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Contracting for Public Transportation Services: Some New York State Findings

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ABSTRACT

In fall 1983, the New York State Department of Transportation (NYSDOT) initiated an UMTA-funded study of barriers to private participation in the provision of public transportation services. Three counties, Onondaga, Westchester, and Suffolk, were to be analyzed concerning the current and potential involvement of private transportation firms in public transportation. Onondaga has a mostly public system with a few private operators, while Westchester and Suffolk make extensive use of private firms. Preliminary findings from the three counties concerning contracting indicate the following: (a) contracting with private operators has become the dominant institutional means of providing public transportation service where federal, state, and local subsidies facilitated the implementation of local economic preferences; (b) most public transportation contracts in New York are negotiated, not bid (however, this has produced no legal difficulties because of the contracting county governments with respect to the geographical limits of operating franchises held by private firms under the jurisdiction of NYSDOT's Regulation Division); (c) Incentive-based contracts, which are useful in promoting efficient operations, have so far not been implemented in New York; (d) the larger public transportation contractors tend to seek a greater role in local and regional planning and policy-making; and (e) performance evaluation by NYSDOT's Transit Division indicates that private operators under contract tend to perform more economically and efficiently, but less effectively than public sector operators in similar circumstances.

Performance of an UMTA-funded study of barriers to private sector provision of public transportation services at three study sites in New York has produced preliminary findings that are potentially relevant to other U.S. public transportation systems. These findings relate to:

1. The political and economic context conducive to contracting with the private sector,
2. The procedure for letting contracts,
3. The design of contracts for profits and performance,
4. The relationship between firm size and policy involvement, and
5. The application of performance measures to contracted operators.

New York's experience suggests that contracting with private operators for public transportation service can be efficient, economical, and effective, but that public sector administration of these contracts must ensure that the private operator's profit orientation does not slight the requirements of public service.

AN APPROPRIATE POLITICAL AND ECONOMIC CONTEXT FOR CONTRACTING

The three New York study sites are Onondaga, Westchester, and Suffolk Counties. Onondaga is in central New York and has a medium-sized city (Syracuse), extensive suburbs, and a diversified economy. Most intracounty public transportation in Onondaga is provided by a public authority that makes use of private operators only when unable to provide a needed service itself. In addition, a number of private firms operate a handful of intercounty commuter and specialized services with the county government providing the necessary subsidies from federal, state, and local sources.

Westchester County, which is north of New York City, is the residence of numerous New York City business people, contains a number of densely populated working class municipalities, and also has numerous national corporate offices. Suffolk County comprises the eastern one-half of Long Island at the end of the commuter rail lines and, while lacking a dominant urban center, varies from dense suburbs to rural farmland. These two counties provide essentially all their intracounty public transportation through contracts with private sector bus firms. These institutional arrangements for service provision resulted from specific political and economic contexts, an explanation of which follows.

Looking first at the oldest of the current systems, Onondaga County has the greatest proportion of public sector service. The Central New York Regional Transportation Authority (CNYRTA) was given a strong push toward public sector operation by its enabling legislation. This legislation facilitated the use of federal funds to purchase the existing transit bus operation that was incapable of further operations without subsidy. Legal ramifications aside, it would have been unreasonable for CNYRTA to use over $5 million of public funds to buy a private system and then not operate it, but instead contract with other private operators.

Of perhaps greater significance is the fact that in 1971, when CNYRTA was formed, there was no federal or state operating assistance available for private transit firms. In addition, the other three upstate public authorities were also forming operating subsidiaries as opposed to contracting for service with existing private operators. The New York City metropolitan area still had numerous private sector bus systems, but its scale of operations was considered too large to be a model for medium-sized upstate cities. Thus, CNYRTA's administration did not consider contracted private operation of the local transit system a viable option. State operating assistance became available in 1974, and Federal assistance in 1975. Both programs had provisions for aid to private operators giving Westchester and Suffolk Counties an increased range of institutional alternatives. CNYRTA's first board of directors initially intended to run the transit operation profitably regardless of how much service might have to be cut. A subsequent board appointee with years of experience in the New York City transit system was influential in reorienting CNYRTA toward the service responsibilities of a public transportation system in the public sector.

