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Key Decisions in Urban Transportation Public-Private Cooperation

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EXECUTIVE SUMMARY

Many observers believe that urban transportation needs help. It is a front-line, highly visible local government function. Caught in a complex web of dynamic economic, social and institutional forces, urban transportation now mirrors with strikingly accurate reflection the principal challenges facing urban governments.

Until the late 1970's, urban transportation was clearly under stress but somewhat insulated from these local forces. Some public officials and private corporation leaders feared the situation was quickly becoming dangerous. Soon, fiscal crisis shockwaves from California's Proposition 13 swept the nation. Long simmering local fiscal problems became real-time crises. Established attitudes and practices were intensely questioned.

Public officials at all levels of government reconsidered the role of the private sector. At the federal level, it was obvious that new ways of doing things were necessary. Beginning in 1981, steps were taken in most federal domestic functions to expand public-private cooperation. In the urban transportation sector, new planning, financial, and service policies were adopted. Acting as a "change agent," federal policies sought to provide more local opportunities for private sector involvement.

Much needs to be known about which public policy mechanisms make private sector involvement in urban mass transportation workable on a broad, widely-applicable and useful scale. That is not an easy task. The subject is still emotion charged and controversial. This study <u>explores the role</u> of the private sector in urban transportation. It identifies policy mechanisms and actions illustrating <u>key decisions</u> in public-private sector cooperation. Specific questions are: how did the public-private relationship develop to its current form? what is the framework of planning and service? how is the private sector involved? what barriers hinder private sector involvement? what practical intergovernmental steps enhance private sector cooperation?

Development of the Public-Private Relationship. Although initially provided by the private sector, local governments often had to assume responsibility for providing transit service. Private companies could no longer earn a profit; in part due to industry cost structure, automobile competition, and central city worker migration to the new suburbs.

Central cities, desperate for basic minimal levels of transportation, sought national support. Thus formal entry of the federal government into this arena was marked by the Urban Mass Transportation Act of 1964. Since then, the federal role has increased significantly. By the late 1970's, it became evident that even with the federal role (and often increased local and state financial support), costs were rapidly growing, service quantity and quality diminishing and fares still rising. Something had to be done. With federal leadership, the private sector was turned to as a possible source of urban transportation assistance. It would help to lessen pressure on the federal budget, and provide more efficient, less costly service.

The actions started by the administration continued important conceptual and statutory traditions established after World War II for defense and other federal programs. Whenever feasible, the private sector was to be the vendor or producer of choice. The public sector would only be involved as a last resort, or in matters of national interest. Between the late 1950's and 1981, the policy heritage was almost forgotten. Resuming earlier federal directions and precedent, the private sector was brought back more fully into federal programs. For the local urban transportation institutional community, the "new" orientation was quite a change.

Since 1981, the U.S. Urban Mass Transportation Administration (UMTA) has moved gradually, then more quickly into the sphere of privatization. Stressing at first joint financing, and later service delivery, new policies helped to redefine the nature of the public-private transportation relationship. Many new opportunities and incentives were created. Not all of them were welcomed warmly. With time, the basic rationale was generally accepted. There is room for three models of urban transportation institutional relationships: public, private, and cooperative partnerships. Needs are so large that the resources of both sectors, if coordinated, can be effectively utilized to the benefit of all.

Framework of Planning and Service. The conceptual basis and jargon of the private and public sectors often seem to be far apart. In the field of urban transportation, they appear to be acutely so. For example, not too long ago, breakeven revenue was not a major operator concern. On the other hand, few private businesses could survive without covering expenses.

Public sector urban transportation may learn from the application of standard business functions. Such perspectives include: production planning, facility location, production facility layout, operationalizing production, production control, marketing strategy, new product development, production distribution strategy, business relationships and competitive advantage.

For the public transportation agency fully committed to providing traditional rush hour commuting service, most standard business perspectives have relevance. If ridership is considered "captive," marketing strategy, new product development and competitive advantage may be less relevant. Should the public operator initiate new service or compete with other producers for existing service, these exceptions will be quite important.

The private sector, once afforded the chance to enter a field and compete in a deregulated environment, sees profitable opportunities. At the very least, private consultants may assist public agencies in their functions. As vacuums are created by dissolving public monopolies, the private sector will find potentially most attractive functional areas of operationalizing production, production control, marketing strategy, and new product development. After installation of a new product and service, maintaining competitive advantage becomes critical.

Private Sector Involvement. When comparing standard business functions to typical urban transportation functions, clear differences arise: system planning, project planning, site planning, operations planning and programming, financing, and management. In more general terms, public managers are accustomed to thinking in reference to a consolidated sequence: planning, programming, finance, service, and management.

The linkage is sometimes not easily seen. For example, marketing is often absorbed by planning functions. New product development may also be assumed by planning or management functions. Aside from conceptual differences, "blending" and renaming key activities may permit their omission from strategic and operational management thinking about what the agency is supposed to do, and how to serve the customer.

Another vital distinction is that of "provider" and "producer" of urban mass transportation. Either or both functions can be performed by the public sector, private sector, or a public-private cooperative form. Traditionally, the public sector has been the provider of resources and producer of the service. An area of promise on the spectrum of institutional relationship from public to private is the cooperative form. Especially attractive is the model of partnerships, often in the financial area. Public contracting with the private sector is growing too. In some cases, reverse contracting exists (private buying from the public). Between the pure forms of public or private, cooperative hybrids draw upon the strengths of both.

Now, "privatization" is opening up the opportunity for the private sector to be a producer for the public provider. In time, the private sector may be able to provide urban transportation service too. For example, private sector organizations with profit centers might use them to fund "breakeven" or "loss" centers. Ample precedent exists. Many private urban transportation companies at the beginning of the century used a loss operation (street cars, interurban rail lines) to promote very successful profit centers (real estate developments at the end of the line or along the right of way).

The trendline of private sector opportunities reflects changing urban form and source of travel demand. Central cities are losing population to the suburbs and a new in-between form called the "urban village," which are not well served by large, old-line public transportation providers and producers. Such unserved, new demand areas open up rich possibilities for private sector involvement that would not compete with existing public activities. Lower capital costs (bus, vans) make it easier for new private entrants in the field. To the extent that unmet central city needs are not addressed by public providers and producers, there will be new private opportunities to augment operations.

The final opportunity is the most sensitive and explosive. For the central city public operator, the private sector may be seen as an outright competitor for existing service or new service. In some cases, it may be perceived as a replacement for existing public service.

Intergovernmental Barriers. From the private sector point-of-view, the public sector is a source of enormous business potential. Yet, the process of government must seem to be an unending source of restrictions and problems. From the public sector perspective, private sector goods and services are a necessity but reason for fear and distrust.

The love-hate relationship is one of mutual dependence. In calmer moments, both would acknowledge the validity of each other's concerns. An important mission of government in general terms is to provide a level playing field. Then, private sector activities would have to stand the test of the marketplace. To the extent that the market is not free and heavily regulated, the private sector thus is hindered.

The purpose of most government regulation is beyond dispute. Disagreement often exists about the implementation of legislative goals, though, and subsequent application to new situations. In the case of some provisions (e.g., labor; corporate tax incentives), special interest protections have become law. Until more even-handed public policy is evident, public and private managers will be cautious and maintain psychological barriers to changing the rules of the game very much.

Fear of risk is rational, and itself, a barrier that must be confronted. Government programs might help lessen financial risk in areas deemed critical to public goals. But at some point, the private sector must assume risk, given the potential of significant return on capital. Profit must be perceived as a valid incentive to reenter the urban transportation field. It would seem in high-visibility major project areas (Los Angeles, Orlando, New York City, Dulles Airport) full communication and trust must be developed early, respected, and continually nurtured by both parties. As simplistic as it may be, "good faith" is the final ingredient if additional mutually beneficial cooperative work is to be accomplished.

Key Decision Opportunities. Seemingly minor changes, when nourished with time, may grow into large structural modifications. The private sector will become more involved in urban transportation, as it will in general local governmental functions. Demand will often continue to exceed supply. Even without fiscal pressures, there is substantial experience indicating that the private sector can and should be more involved.

The official gamerules are changing. New governmental programs and guidelines are helping to create a policy environment conducive to experimentation and change. At this time, the cumulative impact of incremental changes in many federal policies and local practices may be the most profound effect of all. Once new ideas are tried and found feasible, application soon follows.

Important cycles and trends are fostering changes. In critical ways, dynamic patterns are sprouting in urban form and development, travel demand, cost and finance, administrative form, labor, and the role of government and business.

Decision opportunity strategy should be applied to existing, incremental and innovative situations. Significant opportunities for private participation are in newly forming urban villages, established central city/suburban areas, and connections between them. Some are completely new urban transportation activity; others are changes in the role of providers and producers.

The long-term prognosis for change looks promising. The private sector in all probability will become more involved in urban transportation planning, finance and service. It is also likely to assume a greater role in the performance of other governmental functions, particularly for local government. Demand for most governmental services increases while capability to supply them diminishes. Even without fiscal pressures, there is a substantial body of documented experience indicating that the private sector can and should be more involved.

In one narrow field of governmental activity, urban transportation, a window has been opened up to new ways of conducting business. This research report has identified some more fruitful ways, so far, that fresh air may come into the public policy arena of urban transportation. Problems and opportunities discussed here should offer useful background, perspective, and new approaches to the public and private urban transportation community.

ACKNOWLEDGMENTS

A study of this complexity owes much to many institutions and individuals. It represents one more step in a long sequence of thinking and experience that many shared with us.

The ideas, concepts, and observations in the report do strongly reflect the hopes and fears of these executives about the many rapid changes taking place in our governmental system and, in particular, the provision of urban transportation. The changes are viewed as great challenges and opportunities; while, at the same time, significant uncertainty exists on how the details will work out in their public jurisdictions and companies.

At the federal level, our technical manager, Edward Thomas, Senior Community Planner, and Robert Trotter, Program Manager, University Research Program, Urban Mass Transportation Administration provided important administrative and conceptual support. They share the belief that business cannot continue as usual and a long-term perspective is essential for the field. Research contract support of this kind made our comprehensive policy investigation possible.

The project was guided by an advisory committee of public and private officials. They provided excellent background, perspective, information and contacts. They also assisted in the planning and preparation of the contract workshop. The members were: Edward Thomas, UMTA; Keith Curry, UMTA, Linda Bohlinger, California Transportation Commission, Renee Simon, Southern California Association of Governments; Patricia Van Matre, Los Angeles County Transportation Commission; William Klein, Deloitte, Haskins & Sells, Timothy Collins, ATE/Ryder Transportation Company; and, Mel D. Powell, California State University Long Beach. For the workshop, others were involved as well: Commuter Transportation Services, Inc., PPTN-Public-Private Transportation Network, and all the program chairs and panelists.

Special note should be given to California State University Long Beach, Office of Research, and the Graduate Center for Public Policy and Administration for financial and staff support. Elizabeth Lefson, Research Assistant and Lori Copely, Office Manager provided invaluable assistance in all regards.

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INTRODUCTION

Urban transportation is a highly visible, front-line service. As primarily a function of local government, it is caught in the complex web of the dynamic economic, social and institutional forces so prevalent in our urban society.

In fact, urban transportation now mirrors with strikingly accurate reflection the principal challenges facing urban governments in the nation, whether in the large central city, suburb or newly emerging "urban village."

Until the late 1970's, urban transportation was clearly under stress but somewhat insulated from these local forces. It seemed to take a longer time for urban transportation to realize and respond to these dynamics. In retrospect, local governments (and to some extent--state governments) were aware of the trends but frequently unable to deal with the imperatives. The federal government also may have observed them but was in reality far more removed from the stress and immediacy of such problems. Federal insulation was further strengthened by funding programs that help stave off local fiscal crises.

