice of its legal counsel, the commission signed the agreement and forwarded it to the Department of Labor.

On October 1, the Department of Labor sent the president of Local 842 a letter indicating he had 14 days to sign the agreement and return it or else the secretary of labor would exercise his legal authority and bind the parties to the negotiated document. The union never responded. On October 15, a letter of transmittal was sent to the secretary of labor. Once he certifies the labor protection agreement, the major hurdles of the UMTA grant process are cleared and the grant can be awarded quickly.

It should not be assumed that other UMTA grant applicants will have such difficulty in securing a signed 13c agreement. DAST's efforts have provided guidelines to acceptable level of protection in such projects.

#### CLOSING REMARKS

Although DAST is a public motor carrier, it does deal with special members of the public. Because these people have extraordinary needs, DAST personnel need special sensitivity and skills. A genuine bond of friendship usually develops between riders and drivers. The service is personal, and often DAST riders are much more open with the DAST staff than they are with therapists, physicians, or even their own families. Such trust is a serious and meaningful thing. This is why DAST personnel have been able to meet and deal with the frustrations of operating this program. The need for the service and the rewards of watching people's lives genuinely enriched provide real motivation. These concepts are difficult to express and cannot be marketed the same way mass transit is. DAST is really the last alternative in transportation service. To ride DAST, a person must be unable to get mobility from any other source or provider. The service DAST renders is actually the initial step in the health and social service delivery process. It is a system that improves people's lives by concentrating on their special needs.