While although the preceding has indicated how CNYRTA brought Onondaga County's transit system into the public sector, a major factor in maintaining public sector operation is the skill with which it has developed support among those federal, state, and local agencies responsible for transportation planning and subsidies. CNYRTA is widely known for its facility in public and political relations. With external funding and significant influence over the local transportation planning process thus secured, external pressure for CNYRTA to contract with private operators is lacking. Given this pattern of development, it is ironic that CNYRTA's success in meeting some of its public service responsibilities has recently forced it to contract with taxi operators for elderly and handicapped (E&H) service.

When the mechanical problems of wheelchair lifts on 17 transit vehicles became too numerous during the winter of 1983-1984, CNYRTA stopped using these lifts. In order to serve the demand that had been generated in part by these accessible transit vehicles, CNYRTA shifted its wheelchair transportation commitments to its paratransit fleet. This fleet, however, could not handle this demand in addition to transporting the ambulatory E&H passengers. Consequently, CNYRTA contracted with taxi operators to transport a significant fraction of its ambulatory E&H patrons. Although this contracted service has cost less than CNYRTA's own service, the future of these contracts depends on studies that CNYRTA is conducting into the feasibility of resuming lift-equipped transit service.

Thus, a lack of significant influence favoring private sector operation when CNYRTA was established and a skillful development of good working relations with external funding agencies supportive of public sector operation have oriented CNYRTA to contract with private firms only when it cannot provide immediately necessary service itself. Public transportation contracting with the private sector undertaken by the Onondaga County government will be described later.

The political and economic context of Westchester County, whose public transportation system is the second oldest in the study, differed significantly from Onondaga County's. Its population density was triple that of Onondaga County; it had 16 private firms providing transit, express commuter, school, and charter services; and it had a strong private sector orientation indicated by the numerous offices of U.S. corporations. At the same time, Westchester County was not immune to the major trends affecting all U.S. transit systems in the late 1960s and early 1970s: sharply rising capital and operating costs combined with stable or declining farebox revenues.

The precipitating factor drawing Westchester County's disparate local transit operations into a unified system was the election of a new county executive in 1973. This executive hired a more aggressive transportation commissioner and convened a blue-ribbon panel to determine the best institutional means of providing public transportation. The panel concluded that contracting with private bus firms so as to subsidize operating deficits would be more cost-effective than a wholly public sector operation. Though the Metropolitan Suburban Bus Authority (MSBA) had recently been established as a subdivision of the regional Metropolitan Transportation Authority (MTA) to serve all the suburban counties, only Nassau County joined this authority. The corporate executives on Westchester County's blue-ribbon panel perceived public authorities as wasteful means of delivering public services. Consequently, Westchester County chose to provide public transportation and other public services by contract with private firms.

In constructing its first transportation contracts, Westchester County determined that it would guarantee both coverage of operating costs and a regulated profit to individual firms. In addition, the county would secure new vehicles through federal and state capital grants and lease them to the operators. The bus firms would then operate routes designated by the county transportation department following specified service quality standards.

By the time Westchester County had made its decision to keep public transportation in the private sector in 1976, state and federal operating and capital subsidies were available for distribution to both public and private operators. Public operators could receive federal and state assistance directly while private operators had to have local public sector sponsors. Westchester County subsequently considered putting its system under public management, but no steps toward implementing such a policy reversal were ever taken.

For a populous part-suburban and part-rural county, Suffolk was slow to develop a unified intracounty public transportation system. In fact, one large town had already started its own public sector transit system by the time the county government began organizing the county-wide system in 1979. Before this time, the county government had merely studied public transportation needs and acted as the local sponsor for state operating assistance for Suffolk County's private bus firms. A contributing element to Suffolk County's delay in organizing its public transportation system was the opinion of many residents that buses on residential streets were a nuisance they had hoped to leave behind when they had left New York City.