Nevertheless, basic directions were clear and present. Some public officials and private corporation leaders believed the situation was quickly becoming dangerous to continued provision of essential local government functions and to urban transportation service. Soon, fiscal crisis shockwaves would dramatically represent a major turning point in official recognition and thinking. Proposition 13 in California and Proposition 2 1/2 in Massachusetts transformed long-term simmering problems into real-time issues. At the national level, rapidly increasing inflation and interest rates signalled that in the most general terms, business should not continue as usual.

Under the leadership of President Ronald Reagan, steps were taken during his first term to respond to these domestic challenges.

In the urban transportation sector, new polices were developed and implemented. They addressed many important concerns of the planning, finance, and implementation of urban transportation service.

A most significant element of the new federal directions was the conviction that the private sector would get more involved in the provision of urban transportation, and other public services, if given the opportunity. An underlying philosophical belief was that new ways had to be developed to change the situation quickly and radically. The most promising direction was to encourage private sector involvement by directing many of the powers of the federal government to stimulate change.

Much needs to be known about which public policy mechanisms make private sector involvement in urban mass transportation workable on a broad, widely-applicable and useful scale. That is not an easy task. The subject is emotion charged and controversial. Public officials may be tempted to view the private sector as interested only in making a profit as in the Cabaret musical show tune "Money, Money, Money." Private corporation executives sometimes believe that public officials assume the mantle of Mother Theresa in their mission. Stripped of the emotion and rhetoric, there are strong reasons for turning to the private sector.

Purpose

The purpose of the study is to identify the policy mechanisms and actions that represent key decisions in public-private sector cooperation in urban mass transportation service delivery.

To accomplish the study purpose, certain policy questions need to be explored. They will serve as more specific research objectives:

1. how did the public-private relationship develop to its current form?
2. what is the framework of planning and service?
3. how is the private sector involved?
4. what barriers hinder private sector involvement?
5. what practical intergovernmental steps would enhance private sector involvement?

Significance

The research purpose and objectives are designed to open up important and significant policy questions. By considering the more vital areas, it is hoped that the strengths of both sectors may be enhanced in a collaborative, mutually beneficial way.

The end result would be to bring more resources to bear upon the challenges facing urban transportation. In many locales, demand is growing and often unmet. Latent demand affords great growth potential too. In effect, the private sector would become more involved to the benefit of the all--transit rider, taxpayer, all levels of government, and new business activity.

For such an outcome to occur, sound policies must be developed and careful implementing procedures installed. Study and analysis of the broad, interacting forces involved will help. If overlooked, things might just not go as planned. The rare policy environment making changes possible might be lost for the present time. Other non-transportation events and forces may well close the opportunities still evident.

Research Approach

Research was performed between January, 1986 and October, 1987. To study the topic, several research approaches were used.

An Advisory Committee of senior public and private executives was very helpful in framing the issues and providing perspective, contacts, and information. The Committee was informal in that contact was by phone, mail, and individual meetings. It also assisted in the organization of the contract workshop, June 19, 1987. The members were:

Edward Thomas, Senior Community Planner, U.S. Urban Mass Transportation Administration (technical manager)

Keith Curry, West Coast Liaison, Public-Private Sector Initiatives, U.S. Urban Mass Transportation Administration

Linda Bohlinger, Deputy Director-Transit, California Transportation Commission

Renee Simon, Deputy Director, Transportation Planning, Southern California Association of Governments

Patricia Van Matre, Director, Local Assistance Programs, Los Angeles County Transportation Commission

William Klein, Manager, Deloitte, Haskins & Sells

Timothy Collins, Vice President, ATE/Ryder Transportation Company

Mel D. Powell, Dean, Graduate Center for Public Policy and Administration, California State University Long Beach

An extensive search of the literature was performed early in the research to set the stage. The rapidly growing literature is voluminous, not just in urban transportation but related local governmental functions. Several hundred books and reports, journal, newspaper and periodical articles were identified and studied.

Case studies of significant experiences in Southern California, California, Seattle, New York City, Washington, D.C. and Orlando were closely examined. Special documentation about each area was obtained.

Many field interviews were conducted. Senior management and staff of federal, state, regional, and local agencies were contacted. Most of these were in the urban transportation sector. Top management of private sector firms providing urban transportation services also was interviewed. Interviews were conducted on a "background, without attribution basis" unless there was permission to quote.

As part of the research effort, a Workshop on Key Decisions in Urban Transportation Public-Private Cooperation -- the California Perspective was conducted at California State University Long Beach, June 19, 1987. The meeting was presented with the cooperation of the:

*California Transportation Commission

*Los Angeles County Transportation Commission

*Commuter Transportation Services, Inc.

*Deloitte, Haskins & Sells

*ATE/Ryder Transportation Company

*PPTN-Public-Private Transportation Network

*California State University Long Beach, Graduate Center for Public Policy and Administration

Information was also obtained at several other U.S. Department of Transportation, Urban Mass Transportation

Administration-sponsored conferences.

Limitations and Constraints

The subject is rapidly evolving in a political arena of high profile and tension. Not all the expert sources of information agree with present directions. Others are outspoken advocates. Nonetheless, the devotion to urban mass transportation and genuine concern for its viable future was rewarding to observe. The range of opinion truly indicates that the subject is lively and important to all the stakeholders.

Much of the information is anecdotal, in that innovative activities begun under new federal policies or local and state initiatives are too short-lived so far to have long-term trend data. But observations are possible. When studies exist that support more precise information, they are cited.

Lastly, a sense of "deja vu" was noted by many observers, particularly those with experience in or knowledge of other local governmental services. These executives have been on the firing line for a long time in terms of fiscal constraints, shifting public opinion, pressures for productivity and budget cuts. Those in the social service sectors have felt the pressures first. But the theme for public and private executives and staff was consistent: demand for local governmental services seems open-ended while available public resources are insufficient. Additional resources and ways of doing things must be found.

Emphatically, many suggested that urban mass transportation in the early 1980's "joined the club" of local governmental services under stress.

Organization of the Study

The research report is organized into five substantive chapters following this Introduction. Each chapter is designed to serve as a building block so that discussion flows smoothly throughout the report.

Special tables have been created to provide summary views of major themes and points.

Documentation is provided at the point of usage on the bottom of each page. All sources of information have been credited. As noted earlier, the literature is large. Thus in lieu of a separate repetitive bibliography, appropriate additional sources have been indicated to assist the reader if further bibliographic references are desired.

The chapters are:

I - **DEVELOPMENT OF THE PUBLIC-PRIVATE RELATIONSHIP**

II - **FRAMEWORK OF PLANNING AND SERVICE**

III - **PRIVATE SECTOR INVOLVEMENT**

IV - **INTERGOVERNMENTAL BARRIERS TO PRIVATE SECTOR PARTICIPATION**

V - **KEY DECISION OPPORTUNITIES TO ENHANCE PRIVATE SECTOR INVOLVEMENT**

The next section, Chapter I - **DEVELOPMENT OF THE PUBLIC-PRIVATE RELATIONSHIP** explores the historical aspects of the subject.

Chapter I

DEVELOPMENT OF THE PUBLIC-PRIVATE RELATIONSHIP

Introduction

Urban transportation is one of several important service delivery functions essential to life-support of urban areas. Almost from the very first, our cities required transport of goods and people. As population density grew, the need for internal circulation became more important, distinct from intercity transport.

Subsequent growth at first focused on a concentrated core, i.e., downtown district and urban center, then a more dispersed, multi-centered model. In terms of transportation, the role of technology became a determinate and a function of the pattern of development and habitation.[1]

Most early urban areas experienced little local government influence on growth. With time and growing density, a stronger role was exerted to guide the "free hand" of the private sector, particularly in the public health sector to prevent density-related disease problems. Consequently, a model for local government activity was thus established. Soon, government played a major role in guiding urban development. The tools of active direction were laws, policies, programs, rules, procedures; while more passive techniques included incentives, disincentives, penalties, and inaction. Applying these tools suggested that conscious decisions were made about the role of government, and, by inference, the role of the private sector.

And so it was with urban transportation. Originally a private task, then public, and now - mixed public and private. This chapter explores the particular evolution of that relationship given the historical development of urban form and urban transportation symbiosis. Current federal policy will be discussed.

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[1]Mark Girouard, Cities and People: A Social and Architectural History (New Haven: Yale University Press, 1985), pp. 377-382.

Urban Development and Private Sector Transportation

The role of urban transportation service in the development of urban areas cannot be understated. For all practical purposes, development as we have come to know it would have been impossible.[2] One particular mode of transportation in cities played a critical role in the central city-suburban and outlying village model.

Railroads set the basic development pattern in most American urban areas. Intercity railroads started local commuter service which quickly opened up outer areas in the service zone of the primary city core. Most of these routes were linear corridors similar to the bicycle wheel model--a central hub with spokes leading out to the rural areas to be developed. As the pattern effectively worked its way through the many locations, villages and towns grew rapidly into suburbs of the main city. Linear "spoke travel" permitted easier access than horse-drawn wagon to the downtown areas.

As the pace of development and concentration of population quickened, internal circulation became essential to prevent traffic strangulation (horses, wagons). New technology provided electrical motive force and made street railways (elevated and subways) more practical than their steam-driven predecessors. It also afforded a lower cost alternative to the heavy commuter rail technology in the form of interurban electric systems that could access the street or elevated systems in the downtown areas. When first shown to be feasible by Frank J. Sprague in 1888 in Richmond, Virginia, "Thereafter the urban scene was transformed as horses gave way to the new prime mover-although many street railroads also experimented with cables, battery cars, and even steam dummies to pull their equipment." Total system mileage in the country in 1917 reached its high point: 45,000 miles of electric trolley service, of which 18,000 miles were interurban electrics.[3]

Often under a local government regulatory grant of monopoly as a utility, these systems were privately developed, owned and operated in almost all cases. Local entrepreneurs started the smaller systems, which soon were merged with the better financed larger systems. The industry was prone to manipulation and shakeouts through "holding company" techniques, often in the

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[2] William I. Goodman and Eric C. Freund, Eds., Principles and Practices of Urban Planning (Washington, D.C.: International City Management Association, 1985).

[3] Oliver Jensen, History of American Railroads (New York: American Heritage Pub. Co.,1981), pp.252-258.

electric power field. Frequently, the systems were built on speculation, of poor constructed track and rolling stock, and unsafe. The average rate of return was three percent.[4]

The significance of this urban transportation technology's rise and fall is that the private sector, for the most part, bore all the risks. From the user point-of-view, abuses did occur and service diminished as the industry became less profitable.

With the development of the automobile and widespread diffusion of the technology, the private sector moved into exploiting the business potential of bus technology, in addition to interurban electric rail and streetcars/subways. At first, buses were not widely used but they became a lower cost alternative to the declining fortunes of electric trolleys. They also appeared in the beginning to be an effective competitor to automobiles during the late 1920's through the early 1950's. Even so, private ownership of bus companies did not stave off ridership losses to the attraction of individually owned automobiles, subsidized by "free roadway" built and maintained by local governments.

Many other urban services followed a similar pattern of development: electricity, gas, water, sewers, fire and police were first started as private enterprises. Some in the utilities sector remained private, though most were ultimately assumed by local government agencies known as "special districts" or "public authorities." Some utilities were so closely regulated by local and state governments that as private enterprises they were, in effect, public in most important regards.

Urban areas started to assume many of private sector services in the late 1800's-early 1900's period of rapid population growth. It became clear that some kind of service rationalization, minimal levels of service, and affordable prices were desired. To make such goals possible, public subsidy through direct ownership and operation, or incentives and disincentives to the private operator was begun.

The movement at the local governmental level to assume what was formerly private sector urban services seemed at first to run contrary to the basic theme of minimal governmental intrusion to the private sector and the individual. For example, the economic development and gain of the new nation was left up for grabs until the Progressive Era.

From 1901-1914, major public changes took place: the "good government" movement, city management and commission forms of

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[4]*Ibid.*, p. 257.

government, and regulation at the state and federal levels of interstate commerce, public health, food and drugs and others. The Progressive Era strongly moved into the regulation of "big business", particularly monopolies in steel, oil, transportation, and chemicals.

Extreme reactionary attitudes were developing. One point-of-view was that, "In the 1920s, attacks on big business quieted down. But the Crash of 1929 and the ensuing Great Depression seemed to confirm the view that private business, which by common consent had caused the depression, was indeed rotten."[5]

In balance, public sentiment in the late 1970's and early 1980's indicated that a massive loss of faith in the public sector occurred too, while confidence in business rose.

Clearly, such broad generalities are suspect. From a retrospective position, they do seem to have driven the broader elements of the private-public relationship. "Throughout American history, the proper relationship between the public and private spheres has been a theme of prickly debate.... Ambiguities of this sort are not new in our history."[6]

Swing from Private to Public Urban Transportation

Against the larger private-public backdrop discussed above, urban transportation services slowly were assumed by local government. In some cases, service was vacated by bankrupt companies entirely. In others, service continued at marginal levels except where profit was still possible, such as mainline commuter or express routes in the cities. The debate about public and private roles was far less intense than at the national level (Progressive Era, Depression) but important structural choices were made. Many times the public was the service provider of last resort for a user group or clientele unable to afford better (poor, young, elderly, handicapped).

As with much of the domestic economy, almost two decades of potential development of urban transportation was put "on hold." The general long-term trend was declining. For example, the

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[5]Thomas K. McCraw, "The Public and Private Spheres in Historical Perspective," in Harvey Brooks, Lance Liebman, Corinee S. Schelling, Public-Private Partnership: New Opportunities for Meeting Social Needs (Cambridge, Mass.: Ballinger Pub. Co., American Academy of Arts and Sciences, 1984), pp. 38-41.

[6]Ibid., p. 31.

local public transportation consumer spent 33 cents of each dollar for transportation in 1909, 15 cents in 1929 and 4 cents in 1963.[7] Total transit patronage (street car, rapid transit, trolley coaches, motor buses) was 5.0 billion passengers in 1905, plateaued at 17.2 billion in 1926, started to drop as the automobile became more widely available, hovered at 12 to 13 billion through the Depression until 1940, and peaked at 23.4 billion in 1946. Since then it has dropped quickly and steadily to 8.4 billion in 1963, just before the Urban Mass Transportation Act of 1964 attempted to reverse the trend. Within the broad patterns, the internal modal split changed from predominately street car to motor buses with rapid transit holding about even.[8]

During the World War II years, transit was profitable given such high patronage. But little investment in upkeep or new equipment and service was made. Contrasting trends were operating, though, between 1945-1975: ridership dropped to six billion; revenue increased by 45 percent; operating costs tripled.[9]

The general pattern is shown is Figure I-1 which documents between 1900 and 1980 that transit peaked in the 1920's (despite the phenomenal and exceptional World War II period) in terms of farebox recovery, riders per vehicle mile, and ridership per capita.[10] Jones observes that transit, even as early as the first decade of the century, did not keep pace with its operating environment:[11]

> ...six-day workweeks were the norm; transit attracted large numbers of off-peak recreation and excursion travelers; it served compact cities in which crowding, not sprawl, was the nemesis of

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[7]Wilfred Owen, Metropolitan Transportation Problem (Washington, D.C.: Brookings Institution, 2nd. ed., 1966), p. 70.

[8]Ibid., Table 16, Trends in Methods of Transit, 1905-63, pp. 243-244.

[9]National Transportation Policy Study Commission, National Transportation Policies Through the Year 2000--Final Report (Washington, D.C.: Government Printing Office, June 25, 1979), p. 7.

[10]For an excellent discussion of the broad forces at work, see David W. Jones, Jr., Urban Transit Policy, An Economic and Political History (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1985), pp. 18-27.

[11]Jones, Ibid., p. 10.

> social reformers; it employed a labor force whose wages were depressed by an historically unparalleled level of migration; and its primary competition was afforded by merchants of shoe leather. As important, inflation was mild and was offset by intermittent cycles of deflation.
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> ***
>
> ...transit was a financially troubled industry even before the 1920s. Transit's impaired earning power was already evident to investors by 1908, and, as a consequence, few transit properties were able to finance the service improvements needed to compete favorably with the automobile in the 1920s.

By the 1920's, the above external factors allowed an ill industry seem robust and well. The key indicators in Figure I-1 tell another story. A growing urban economy in the 1920's slowly spread wealth. Automobile ownership was within reach of many of the transit clientele. But, the Depression and World War II put further automobile growth "on hold." Between 1926 and 1972 transit patronage continued to evaporate in all trip categories: peak, -30%; weekday off-peak, -60%; Saturday, -80%; Sundays and holidays, -85%.[12] The most startling aspect, though, is the fact that non-peak travel was such a significant factor in decline.

Several other exceptions should be noted regarding the curves in Figure I-1.

In 1950 riders per vehicle mile and ridership per capita experienced temporary peaks as the long-term trend continued downward. These peaks might be explained by the period of transition from a war to peace-time economy. From 1945 to 1950 the domestic economy slowly retooled. Employment grew, housing was built in the suburbs, automobile ownership grew. About 1950 a critical mass was reached whereby central city transit patronage began to leave the cities; thus a resumption in the long-term decline. City population did not grow; in fact, declines started, partially explaining the ridership per capita. Transit systems began service reduction programs which might help explain a slower rate of decline for riders per vehicle mile.

By the mid-1970's, riders per vehicle mile increased. City populations, though still declining, increased in the "transit dependent" categories. The temporary increase may have been a result of a growing captive audience and service consolidation and reduction.

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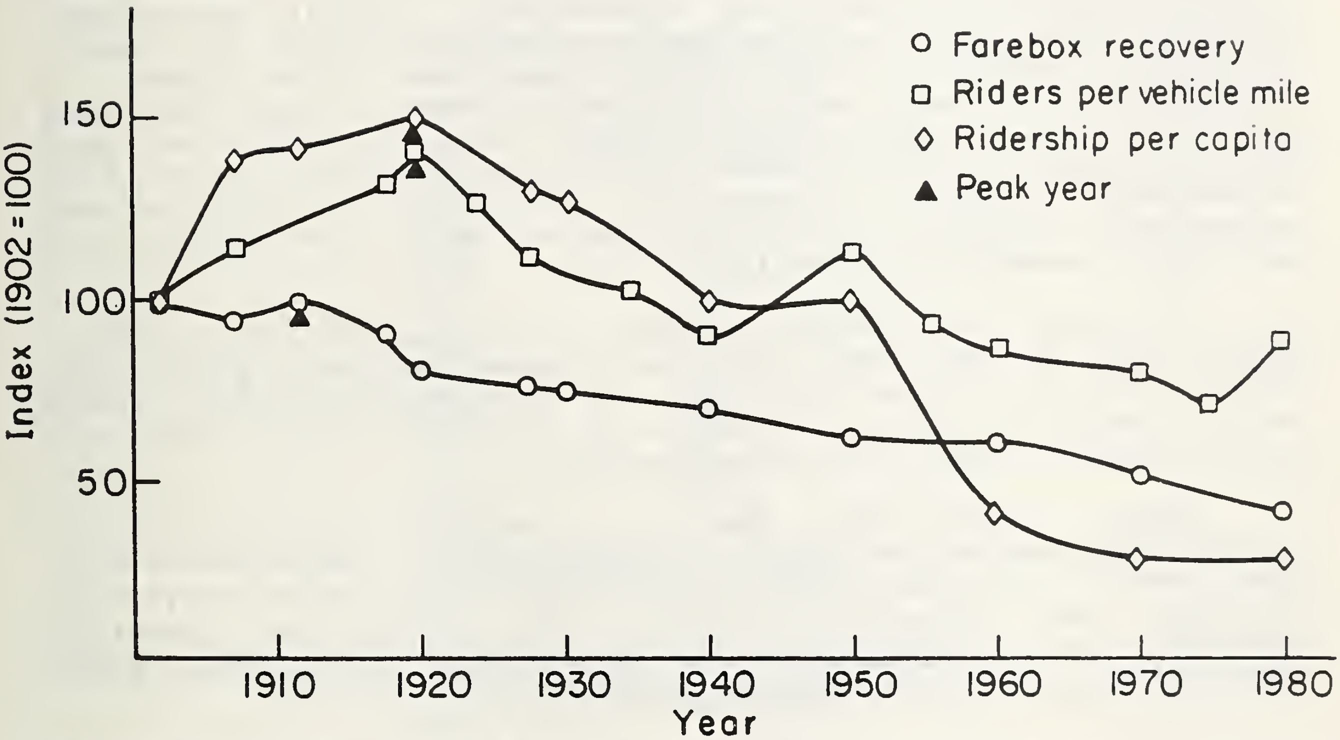
[12]Jones, Ibid., p. 25.

Figure I-1
Transit Performance: 1902-1980



Sources: U.S. Bureau of the Census, *Electric Railways and Affiliated Motor Bus Lines* (Washington, D.C.: U.S. Government Printing Office, 1931); U.S. Bureau of the Census, *Historical Statistics of the United States* (Washington, D.C.: U.S. Government Printing Office, 1976); *Moody's Transportation Manual* (New York: Moody's Investors Services, Inc., 1981); American Public Transit Association, *Transit Fact Book* (Washington, D.C.: APTA, 1976 and 1981).

Figure 2-3 Transit Performance: 1902–1980

Source: David W. Jones, Jr., Urban Transit Policy, An Economic and Political History (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1985), p. 20.

Similarly, ridership per capita stabilized between 1970 and 1980. City populations started to expand, not to prior levels, but enough to slow the rate of decline. Also, the positive effects of federal support may have taken hold. More and better service was provided, demonstrating the pulling power of a viable alternative to the automobile.

Table I-1 shows the capital relationships. Important structural characteristics of the industry predetermined its inability to respond to external environmental forces. For example, capital investment is an indicator of the health of an industry and the perspective of outside investors. Through 1905 investment grew and was quite substantial. By 1910 investment opinion turned sour on the profit-making potential of transit. In effect a pattern of disinvestment was begun. The infrastructure of transit was permitted to deteriorate. Declining profits were not plowed back into the industry and were taken out instead. Since operators were often owned by holding companies, reduction of assets and reallocation of profits were acceptable business practices. Capital sought the highest rate of return, whether in transit or not.

Political input helped in some cases to guide public policy. Fares were set and held at the same level for long periods of time. The fare in New York City was five cents in 1905 and held at that point to the end of World War II.[13] For business, this kind of public policy is a disincentive.

Table I-2 describes the structural implications of cost, craft, wage scales and career ladders, service, route networks, and fares.[14] Whether service is provided by a public or private operator, such structural aspects have profound and sobering implications. <u>They must be dealt with "head-on" before meaningful, enduring change is likely</u>.

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[13]George M. Smerk, "Urban Mass Transportation: From Private to Public to Privatization," <u>Transportation Journal</u> (Fall, 1986), p. 84.

[14]<u>Ibid.</u>, pp. 99-103.

Table I-1

Net Capital Expenditures of Urban Transit Properties, 1890-1950

TABLE 2-3 Net Capital Expenditures of Urban Transit Properties, 1890-1950

Year	Net Expenditures (in millions of 1929 dollars)
1890	$ 74.0
1895	176.2
1900	170.9
1905	229.8
1910	66.1
1915	15.2
1920	−128.5[a]
1925	−105.4[a]
1930	−85.3[a]
1935	−60.7[a]
1940	−10.4[a]
1945	−58.4[a]
1950	−53.5[a]

[a] Negative expenditure, that is, disinvestment.

Source: M. J. Ulmer, *Capital in Transportation, Communications, and Public Utilities* (Princeton, N.J.: Princeton University Press, 1960), Tables F-1 and G-1.

Source: Wilfred Owen, Metropolitan Transportation Problem (Washington, D.C.: Brookings Institution, 2nd. ed., 1966), p. 21.