Suffolk County's decision to contract with private operators rather than establish a public authority was more pragmatic and less studied than Westchester County's. Suffolk County already had approximately 10 small operators providing uncoordinated local services throughout the county. The quickest, most economical way to coordinate these local services into a system was for county planners to design new routes connecting existing services and then contract for service on the new routes with current operators in the vicinity. By making use of existing operators, the county could avoid the lengthy tasks of setting up operational staffs and securing capital equipment.

Local transit service that was truly a system was thus established in Suffolk County with a minimum of new institutional structure. Subsequently, Suffolk County Operations (SCO), as the new system was entitled, has exceeded its ridership and farebox projections.

A consultant's recent evaluation of Suffolk County's system has recommended more tightly controlled cash collection procedures and a centralized maintenance facility (1). The latter would facilitate more uniform maintenance of the county-owned transit vehicles that are currently assigned in small groups to private operators throughout the county. Suffolk County is pursuing these recommendations in a manner consistent with its current operating philosophy, which advocates the least possible expansion of public sector institutional structure.

MEANS USED TO LET CONTRACTS

In Onondaga County, the county government contracted with a private operator for door-through-door wheelchair service in 1981 after CNYRTA demurred at providing this type of service. The first year's contract was negotiated, not bid. Though no challenge was made, the county purchasing agent determined that the county could be legally vulnerable and bids were solicited for the second year of operation. While although the costs of this service dropped immediately, the cost decline was produced not so much by the change to a bid contract as by respecifying the service to subsidize only the trips actually taken as opposed to hours of service provided whether used or not.

As indicated above, contracts with private operators, whether bid or negotiated, are the exception in Onondaga County. By contrast, contracts with private operators are the rule in Westchester and Suffolk Counties, but bidding on contracts is an exceptional procedure. The usual procedure is to negotiate contracts with specific operators. A competitive element may be introduced if Suffolk County negotiates with two firms both operating in the vicinity of a proposed route, but even this is the exception, not the rule.

The absence of public concern over negotiated versus bid contracts is due to the Westchester and Suffolk Counties transportation departments negotiating with those firms holding geographically appropriate NYSDOT operating rights in the areas where the counties plan to subsidize service. Some of these franchises are decades old. To date, potential competitors have respected these franchises and also realized the high cost of establishing transit service in areas where they lacked a service facility. When Suffolk County's contracts were sent to NYSDOT for funding approval in the early 1980's, New York's Division of the Budget objected to negotiated contracts as appearing to contravene the State's municipal bidding law (2). NYSDOT's Regulation Division responded that for Suffolk County to not have awarded the contracts as they had could have resulted in extended litigation with carriers already holding franchises in the areas of the routes being contracted. The Budget Division accepted this explanation. In addition, the argument was made that the carriers who were awarded the contracts were the most responsible carriers for those routes.

In defense of multiyear negotiated contracts, when a bus firm knows that it will hold its contract so long as it meets the county's cost and service quality standards, it is more receptive to long-range development projects such as driver and mechanic training and multiyear labor contracts with health and pension plans. Such projects promote stable, competent, safety-oriented labor forces--an important objective of the respective county governments.

DESIGNING CONTRACTS FOR PROFITS AND PERFORMANCE

To date, the types of contracts used by Westchester and Suffolk Counties to provide transit service have included profit for the operator with calculations based on revenues, expenses, or a management fee principle. Contracts incorporating performance incentives as part of the profit calculation have yet to be used in New York.

When Westchester County began contracting for public transportation services with private bus operators in 1974, profits were set at a percentage of farebox revenues. This worked to the operators' disadvantage when ridership decreases produced revenue declines. These ridership decreases resulted not so much from declines in service quality, which companies could control, as from prevailing social trends. Consequently, in the next series of contracts, 1978-1983, the profit allowed for each company was set at 6 percent of the expenses generated in providing the service requested by the county. Five years' experience with this method produced a negative response of a different kind--that a firm's profits increased as expenses increased (through either internal factors, such as wages, or external items, such as new service demands or increased fuel prices). The public thus perceived the private bus firms increasing their subsidized profits by means of increasing costs without an incentive for quality service or efficient operation.

As a result of this unsatisfactory situation with contracts calculating profits on both revenues and expenses, Westchester County began using a management fee concept. Under this arrangement, the term "profit" was not used. Instead, each bus company contracting with the county was provided a fixed management fee in lieu of profit. The level of this fee was established through analysis of previous operations such that no firm would receive a greater amount than its profit under the former revenue or expense calculations. The one large firm that performed 85 percent of the county's contracted service would have a 5-year contract in which the fee could be increased up to 50 percent of the increase in the regional Consumer Price Index (CPI) halfway through the contract term. The remaining small companies are expected to be put on a long-term basis in January 1985. Currently, all such management fees and any increases thereto are subject to NYSDOT's approval in addition to that of the county transportation department so as to prevent subsidized excess profits.

This management fee concept is not completely satisfactory to either the bus firms or the county government for analogous reasons relating to incentives. For the one large firm with the 5-year contract, for instance, the current contract has an incentive only to the extent that the firm works to prevent increasing costs from eroding its management fee.

This firm submits cost figures to the county's budget director annually. If the county's budget director objects to these cost figures, this firm may have its proposed budget submitted directly to the county's board of legislators where it has significant political influence. The board of legislators has final budget approval. Once an annual budget has been approved, the large firm is reluctant to provide any additional service proposed by the county transportation department during the budget year knowing that under the contract, additional costs will erode the profit percentage represented by the fixed management fee.

From a business perspective, such a position is logical, but it limits flexibility in service planning for the county's transportation department. Because this department is responsible for public transportation marketing, some conflict appears inevitable. The county transportation department wants effective service reaching as many people as is feasible while the carrier is more interested in economical and efficient service so as to protect its fees. One observer of this divergence in objectives terms it "creative tension" resulting in improved service to the public. Whether this claim of better service is confirmed by comparative performance measures will be considered later in this paper.

Another way of calculating profits for public transportation services involves incentive-based contracts. San Diego County, California, has incorporated incentives and penalties based on trips completed and on-time performance in its contracts with private operators. On-time performance is measured by random time checks performed by the county government (as stipulated in the County of San Diego's "Agreement for County Transit System to Provide Public Transportation Services" contract dated July 1, 1983). Contract negotiations in Westchester County, however, have so far not produced performance indices or measurement methods that are mutually satisfactory to the county government and the bus companies. For example, the county is not certain that when a bus operator calculates mean distance between road failures, it counts as failures those times when a replacement bus can pick up the route of a disabled bus with only a short delay.

Suffolk County compensates contracted carriers on a cost-plus-fixed-fee basis. The maxima for some 13 categories of costs are determined from the carrier's expense records with the county transportation department figuring in an inflation factor based on the regional CPI. These costs are generated by the provision of service on specific routes. The county then pays the carrier operating assistance on these figures subject to a final audit of the carrier's actual costs. If a carrier keeps its cost below the maxima established, it can increase its profit percentage, but not the amount of the fee. such a contract has negligible incentives toward efficient and economical performance. However, Suffolk County's private operators have responded positively toward this new system. Because SCO began in 1980, both the farebox recovery ratio and the passenger count have significantly exceeded projections while costs per mile and per hour have been held below national peers (see Table 1).

There is another type of contract designated 119-r in use in Suffolk County as well as other New York counties. This was the original contract format used in 1974 to distribute State operating assistance

TABLE 1 1982 Peer Comparisons—Suffolk County

Comparison Category	Suffolk County Operations	National Peer Group
Economy ($)		
Cost/vehicle-mi	1.56	2.17
Cost/vehicle-hr	24.47	33.44
Cost/passenger	2.12	1.49
Deficit/passenger	1.61	0.97
Revenue/cost	0.24	0.30
Efficiency		
Vehicle-hr/employee	1.370	1.066
Vehicle-mi/employee	21,485	16,946
Vehicle-mi/vehicle	41,436	33,736
Vehicle-hr/vehicle	2,642	2,203
Effectiveness		
Passengers/vehicle-mi	0.74	1.56
Passengers/vehicle-hr	11.54	25.20
Passengers/employee	15,817	25,918
Service quality		
Mean distance between failures (mi)	11,936	2,206