Table I-2

Structural Aspects of Transit's Financial Distress

TABLE 4-1 Structural Aspects of Transit's Financial Distress

The Industry's Structure	The Way It Does Business	The Effect of Structure on Performance
Cost structure	Capital costs and payroll obligations are primarily occasioned by the capacity requirements of the peak.	Increasing peak hour service entails a significant incremental cost.
Craft structure	Responsibility for coach operation and coach maintenance are strictly segregated by formal agreement.	Operating personnel that are idle during the off-peak may not be used in maintenance assignments.
Wage scales and career ladders	Wage scales are compressed and promotion to top-end scales occurs after two years or less.	Transit workers cannot improve their standard of living by advancing to positions of increasing responsibility. The base wage bears virtually the full burden of bettering the transit worker's standard of living.
The structure of service	Most properties operate only one class of service conceived in terms of the requirements of peak-hour commuting.	The vehicles used and their mode of operation are ill suited to the off-peak market.
Network structure	Radial configuration is the industry norm. Network configuration is determined by the geometry of peak hours flows.	The network has limited and accidental utility for off-peak travel.
Fare structure	Fares are uniform with distance and by time of day. *De facto* discounts for peak-hour travel are afforded by the sale of passes or commuter books.	Fares fail to reflect the cost occasioned by peak-hour capacity and routes of attenuated length. Fare increases produce less revenue than would be the case with a differential fare structure because off-peak ridership is more price sensitive than is commuter ridership.

Source: David W. Jones, Jr., Urban Transit Policy, An Economic and Political History (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1985), p. 102.

Shifts in Federal Policy

During the late 1970's it became increasingly obvious that federal urban transportation fiscal support would increase marginally and very possibly be cut back due to projected revenue shortfalls. The crises did occur and are continuing, but they were not restricted to only the federal government. Local and state governments were undergoing severe stress too.

A natural place for the federal government, and local governments, to turn for some kind of financial or service assistance was the private sector.

The federal government had some precedents to draw upon. After World War II, federally owned production facilities were returned to the private sector. Policy was developed to encourage the private sector to perform many formerly federal tasks.

The following discussion highlights the key legislation, policy documents, and statements regarding the federal role in traditionally private sector activities in general, and then for urban transportation.

1. Policy Directives (1959-1963)

During post World War II era, many in Congress and the executive branch voiced concern that the federal government was competing with the private sector in at least two ways:[15]

1. Public Service Enterprises: commercial and business-type activities which are intended to provide services for all or part of the general public;

2. Government Service Enterprises: commercial and business-type activities which are intended to serve the government (federal).

Both Congress and the Executive attempted to study the matter and establish policy. Much of the early work was dedicated to ensuring an orderly demobilization of the extreme

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[15]U.S. Congress, Committee on Government Operations, U.S. Senate, Government Competition with Private Enterprise (Washington, D.C.: U.S. Government Printing Office, 88th. Cong., 1st. Ses., Committee Print-Staff Study, June 21, 1963), p. 3.

government commercial powers necessary for the war efforts. Despite the Korean War, these trends continued. There were three attempts by the Bureau of the Budget (BOB Bulletins 55-4, 57-7, 60-2) "to obtain an inventory of the exact number of business-type installations operated by the Federal Government." The inventory, adjusted to 1960 found that there were "24,000 installations in which commercial-industrial type activities were carried on. Of this number, 19,100 were maintained by civilian agencies and some 5,000 by the Department of Defense." Of principal interest was the general policy:[16]

> the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary channels.

These activities deal primarily with activities of the Department of Defense. Arguments identified at that time supporting continued federal activity as to reduced federal activity are particularly cogent and relevant to our concerns today. When reviewing them below,[17] substitute the central referent term --defense-- with urban transportation to assist in making the transference of parallel applications.

> <u>Arguments in favor of termination of business-type activities:</u>
>
> 1. Private enterprise is deprived of business which it has a right to expect.
>
> 2. Taxpayers' money is being used to finance competing activities, so that the taxpayer is supplying the funds which are used to establish enterprises which compete with him.
>
> 3. The Federal Government, as well as State and local government taxing authorities, are being deprived of revenues which are urgently needed to finance the performance of essential governmental services.
>
> 4. To the extent to which the costs of Government enterprises may be excessive, termination will mean a corresponding reduction in Government expenditures.

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[16] *Ibid.*, p. 4.

[17] *Ibid.* pp. 13-14.

5. Government's task is to govern and not to engage in activities which compete with private enterprise.

<u>Arguments in opposition to termination of business-type activities:</u>

1. National security requires that the Government have complete command control in order to avoid compromising highly classified security information, and also requires immediate availability of trained manpower and the means of production in the event of emergency requirements which private enterprise cannot meet.

2. Numerous products which the Government requires in connection with various programs in which it is engaged can be produced more economically and at a much lower cost than if purchased from private industry.

3. The quality of commercially produced or processed items does not always meet the standards required by the Government and it is therefore necessary for the Government to engage in certain commercial activities in order to provide it with a yardstick on the prices it must pay for various items.

4. It is often more convenient for the Government to produce its own products and furnish its own services, under certain circumstances.

5. The Government should produce those items which it requires to carry out its responsibilities to the public, and should furnish services at rates and in a manner to insure their availability to all persons, regardless of whether such activities are in competition with private industry.

6. Termination of Government service enterprises will result in unemployment of large numbers of skilled persons who have acquired know-how and experience the years, and such unemployment will have serious adverse effects upon many communities in which such persons are presently ployed.

7. Necessary research and development facilities must be maintained to test new products.

In many cases, the arguments pro and con are strikingly relevant to public, especially federal, involvement in urban transportation today. These statements should be kept in mind for subsequent use as potential criteria or standards. They might well stand the test of time.

2. Urban Mass Transportation Act of 1964 - Overview (amended through May, 1983)

Originally, the legislation was conceived as a small-scale attempt to address urban mass transportation needs. The preamble was in a statement of hope and intent. Modestly funded, the new program was administered by a small office within the Department of Housing and Urban Development. When the Department of Transportation was created in 1968, the office was transferred from HUD to the new department.

By 1970, the direction of future growth became clear:

*expand planning and technical assistance programs and funds;

*provide more research and development efforts, fully funded, for high technology in transit (Personal Rapid Transit, light-rail, subway construction tunneling, signalling, computers, prototype buses and heavy rail vehicles, commuter rail vehicles, fare collection, safety and maintenance);

*expand and fund capital grants and loans at a higher matching share for equipment acquisition and construction;

*pre-approve major new system "starts" in major metropolitan areas pending funds available;

*attempt to secure the funding base by receiving a share of highway trust fund gas tax revenues on a dedicated basis (instead of relying on general treasury funds -- far less stable);

*providing for operating labor costs of transit operations.

To a large measure, each of these "unofficial directions" became fulfilled. After incorporation in the DOT, urban mass transportation scope and funding slowly and surely grew.

In 1975 the most intensely debated part of the federal role was accepted by congress and the president -- operating labor assistance. Many feared such local cost support as a nearly open-ended federal commitment to underwrite more costly labor agreements. Local officials, it was thought, would ultimately pass onto the federal level the cost of new agreements.

In the other areas of federal activity, less dramatic but as inexorable was incremental, legislative programmatic fine-tuning. Changes occurred in matching share percentages, project eligibility, grant application and procurement requirements.

In the late 1970's there was little doubt: UMTA could not fund the applications under development or already received. Future federal support levels could not be maintained at then accepted scales. But success was achieved in 1982 to secure a stable funding base. The Surface Transportation Assistance Act of 1982 dedicated one cent of the highway gas tax to urban mass transportation. Though a landmark moment, the additional funds were still not enough to meet all the needs.

Aware of the fiscal realities, federal officials sought to find other ways to help urban mass transportation while still reducing the federal fiscal role. In sum, the history of federal mass transportation has been a dynamic cycle connected to funding. The federal role at first grew, as in many other domestic functions. Then, as fiscal retrenchment was necessary a strong attempt to change the way of doing business was started in 1981. This latter part of the cycle has focused upon bringing the private sector back into providing urban mass transportation.

Against the tableau of a long-term federal role in urban mass transportation, certain private sector opportunities were "buried" in the original and subsequently amended legislation. The following section highlights legislative language from inception, 1964, to 1987.

The basic UMTA Act in 1964 stated some telling Findings and Purposes.[18]

Section 2. (a) The Congress finds--

> (1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally

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[18]U.S. Department of Transportation, Urban Mass Transportation Administration, Urban Mass Transportation Act of 1964, As Amended through May 1983 and Related Laws (Washington, D.C.: U.S. Government Printing Office, 1984), pp. 1-2.

cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the welfare and vitality of urban areas, the satisfactory movement of people and goods within such areas, and the effectiveness of housing, urban renewal, highway, and other federally aided programs are being jeopardized by the deterioration or inadequate provision of urban transportation facilities and services, the intensification of traffic congestion, and the lack of coordinated transportation and other development planning on a comprehensive and continuing basis; and

(3) that Federal financial assistance for the development of efficient and coordinated mass transportation systems is essential to the solution of these urban problems.

(b) The purposes of this Act are-

(1) to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and <u>private</u>;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development, with the cooperation of mass transportation companies both public and <u>private</u>; and

(3) to provide assistance to State and local governments and their instrumentalities in financing such systems, to be operated by public or <u>private</u> mass transportation companies as determined by local needs. (emphasis added)

Implementing these goals and purposes were key sections of the act.

The Section 3 Discretionary Grant or Loan Program contained a special provision, Section 3(e) addressing the use of federal funds for activities in competition with the private sector:[19]

(e) No financial assistance shall be provided under this Act to any State or local public body or agency thereof for the purpose, directly or in-

[19] <u>Ibid.</u>, pp. 7-8.

directly, of acquiring any interest in, or purchasing any facilities or other property of a private mass transportation company, or for the purpose of constructing, improving, or reconstructing any facilities or other property acquired (after the date of the enactment of this Act) from any such company, or for the purpose of providing by contract or otherwise for the operation of mass transportation company facilities or equipment <u>in competition with</u>, or supplementary to, the service provided by <u>an existing mass transportation company...</u> (emphasis added)

Some exclusions are stated and address other transportation goals, maximum extent feasible of private company participation, "just and adequate compensation," compliance with Section 13(c).

Section 8, Planning and Technical Studies, specified in Section 8(e) that:[20]

(e) The plans and programs required by this section shall encourage to the <u>maximum extent feasible the participation of private enterprise</u>. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area. (emphasis added)

A third part of the Act, Section 9(f) focused on the project programming process of Block Grants:[21]

(f) Each recipient shall-

(1) make available to the public information concerning the amount of funds available under this subsection and the program of projects that the recipient proposes to undertake with such funds;

(2) develop a proposed program of projects concerning activities to be funded in consultation with interested parties, including <u>private transportation providers;</u>

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[20]*Ibid.*, p. 26.

[21]*Ibid.*, p. 29.

(3) publish a proposed program of projects in such a manner to afford affected citizens, private transportation providers, and as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed program of projects and on the performance of the recipient; and

(4) afford an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects. (emphasis added)

3. Surface Transportation Assistance Act of 1982

The legislation had many important provisions relating to urban transportation, especially regarding finance, grants, and subsidies. As noted above, secure transit funding was achieved in the act. The federal highway trust fund gasoline tax revenues were formally shared with transit. One cent per gallon tax was dedicated. In general terms, this was a milestone and most important.

One provision (Section 315, supplementing the original Urban Mass Transportation Act of 1964) required a feasibility study of an "assured flow of Federal funds under long-term contracts with local or State transit authorities for use in leveraging further capital assistance from State or local government or private sector sources."[22] (emphasis added)

The study has helped to set the stage for later development of policy and demonstration programs to leverage funds from all sources, including special incentives for private sector involvement.

4. President's Private Sector Survey on Cost Control

The President in Executive Order 12369, June 30, 1982, created a special task force, the President's Private Sector Survey on Cost Control (PPSSCC). The charge of the privately

[22] Ibid., p. 55.

funded and staffed voluntary group was to:[23]

*identify opportunities for increased efficiency and reduced costs achievable by executive action or legislation;

*determine areas where managerial accountability can be enhanced and administrative controls improved;

*suggest short- and long-term managerial operating improvements;

*specify areas where further study can be justified by potential savings;

*provide information and data relating to governmental expenditures, indebtedness, and personnel management.

Thirty-six task forces studied the major areas of federal activity, including privatization, and transportation. The savings and revenue generation anticipated from privatization of federal functions (other than urban transportation) were $28,417 billion over a three year period. Transportation savings and revenue generation might be: $ 4,555 billion and $65.6 million in urban transportation functions.[24] Most of the recommendations related to grant requirements and processing.

These findings and recommendations were received with considerable interest and, subsequently political and technical criticism. This research study cannot and should not attempt to validate the accuracy of the information or its political feasibility. What is of interest to the research theme is the value the PSSCC has for a representation of the "tenor" of the early 1980's and the belief that federal costs could be cut through cost savings (reduction and avoidance), increased revenues (enhancement and acceleration) and cash acceleration. After vigorous public debate for over a year, the "media spotlight" on the many controversial findings was turned elsewhere. But, the lingering impact of the PSSCC may not have been its specific findings and recommendations. The legacy may well be the conceptualization and documentation of issues such as:

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[23]President's Private Sector Survey on Cost Control, Report on Privatization (Washington, D.C.:PSSCC, September, 1983), unpaged preface.

[24]President's Private Sector Survey on Cost Control, Report on the Department of Transportation (Washington, D.C.: President's Private Sector Survey on Cost Control, August 31, 1983), p. ii, p. 136.

1. What does the federal government do?

2. How might it be done better and at lower cost?

3. Should the private sector do it?

The PSSCC developed a conceptual framework showing how such issues might be addressed in general terms, implementation options and support services. Figure I-2 depicts the relationships of government policy as a provider and implementation options produced by either government or the private sector. For each subcategory of structure, implementing processes are identified. Figure I-3 describes the implementation options by levels of federal involvement, from high to low, in terms of full or partial federal cost assumption and policy roles. Figure I-4 applies the same scheme to support services.

No doubt, such simple questions belie the intensity of philosophical divergence just beneath the surface.

4. OMB Circular No. A-76 (Revised)--Performance of Commercial Activities

The circular, originally issued in 1966 was part of the continuing theme developed by the U.S. Office of Management and Budget's predecessor agency, the Bureau of the Budget (see earlier discussion). A-76 was revised in 1967 and 1969. The circular has been proposed in Congress as H.R. 3357, in order to formalize its goals and objectives.[25] The official policy reaffirms the belief that:[26]

> In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Government to rely on commercial sources to supply the products and services the Government needs.

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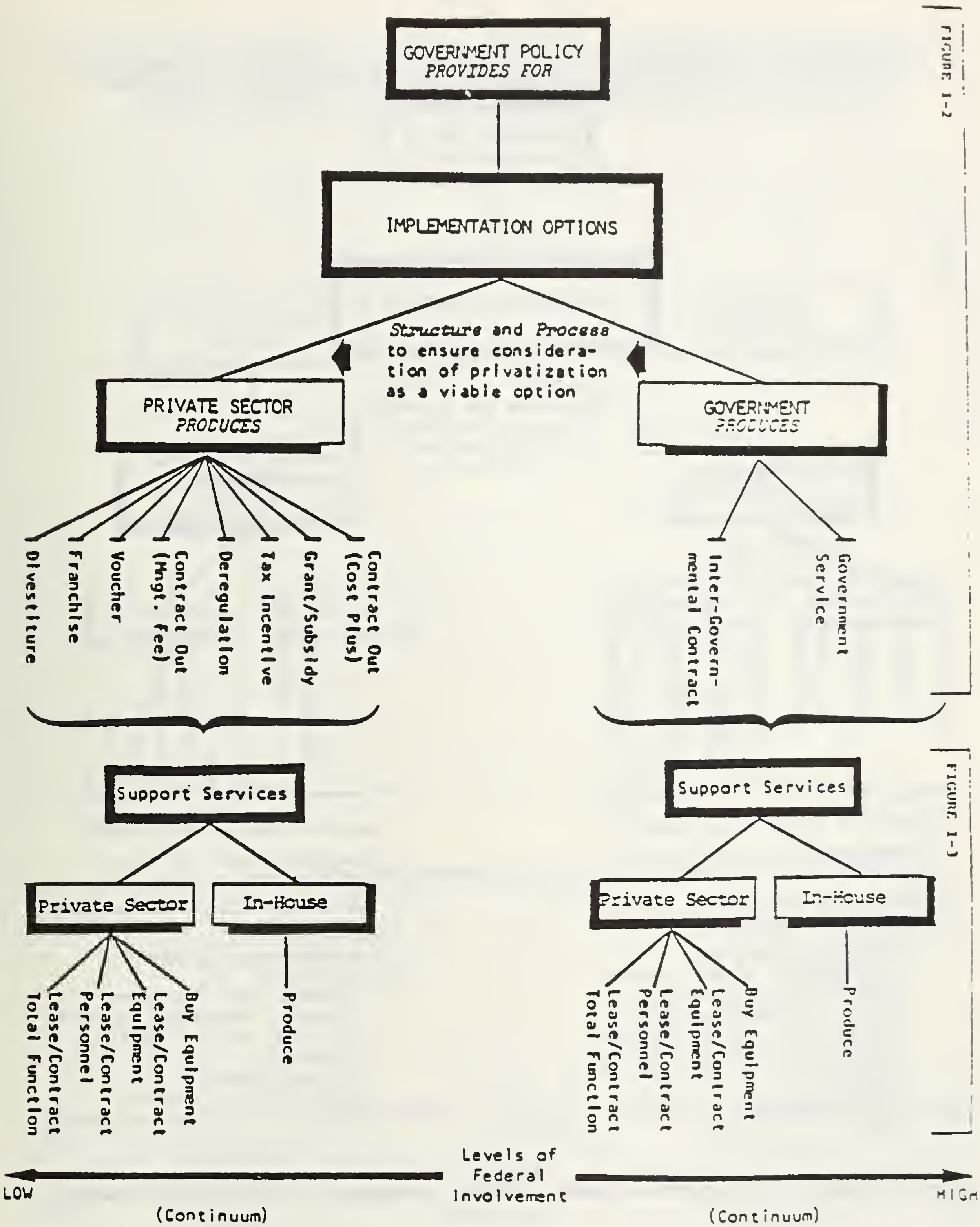
[25]"The Quest to Turn A-76 Policy Into Law," <u>The Privatization Report</u> (April, 1987), pp. 1,3.

[26]U.S. Office of Management and Budget, <u>Circular No. A-76 (Revised), Performance of Commercial Activities</u> (Washington, D.C.: Office of Management and Budget, August 4, 1983), pp. 1-2.

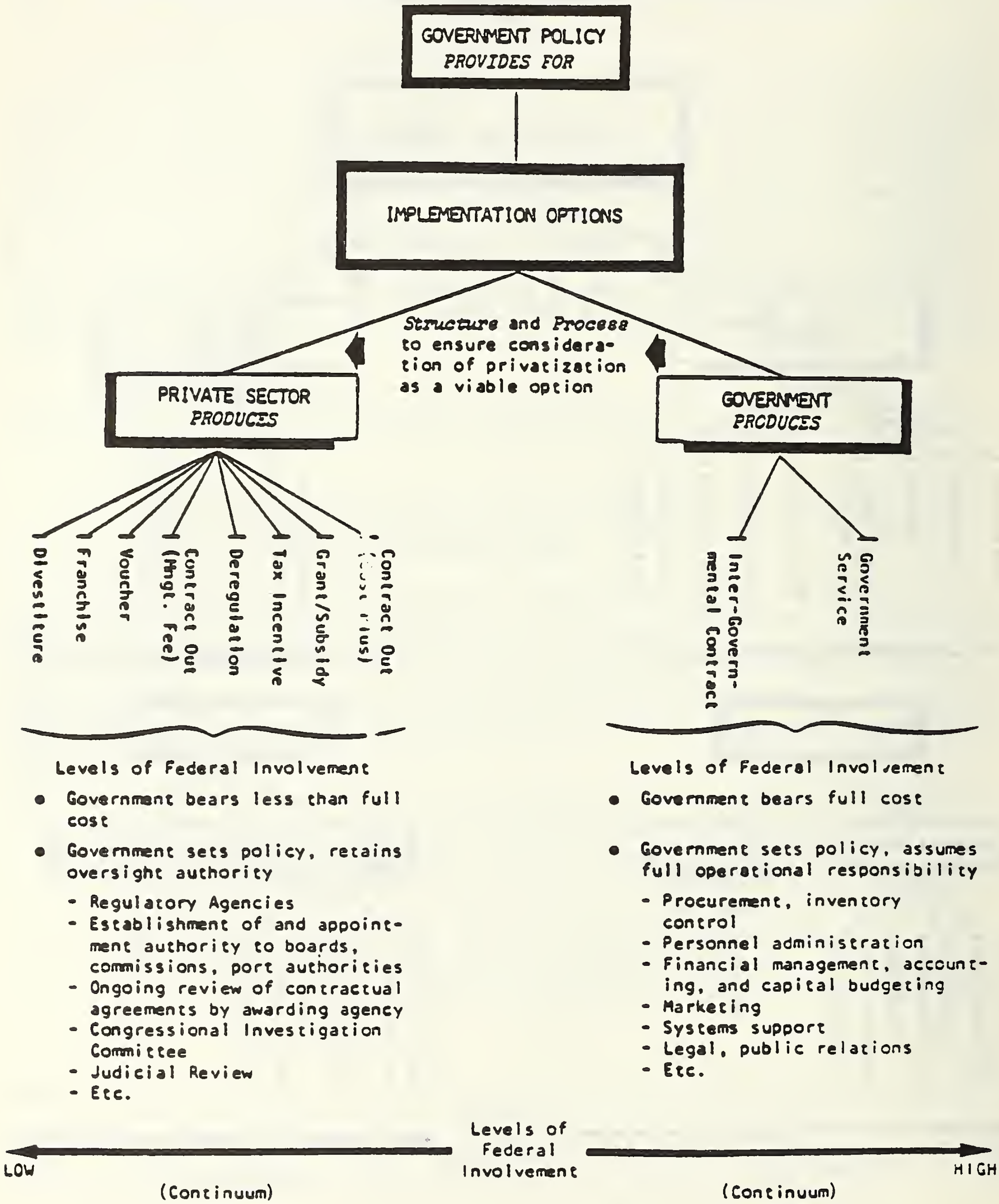
Figure I-2

Conceptual Framework for the Role of Privatization in the Federal Government



Source: President's Private Sector Survey on Cost Control, Report on the Department of Transportation (Washington, D.C.: PPSSCC, August 31, 1983), p. 3.