Note: The data in this table were derived from *1983 Final Performance Evaluation of Suffolk County*, Transit Program and Evaluation Bureau, Transit Division, New York State Department of Transportation. The peer group was composed of public transportation systems of similar fleet size from regions of similar population density and geographic extent. The statistics from outside New York were derived from Section 15 and American Public Transit Association data and phone calls.

to private operators through the intermediary of a county government sponsor. The State pays to the county sponsor an amount generated by the number of passengers carried and revenue vehicle-miles traveled by the private operator. Currently, the formula pays $0.18 per passenger and $0.47 per mile subject to discounting if the dedicated taxes providing the revenues for these subsidies fall short of projections. The county may also discount the subsidies slightly to cover its administrative costs before passing them through to the operators. If a county intends to distribute State subsidies in a radically different manner from the way the formula determines the money was generated, however, it must get NYSDOT approval for this alternative distribution.

In Suffolk County, the State subsidies provided under 119-r contracts in addition to farebox revenues have been sufficient to keep a number of routes in the well-populated sections operating. These are the routes that SCO was designed to link up.

If an operator should generate significant revenues through both the farebox and 119-r subsidies, NYSDOT has designed additional formulas to prevent the earning of excess profits. It should be noted that no Suffolk County operator has yet been "capped out" through this restriction.

FIRM SIZE AND POLICY INVOLVEMENT

In Onondaga County, CNYRTA dominates the public transportation policy and planning process. However, private transportation firms, despite their small size, assert their positions when public policy questions are considered. Public forums used by these firms to present their views include CNYRTA's annual public hearing accompanying its federal aid request, representation on the local metropolitan planning organization by a county government administrator who processes assistance applications for the private operators, and direct appeals to NYSDOT's commissioner when the private operators feel CNYRTA is expanding its competitive service offerings too rapidly. It is notable, therefore, that private firms in Onondaga County, despite their active role in the planning and policy process, seldom seek to increase the proportion of public transportation service provided by contracts with private operators.

In Westchester County, one bus firm provides approximately 85 percent of the contracted service and carries 95 percent of the passengers in the county. This firm receives over $8 million annually in operating subsidies from the county government using federal, state, and local sources. Such figures indicate this firm's dominance in the provision of Westchester County's public transportation. In considering this dominance, the executives of this firm seek a greater role in the public transportation policy and planning process of the county and region. The chief executive of this carrier has close political ties with some key county legislators and sits on the county Administrative Policy Committee, which meets monthly to discuss public transportation issues. The other members of this committee are county officials, including the county transportation commissioner. The Administrative Policy Committee and the Westchester County Legislature are the two primary institutions where the creative tension between private provider and public administrator mentioned earlier shapes local transportation policy. The expected UMTA policy on private sector participation in urban area transportation planning will probably have little effect on the county planning process, but may affect the regional planning procedure. The remaining small Westchester County firms are, with one or two exceptions, satisfied with the participation afforded them in the planning and policy process.

In Suffolk County, no one firm dominates the system as in Westchester County. In addition, for most Suffolk County firms, public transportation service is a small portion of their business. Suffolk County firms are primarily school bus operators, and the remainder are either municipal operations or commuter express services. Consequently, there is less concern with policy and planning matters among Suffolk County's operators than that expressed by Westchester County's dominant operator. Suffolk County operators are generally pleased that the county government has brought needed federal, state, and local capital and operating subsidies into Suffolk County's public transportation system and stabilized the revenues, secondary though they may be, from transit services. Thus, to date, these operators have not sought greater participation in the county's planning and policy process.