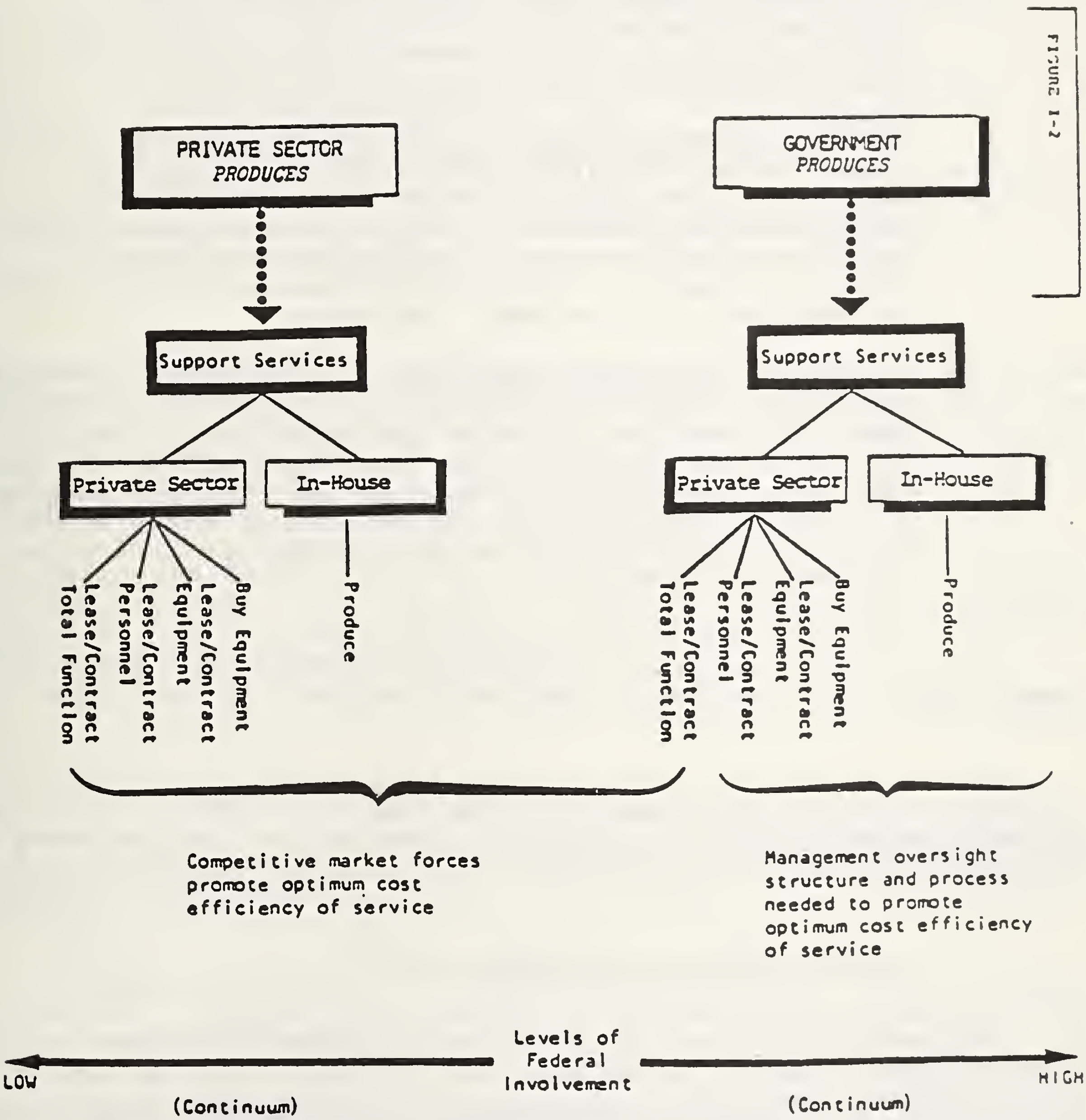
Figure I-3
Conceptual Framework for the Role of Privatization in the Federal Government: Primary Implementation Options



Source: PPSCC, Ibid., p. 5.

Figure I-4

Conceptual Framework for the Role of Privatization in the Federal Government: Secondary Support Services



Source: PPSCC, Ibid., p. 7.

Furthermore, the goals of the policy are to:[27]

a. Achieve Economy and Enhance Productivity. Competition enhances quality, economy, and productivity. Whenever commercial sector performance of a Government operated commercial activity is permissible, in accordance with this Circular and its Supplement, comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work.

b. Retain Governmental Functions In-House. Certain functions are inherently Governmental in nature, being so intimately related to the public interest as to mandate performance only by Federal employees. These functions are not in competition with the commercial sector. Therefore, these functions shall be performed by Government employees.

c. Rely on the Commercial Sector. The Federal Government shall rely on commercially available sources to provide commercial products and services. In accordance with the provisions of this Circular, the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source.

As in earlier circulars, exclusions include: no satisfactory commercial source available, national defense, patient care, and lower cost.

The circular's list of "commercial activities" includes several transportation functions: bus service; vehicle operation and maintenance; and, air, water, and land transportation of people and things.[28]

5. UMTA Report to Congress, 1984

Section 310 of the Surface Transportation Assistance Act of 1982 required that the Secretary of Transportation prepare a report biennially on The Status of the Nation's Local Public Transportation: Conditions and Performance. The first report

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[27]Ibid., pp. 4-5.

[28]Ibid., p. 10.

noted that:[29]

> ...a general review of the roles of the public versus the private sectors is occurring in a number of areas. A major force for this reconsideration is the fiscal constraint faced by many State and local governments. These concerns may continue, leading governments to explore which services they may be able to divest themselves of certain transit services, such as those in dense markets or those where premium services could be supported, may be candidates for having service provided by the private sector. Others may be candidates for abandonment as too uneconomical to serve. As local fiscal pressures continue, a trend toward additional consideration of such options may take place. (emphasis added)

The report recommended that Congress take under consideration the significance of the evolutionary changes in the public-private relationship. Some peak-period, high-density travel markets might be more suitable for private service (car or vanpools). Congress might wish to structure "programmatic incentives to stimulate the most appropriate course."[30]

While the Department was officially taking a gradualist approach, others were strongly suggesting continuing, dramatic action to shift urban transportation to the private sector as well as other governmental functions.

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[29] U.S. Department of Transportation, Urban Mass Transportation Administration, The Status of the Nation's Local Public Transportation: Conditions and Performance, Report to Congress (Washington, D.C.: Government Printing Office, September, 1984), p. 71.

[30] Ibid., p. 135. It should be noted that other federal studies were at that time providing information helping to build an environment indirectly conducive to privatization. See two reports to Congress: U.S. General Accounting Office, Federal Regulations Need to Be Revised to Fully Realize the Purpose of the Competition in Contracting Out Act of 1984 (Washington, D.C.: General Accounting Office, GAO/OGC-85-14, August 21, 1985; and U.S. General Accounting Office, 20 Years of Federal Mass Transit Assistance: How Has Mass Transit Changed? (Washington, D.C.: General Accounting Office, GAO/RCED-85-61, September 18, 1985).

The Heritage Foundation recommended that:[31]

1. Restructure incentives in federal programs to foster the efficient use of resources and to encourage self-improvement.

2. Put the control of programs back into the hands of those affected by them.

3. Stimulate enterprise in the economy by creating competitive open markets and a more favorable system of regulation and taxation.

4. Reform decision-making, rule-making and the structure of programs in order to achieve conservative goals.

5. Examine ways of privatizing federal programs.

These five themes illuminate the conceptual and strategic policy background for much of the federal shift of emphasis to the private sector provision or delivery of service from 1981 to the present. In terms of urban transportation, federal, state and local regulation of private sector transportation was seen as a contributing factor to its decline. One solution would be to deregulate urban transportation, thus allowing and fostering competition.[32]

6. U.S. Department of Transportation, Urban Mass Transportation Administration Policies (1984-1987)

The momentum of UMTA policy quickened during 1984. Key policies were developed, circulated and adopted. Others followed in 1985-1987, however the rhetorical and conceptual bases found from 1980-1983 came then to fruition.

The first formal step was the UMTA New Start Policy. On May 18, 1984, UMTA published in the Federal Register the "Urban Mass Transportation Major Capital Investment Policy; Notice." Later that month, UMTA published A Detailed Description of UMTA's

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[31] Stuart M. Butler, "Overview - Domestic Agencies," in Stuart M. Butler, Michael Sanera, and W. Bruce Weinrod, Mandate for Leadership II, Continuing the Conservative Revolution (Washington, D.C.: Heritage Foundation, 1984), pp. 3-8.

[32] Fred L. Smith, Jr., "The Department of Transportation," Ibid., pp. 195-197.

System for Rating Proposed Major Transit Investments.[33]

The purpose of the policy was to find a way to sort out competing new system start proposals in an era of scarce resources. A complex formula was developed to evaluate the proposals. Essentially, the concept was based upon cost-benefit analysis. Several of the criteria addressed the degree of local government and private sector participation as a means to expand and more fully utilize local fiscal resources. A proposal was judged, in part, more cost-effective if there were a higher level of private sector involvement.[34] The key was financing, especially if joint (public-private) financing.

Continuing the theme, the new policy, Private Enterprise Participation in the Urban Mass Transportation Program,[35] was announced in October, 1984. The interim guidance addressed the UMT Act Sections 8(e) and 3(e).

> This policy is intended as amplification of UMTA's view that private sector participation is most meaningful when initiated early in the planning process. When developing federally assisted mass transportation plans and programs, UMTA grantees should give timely and fair consideration to the comments and proposals of interested private enterprise entities in order to achieve maximum feasible private participation.

Five criteria were outlined and they parallel the earlier policies cited by OMB Circular A-76, Revised, and Administration policy statements:[36]

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[33]George M. Smerk, "The Urban Mass Transportation Act at Twenty: A Turning Point?" Transportation Journal (Summer, 1985), p. 72.

[34]Ibid., pp. 60-63.

[35]U.S. Department of Transportation, Urban Mass Transportation, Private Enterprise Participation in the Urban Mass Transportation Program--Notice of Policy, Docket No. 83-D (Washington, D.C.: Government Printing Office, Federal Register, Vol. 49, No. 205, October 22, 1984), p. 41310.

[36]Ibid., p. 41311.

1. Consultation with Private Providers in the Local Planning Process

A. Notification
-reasonable notice should be given "to private transportation providers and possible new business entrants"

-criteria for making public-private service decisions should be known in advance

B. Early Consultation
-early opportunity should be given to private providers to participate in the development of projects

-opportunity should be given to present their views and own service proposals

2. Consideration of Private Enterprise

A. Development of the Transportation Program: private providers should be involved in the development of the Transportation Improvement Program (TIP) by the MPO

B. Provision of Service by Private Operators Without Public Involvement

-when new service needs are developed or service significantly restructured, private operators should be given consideration if no public subsidy is required

-existing public service should be reviewed periodically to determine if the private sector could offer them more efficiently at no public subsidy

C. Opportunities for Private Carriers to Provide Assisted Services

-consideration should be given to the private operators where there is public subsidy

-opportunities should not be foreclosed by citing local labor agreements or local policy calling for direct operation of all mass transportation providers

D. True Comparison of Costs: fully cost allocated, subsidy included, proposals should be compared between public and private entities

3. Section 3(e)-Documentation: full documentation about the public transit safeguards should be on record for each proposed competing or supplementing private project

4. Compliance: the TIP process will be review by UMTA for compliance with Section 8, and private sector participation

5. Complaints: a local, independent dispute mechanism should be established to receive complaints

Given the conceptual and policy directive antecedents already discussed, the October, 1984 policy statement is consistent with previous findings. It essentially seems to try to "open the window" and provide opportunity for the private sector in a monopolistic field tightly regulated locally.

To administer the new policy and provide a focal point within UMTA, a new office was created. On February 13, 1985, then Administrator Stanley announced creation of an Office of Private Sector Initiatives.[37]

> The Office of Private Sector Initiatives complements President Reagan's effort throughout government to maximize the involvement of the private sector. Careful planning and cooperation between the public and private sectors are essential to ensure that the transit services provided will best meet the mobility demands of the regions they are to serve.

On November 18, 1985, a policy "refinement" was issued by

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[37]U.S. Department of Transportation, Office of the Assistant Secretary for Public Affairs, News-Stanley Announces New Office of Private Sector Initiatives for Mass Transit (Washington, D.C.: UMTA 13-85, February 13, 1985), p. 1.

letter to the urban transportation community.[38] It was designed to implement more specifically the October 22, 1984 policy statement. The Administrator wrote, "The purpose of this letter is to reinforce this policy by rewarding transit systems which demonstrate exemplary compliance with the policy including greater utilization of competition in the provision of service." Several incentives were employed:

> 1. Section 3, Capital Grants: priority will be given to operators demonstrating "significant utilization of competitive bidding for service as well as provide other private sector opportunities to reduce or minimize various transit operating costs."
>
> 2. Section 8, Planning Grants: "As an incentive, and to bring attention to this entire subject in the planning program, the normal 20 percent local matching share...will be waived.

At the Second Annual Conference on Public-Private Partnerships, November 18-19, 1985,[39] the Administrator said:

> We're not promoting private sector involvement as a substitute for public transit. Rather we see the private sector increasing the ability of the public sector to meet transportation needs. In an era of large budget deficits, I think it is incumbent on all of us to make our public dollars stretch further.

Further implementation of basic private sector direction established by UMTA in 1984 was provided by two UMTA Circulars issued December 5, 1986.[40] Interim guidance was announced in

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[38] U.S. Department of Transportation, Urban Mass Transportation Administration, Office of the Administrator, "Dear Colleague" Letter (Washington, D.C.: UMTA, November 18, 1985), pp. 1-2. The subject was also in a press release (UMTA-116-85) on November 26, 1985, "Private Sector Participation Benefits Discretionary Grant Applications."

[39] U.S. Department of Transportation, Urban Mass Transportation Administration, Proceedings--Private Transit and the Public Sector, Forging the Partnership (Washington, D.C.: UMTA/Rice Center, 1986), p. 3, unmarked.

[40] U.S. Department of Transportation, Urban Mass Transportation Administration, "Documentation of Private Enterprise Participation Required for Sections 3 and 9 Programs," UMTA Circular C 7005.1 (Washington, D.C.: UMTA, December 5,

proposed circulars published January, 1986.[41] The guidance proposed that UMTA would: "a. Condition a Section 9 grant on a specific level of private sector involvement; b. Establish quotas for private sector involvement; or c. Mandate the local decision regarding private sector involvement." The Circular notes that Congress did not agree with this interpretation and addressed the issue in both the Department of Transportation and Related Agencies Appropriations Bill, 1987 (H.R. 5205), Section 327, and in the Conference Report (H.R. Rpt. 99-976). " 'The conferees want to be certain that UMTA does not exceed its current statutory authority as it implements its private sector initiatives.'" Circular 7005.1 "imposes no such requirements."[42]

The local planning process each locality is to maintain should contain provisions about:

a. early notice and consultation with private providers;

b. periodic (at least every three year) reviews of routes for private opportunities;

c. description of evaluation process for new and restructured services for competitive bidding;

d. use of cost comparisons in public-private decisions;

e. establishment of a dispute resolution process.

These elements are to be described and certified in the Transportation Improvement Program submitted by the Metropolitan Planning Organization.[43]

1986), pp.1-6; and, "Capital Cost of Contracting," UMTA Circular C 7010.1 (Washington, D.C.: UMTA, December 5, 1986), pp. 1-7.

[41]U.S. Department of Transportation, Urban Mass Transportation Administration, "Guidance on Documentation of Private Enterprise Participation in Urban Mass Transportation Programs" (Washington, D.C.: UMTA, Docket No. 86-A, Notice, January 16, 1986), pp. 1-15; and, "Guidance on Private Sector Participation for Section 18 and Section 16 (b)(2) Recipients" (Washington, D.C.: UMTA, Docket No. 86-B, Notice, January 16, 1986), pp. 1-12. Both were published in the Federal Register (51 FR 3306), January 24, 1986.

[42]UMTA Circular C 7005.1, op.cit., pp. 2-3.

[43]Ibid., pp. 4-5.

The second UMTA Circular (C 7010.1), Capital Cost of Contracting, provides flexibility for grant recipients to "use UMTA capital assistance rather than operating assistance to fund the cost of privately owned capital components of transit services obtained through competitive procurement action."[44] Of the eligible capital costs, ceilings are included to limit federal assistance: elderly and handicapped, demand-responsive, and non-commuter paratransit services-20%; regular circulator service-25%; commuter services, including express, park-and-ride, and vanpool services-35%; and vehicle maintenance services-25%. The ceiling is based on the lower of the preceding percentages of total contract costs (excluding contract management costs) or actual depreciation.[45]

Another aspect of private involvement is the charter bus sector of urban transportation operations. A final rule was published in the Federal Register April 13, 1987. Essentially, the notice "prohibits any federally subsidized transit authority from running charter service if there is at least one willing and able private charter operator who desires to run that service." Exceptions allow public operators to provide service if the private operator is unable to deliver some key component. The rule applies to UMTA grant recipients and "pass-through" recipients.[46]

The most recent innovative thrust is to use UMTA funds to assist in the formation of Employee Stock Ownership Plans (ESOP) for UMTA grantees. The policy is designed to assist in-house cost-cutting with the goal of conversion to private ownership. The Administrator said: "UMTA has been encouraging competition and greater private sector involvement in transit operations. Direct employee ownership from the bus driver to the supervisor is a very innovative way to provide incentives to improve services." Funds will be used for feasibility studies and demonstrations, start-up and management (local governments, companies), and create a New Company Business Support system.[47]

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[44]"Capital Cost of Contracting," UMTA Circular C. 7010.1, op.cit., p. 1.

[45]Ibid., p. 4.

[46]U.S. Department of Transportation, Office of the Assistant Secretary for Public Affairs, "UMTA Issues New Charter Service Rule," News (Washington, D.C.: UMTA 03-87, April 13, 1987), pp. 1-2.

[47]U.S. Department of Transportation, Urban Mass Transportation Administration, "UMTA Administrator Ralph L. Stanley Announces Effort to Cut Costs/Raise Productivity" (Washington, D.C.: UMTA, Office of the Administrator, May 27,

Conclusion

The discussion in this chapter has explored the modern institutional experience of urban transportation service. Initially provided by the private sector, operations became less profitable. The public sector had to assume responsibility for financially guaranteeing a minimal level of urban service. Formal entry of the federal government into this arena was by the Urban Mass Transportation Act of 1964. Since then, the federal role has increased significantly.

By the late 1970's, it was evident that even with the federal role (and often increased local and state financial support), costs were rapidly growing, service quantity and quality diminishing and fares still rising. Something had to be done and the federal motivation to change things started in 1981 with the administration of President Reagan. The private sector was turned to as a possible source of urban transportation service, which would help to lessen pressure on the federal budget, and provide more efficient, less costly service.

The actions started by the administration in the domestic sector were within the conceptual and statutory traditions established after World War II for defense and nondefense federal programs and grants. A new part of this policy heritage is its application to the urban transportation institutional community.

Since 1981, UMTA has moved gradually then more quickly into the sphere of privatization. Stressing at first joint financing, and later service delivery, the new policy helped to redefine the nature of the public-private transportation relationship. Many new opportunities and incentives have been created. Not all of them were welcomed warmly. With time, it was generally recognized there is a basic rationale that makes sense. There is room for both the public and private sector to deliver urban transportation. Needs are so large that the resources of both sectors, if coordinated, can be effectively utilized to the benefit of all.

The next chapter will explore basic urban transportation functions so necessary to provide service. The focus will be upon "business" functions of urban transportation. Subsequent chapters will explore joint financing and other business opportunities.

1987), pp. 1-2.

Chapter II

FRAMEWORK OF PLANNING AND SERVICE

Introduction

What does the typical urban mass transportation organization do? Are the basic functions different between public and private operators? How do they compare to the fundamental activities of business organizations in general? Are plans being implemented? If not, why?

These are some of the questions to be explored by this chapter.

To get at these underlying themes, the discussion reviews normal functions of business organizations. Then, a comparison is made to standard urban transportation agency functions, whether private or public.

Lastly, opportunities are identified for private sector involvement given the industry common framework of planning and service.

Standard Business Functions and Challenges

Every organization operating under American law often faces a variety of tasks and issues that appear generic. In many important areas, urban transportation is no different. For example, the economic system of capitalism or private enterprise presumes basic rights: [1]

1. private property
2. profits
3. freedom of choice
4. competition

An organization must adroitly and effectively exercise the above rights to survive and succeed. To take advantage of such

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[1]Louis E. Boone and David L. Kurtz, Contemporary Business (New York, New York: Dryden Press, 1985, 4th. ed.), pp. 7-15.

privileges, factors of production must be organized and applied in the proper balance at the right time and place:

1. natural resources
2. labor
3. capital
4. entrepreneurship

Ideally, each factor of production should earn a financial return.

Given the relationship of capitalism and factors of production, competition theoretically is wide open, unrestrained. Of course, that is rarely the case. Such "pure competition" in the American economic system is governed by the law of supply and demand and government regulation. Some business sectors are almost complete "monopolies" with no competition. Others are "oligopolies" with few sellers. Still others are "monopolistic competitors" in which there may be a limited number of firms, selling competitively many products and services.

Regardless how a business sector may be characterized by degrees of competition, there are three basic forms of ownership:[2]

1. sole proprietorship
2. partnership
3. corporation

Two alternatives to private ownership are public ownership, and cooperatives in which owners operate their firms together.[3]

The typical organization is concerned with basic functions that are both line and staff activities for management and employees. In urban transportation agencies, similar functions are performed. They involve: production planning, facility location, production facility layout, operationalizing production, production control, marketing strategy, new product development, product distribution strategy, business relationships and competitive advantage.[4]

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[2] Ibid., p. 55.

[3] Ibid., p. 68.

[4] Ibid., pp. 228-241.

Business Functions and Urban Transportation

The American system of free enterprise uniquely blends the right to own property, choose freely, compete and make profits. The organization most effectively utilizing the factors of production (natural resources, labor, capital and entrepreneurship) earns profits.

In the urban transportation sector, the predominant form of ownership is the public agency; sometimes as a special district, public authority, utility, or operating general governmental agency. Prior to the involvement of government in this field, private ownership forms were primarily corporate.

The private sector is being encouraged to participate more in the provision of urban transportation. In some cases, it has seen opportunities even before official public encouragement.

To the extent that the private sector is interested, and there are strong indications that it is, it would help to view typical administrative functions from the private sector conceptual and jargon perspective. If public concepts and jargon were applied, observations might easily become "culture bound" or "public perspective bound" and very likely limit the power of research and analysis. It might well constrain the search for new ideas and innovations.

Consequently, <u>a conscious attempt was made to seek out the private sector perspective and apply it to urban mass transportation</u>. The following graphic, Figure II-1, takes private sector concepts and jargon and places them on a currently public sector activity. It identifies generic functions with an estimation of the degree of relevance (high, medium, low) to public sector transportation agencies and private sector transportation producers. The resulting service or product area is stated. Lastly, targets of private sector opportunity are rated for degree of promise (high, medium, low).

Several observations would be useful before describing the figure. The general functions of business apply particularly well if government perceives its position as one of several service providers. If it acts as a monopoly or is a legally constituted monopoly, then many basic normal business functions are almost irrelevant. Thus institutional differences between the public and private sectors become quite visible. To the extent that public agencies willingly, or are forced to, open up service opportunities for private sector firms to perform, then they too may take on many of the concepts, jargon and mentality of private organizations. If such a relationship were allowed to grow, the sectors in many situations may appear far more similar than one could imagine now. Later discussion will closely review each of the more traditional urban transportation functions provided by typical public agencies.

Additionally, explicit assumptions in the figure should be stated here:

1. public transportation agencies are those providing traditional line-haul bus or rail services;

2. demand for their basic services is from groups heavily dependant upon them (commuters, young, elderly, poor, handicapped) and represent a captive clientele;

3. public social goals of low fares and financial subsidy lessen the pressure to operate in a cost competitive manner;

4. rush hour demand exceeds supply available in many dense central cities;

5. overall demand would increase if fares were lowered;

6. service quality and amenities may not be top priority goals, given revenue-cost squeezes on public agencies; there is an upper constraint on what can be accomplished. A more politically powerful clientele base would be necessary.

The discussion below describes the probable interplay of these assumptions and characteristics by commenting upon the major functional categories in the figure.