PERFORMANCE MEASURES APPLIED TO CONTRACTED OPERATORS

In Onondaga County, as mentioned earlier, the only significant amount of transportation service contracted for by CNYRTA was taxi service for ambulatory E&H passengers. Initial figures showed costs approximately $0.60 per trip lower for taxi service than for service by Coor-trans, CNYRTA's own E&H service. Comparative figures for the door-through-door service contracted by the county were not available. The county also signed contracts with two small intercounty private bus operators so as to provide them with state operating assistance. Calculations, which are not shown here because of their preliminary nature, indicate that these operators provided service more economically than CNYRTA largely because of lower wages. However, the calculations also indicate that the service was less effective than CNYRTA in terms of total passengers carried because of low passenger turnover on routes through rural areas.

In looking at the performance characteristics of the Westchester County system, the Transit Program and Evaluation Bureau of NYSDOT's Transit Division has compared them with characteristics of similar systems across the state and nation. Westchester's large private firm performs better than its state and national peers on most measures of efficiency and effectiveness. On measures of economy, the conclusion is less clear. The large Westchester County firm apparently performs better than both its New York State public sector peers and its national peers, particularly if lease costs on the maintenance facility are subtracted. The justification for subtracting such costs is that public sector operations usually have maintenance facilities financed by government grants. However, a question has arisen as to whether more of the county's administrative costs should be counted with this large firm's operating costs so as to make the comparison with public sector peers a more equitable one. If this were to be done, this firm's economy measures would deteriorate to the point where it would be closer to its state and national peers (see Table 2).

The next largest Westchester County firm provides only 7 percent of the county's contracted service with the remaining firms having even smaller roles. All of these firms are less efficient and effective than the one large firm largely because of less populous service areas. On measures of economy, the picture is mixed with the lower wages of the smaller operators offset by poorer farebox recovery ratios.

For most Suffolk County operators, their relatively low wage rates give them good cost per vehi-

TABLE 2 1982 Peer Comparisons—Westchester County

Comparison Category	Westchester's Major Firm	State Peer (public sector)	National Peers
Economy ($)			
Cost/vehicle-mi	3.06	3.98	2.94
Cost/vehicle-hr	38.68	41.84	37.82
Cost/passenger	0.93	1.25	1.04
Deficit/passenger	0.30	0.64	0.66
Revenue/cost	0.68	0.48	0.36
Efficiency			
Vehicle-hr/employee	1,190	971	1,118
Vehicle-mi/employee	15,020	10,210	14,370
Vehicle-mi/vehicle	30,388	26,410	25,908
Vehicle-hr/vehicle	2,407	2,511	2,017
Effectiveness			
Passengers/vehicle-mi	3.29	3.18	2.82
Passengers/vehicle-hr	41.53	33.50	36.22

Note: The data in this table were derived from *1983 Final Performance Evaluation of Westchester County*, Transit Program and Evaluation Bureau, Transit Division, New York State Department of Transportation. The peer groups were composed of public transportation systems of similar fleet size from regions of similar population density and geographic extent. The statistics from outside New York were derived from Section 15 and American Public Transit Association data and phone calls.

cle-mile and vehicle-hour figures, but their farebox recovery ratios and effectiveness measures, though exceeding projections, are weak when compared nationally largely because of the newness of the system and the low population density in the eastern two-thirds of the county (see Table 1).

SUMMARY OF FINDINGS

In New York, the examples of Onondaga, Westchester, and Suffolk Counties suggest that contracting with private operators has become the dominant institutional means of delivering public transportation service when federal, state, and local subsidies are available to implement local economic preferences. In addition, negotiated contracts have produced no legal complications because of the respective county governments that recognize the geographic limits of operating franchises held under the jurisdiction of the Regulation Division of NYSDOT. Further, though working toward incentive contracts that will reward achievement of specified performance measures, such contracts are not in place because of a lack of agreement over appropriate indices in Westchester County and the youth of the Suffolk County system. Current contracts in these two counties provide profits without considering performance. Transportation by service contract in Onondaga is so minimal as to make incentive contracts irrelevant. Fourth, though the sample size is admittedly small, New York's experience indicates that the larger the contractor and the greater the proportion of its business devoted to public transportation, the greater its desire to play a role in regional transportation policy and planning. Finally, the performance statistics of contracted firms indicate somewhat more economical and efficient, but less effective, operation than public sector transportation systems.

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