1. Production Planning

Once a firm knows what product or service to sell to earn a profit, it must plan production. Public transportation produces a product mandated by local governmental goals, supported by state and federal programs. The product, mass transportation, requires careful planning to organize delivery in a safe, timely, reliable and cost-effective way. Essentially, it is to keep the trains and buses rolling.

The planning process does not have the "high anxiety" caused by fear of competition to find the most economic way to produce. But it is a highly relevant and important activity, for without it, resources would be quickly lost and the public service would decline visibly. Whether public or private, the planning function requires analysis to determine the proper program to design and install for production.

Figure II-1

Generalized Business Functions:
Relevance to Public Transportation Agencies and Private Transportation Producers

Functions:	Public:	Private:	Service/Product:	Opportunity:
1. production planning	H	H	analysis, programs	H
2. facility location	H	H	fixed: streets; rails analysis; new service	H
3. production facility layout				
-process layout (nonstandard products in small numbers)	L	H	paratransit	H
-product layout (few designs)	H	H	vehicle	M-H
-fixed position layout (product stays in one position)	H	H	rail	L
-customer-oriented layout (enhances interaction of customer and organization)	L-H	H	bus, paratransit	H
4. operationalizing production				
-make or buy decision	H	H	analysis/advice/ops.	H
-purchasing decisions	H	H	analysis/advice/ops.	H
-selecting the right supplier	H	H	analysis/advice/ops.	H
-inventory control	H	H	analysis/advice/ops.	H
5. production control				
-production planning (amount of resources necessary, bill of materials)	H	H	analysis/advice/ops.	H
-routing (sequence of work)	L	M	analysis/advice/ops.	H
-scheduling	L	M	analysis/advice/ops.	H
-dispatching	L	M	analysis/advice/ops.	H

Legend: H=high; M=medium; L=low

Functions:	Public:	Private:	Service/Product:	Opportunity:
6. marketing strategy				
-market target	L-M	H	analysis/advice	H
-marketing mix	L-M	H	analysis/advice	H
-strategy: product, pricing, distribution, promotions	L-M	H	analysis/advice	H
-market segmentation: demographic, geographic, psychological, benefit	L-M	H	analysis/advice	H
-marketing myopia: "we are in the railroad business" instead of "we are in the transportation business"	H	L	analysis/advice	L
-demarketing: dealing with shortages	H	L	analysis/advice	L
7. new product development				
-new product ideas	L	H	analysis/advice	H
-screening	L	H	analysis/advice	H
-business analysis	L	H	analysis/advice	H
-product development	L	H	analysis/advice	H
-testing and test marketing	L	H	analysis/advice	H
-commercialization	L	H	analysis/advice	H
-packaging and labeling	L	H	analysis/advice	H
-pricing strategy	L	H	analysis/advice	H
-profit maximization	L	H	analysis/advice	H
-target return goals	L	H	analysis/advice	H
-sales maximization (minimum acceptable profit)	L	H	analysis/advice	H
-market share	L	H	analysis/advice	H
-price skimming (start high, work lower)	L	H	analysis/advice	H
-price penetration (start low, work higher)	L	H	analysis/advice	H
-price lining (keep limited number of prices)	L	H	analysis/advice	H
-price-quality relationships	L	H	analysis/advice	H
-psychological pricing	L	H	analysis/advice	H

Legend: H=high; M=medium; L=low

Functions:	Public:	Private:	Service/Product:	Opportunity:
8. product distribution strategy				
-intensive distribution (full market coverage)	H	L	analysis/advice/ops.	H
-exclusive distribution (sole right granted)	H	H	analysis/advice/ops.	H
-selective distribution (mixed degree of)	M	M	analysis/advice/ops.	H
9. business relationships				
-immediate environment				
-suppliers	H	H	R&D/purchase	H
-customers	L	H	image	H
-employees	M	M	morale	H
-creditors	L-H	H	solvency	H
-shareholders	L	H	surplus/profit	H
-competitors	L	H	profits	H
-macroenvironment				
-technological	L-M	L-M	operations	M
-economic	M-H	H	finance	H
-social	M-H	L-M	users	M
-political	M	H	power	H
-international	L-M	M-H	energy/competitors/ finance	H
10. competitive advantage				
-cost leadership	L	H	profit	H
-differentiation	L	H	profit	H
-competitive forces				
-industry competitors: existing firm rivalry	L	H	profit	H
-potential entrants (bargaining power)	L	H	profit	H
-substitutes (threat of)	L	H	profit	H
-suppliers (bargaining power)	H	H	few in business	H
-buyers (bargaining power)	H	H	limited	H
-generic strategies				
-cost leadership	L	H	profit	H
-differentiation	L	H	profit	H
-focus	L	H	law/profit	H
-stuck in the middle (all strategies)	L	L-M	mixed utility/ reg./dereg.	H

Legend: H=high; M=medium; L=low

The private sector has traditionally assisted public agency production by technical assistance or consulting.[5] The opportunity may be to serve as temporary consulting staff, or fully contracted comprehensive planning activities guided by a core civil service staff. More and more public agencies in smaller jurisdictions are beginning to consider the full contracting mechanism.

2. Facility Location

Urban mass transportation is dependent upon rights-of-way exclusively for transit (e.g., subway, commuter rail), or shared with automobiles and trucks (e.g., buses, trolley, van pools, taxis, storage yards, maintenance shops, and administration buildings). Changing or building new facilities can be expensive. The benefits of transit facilities are related to the demand for transit services. Most urban travel does not quickly change origin-destination of work and residential trips. These factors of demand and supply suggest that facility location decisions be based on a comparison of the costs and benefits of a range of capital investments.

For both the public and private sectors, once facility location is selected, the activity is captive to that corridor or service network area. The planning process to choose and establish the best right-of-way, technology or support facility is critical. The most attractive locations and technology must be determined and developed to bring the product to where the customers are. Mass transportation is linear for rail, and mostly linear for buses. If a license is necessary to operate in the most prized corridor or network, facility location is paramount. If a license is not necessary, agencies already operating in such locations have a major competitive advantage.

In this activity, the private sector has several business opportunities. If acting in a consulting role, the private sector may assist public or private agencies with technical advice. Or, if acting as an owner or operator, the private

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[5] In many large urban transit system investment studies, consultants played a predominant role--performing a "majority of the technical work." The activities range from evaluation of alternatives, evaluation of engineering to developing recommendations and managing design decisions.

Joseph R. Stowers, Arlee T. Reno and V. Wesley Boyar, Improving Decision-Making for Major Urban Transit Investments (Washington, D.C.: Transportation Research Board, National Cooperative Transit Research and Development Program, Report 4, 1983), pp. 29-30.

sector might conduct its own facility location studies with a goal of opening up a new service. The private sector might also enter into a partnership with the public sector to own and operate transit services, equipment and facilities.

Clearly, proper facility location is of high relevance for public and private organizations. It is of less frequent importance for fixed corridor facilities (rail) than for more flexible bus systems. There are fewer new rail systems being planned. But bus-type systems are far easier to open up, especially for the private sector. Public systems must serve certain routes, while most likely the private systems will have the freedom to select its operating areas.

3. Production Facility Layout

The entire mass transportation system is the production facility layout.

The process layout is best illustrated by the taxi or paratransit services which offer for fee practically full route freedom of choice within established service areas. Most public transportation agencies offer little of this kind of service, but it is a strong target of opportunity for the private sector.

The product layout approach fits the more conventional rail and bus systems in which there are few choices, once established. Whether type of vehicle or route, constraints are high for both sectors. Should the private sector see an opportunity and be able to raise the capital, it too would then face the same conditions as the public sector.

If the service is a fixed position layout (rail right-of-way), both sectors will be limited too. The customer will have to go to the product location--a station. With a new facility layout, the private sector might see a significant profit opportunity if it could raise the capital. On the whole though, most opportunities are not at that level of scale so the private sector would not foresee many big capital fixed position layout opportunities.

A customer-oriented layout, which enhances the interaction of the product and customer, is an excellent goal for both sectors to achieve. More likely is the fact that only the private sector will have the institutional and financial flexibility to focus on the customer. Most public transportation customers have no or little choice and depend upon agency service. Consequently there is less incentive to promise and deliver the level of service that the private operators might provide at a higher price.

4. Operationalizing Production

For public agencies, choices available have been few. Private consulting might help prepare for these decisions. Private providers would likely face them as well and need analysis and advice.

The make or buy decision often is a buy decision for basic supplies and services in support of production. The service is made when the trains or buses operate. More and more, public transportation agencies are considering the possibility to buy rather than to make production. Should this become a strong trend, there will be significant opportunity for the private sector to provide the product.

Once that basic decision is made, other decision components become important. What supplies or services should be purchased? If the whole transportation product is purchased, many considerations must be taken further into account. What specifications, quantity, quality, cost, delivery, performance audit process, and penalties? A simple total purchase concept may also require considerable administrative oversight. Private sector firms may assist by technical consulting, or selling the entire product purchase concept and operating the production.

Selecting the right supplier is tricky for any organization. What is the supplier's trackrecord? What is the capability to produce and deliver as promised, and not go bankrupt? For small items, there may well be many suppliers and the marketplace will provide alternatives. For large orders of rolling stock, there are few American manufacturers; many purchases have been from foreign sources. Public and private operators would face similar concerns at this point.

Inventory control adds to the complexity of operationalizing production. If rolling stock is poorly maintained, then extra vehicles need to be kept ready as backups. This is very costly and not cost effective, presuming an agency could afford keeping a reserve fleet. Prudent operations would suggest a small reserve but not necessarily the larger numbers indicated by experience with inferior vehicle construction and maintenance. A private organization certainly would be concerned by similar issues of inventory control. However, it might have more flexibility to acquire and maintain more reliable vehicles, thereby avoiding the expense of a large fleet kept in reserve.

With these limited choices in mind, it would appear that the best opportunity for the private sector, besides consulting, is to provide the product itself and sell it to the transit customer directly or sell it to the public transportation agency.

5. Production Control

This function is the area promising the most rewards from diligent management oversight for any organization. Productivity controls and incentives depend upon production planning to be sure that the factors of production are best organized and combined. The routing or sequence of work is vital to the scheduling and dispatching of the limited equipment and labor available. Private sector consultants may help public agencies but the political-structural differences strongly suggest a private operator advantage.

Nevertheless, the function should be of high relevance to public and private agencies.

Yet, the public sector is more limited in management influence due to union work rules, unwritten labor practices and political influence during strike negotiations. As much as public management might wish to wield strongly its right to achieve higher productivity, there are significant mitigating factors. The private sector need not contend with Section 13(c) labor provisions of the federal Urban Mass Transportation Act.

If the private operator is not yet bound by these factors, then production control can be an extremely promising function leading to real cost advantages and profits. Perhaps, more than any other category, once production is started, they must be tightly controlled. The private sector production advantage is a principal reason for sustained, successful service without public subsidy. Should any part of the equation change, the private operator would soon be similar to the public operator.

6. Marketing Strategy

A captive clientele has caused public providers to give less emnphasis on marketing, except to maintain goodwill. But there still may be an important role.[6] Marketing strategy[7] can be extremely valuable for starting up new operations, rebuilding an

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[6]Many transit agencies do not put strong emphasis upon marketing. Data indicate they would benefit from adopting a market orientation.

Rosemary Booth, "Bus Marketing Costs: The Experience of 18 Section 15 Reporters from 1981 to 1983," Transit Pricing and Performance (Washington, D.C.: Transportation Research Board Transportation Research Record 1078, 1986), pp. 31-38.

See also: Louis E. Boone and David L. Kurtz, Contemporary Marketing (New York: Dryden Press, 1986, 5th. ed.), pp.15, 49-50.

[7]Boone, Ibid., pp. 260-269.

eroding ridership base and pricing transit services. Technical assistance from private consultants is a natural role. Often, public marketing functions are purchased as a total service rather than being developed and managed in-house.

The market target for the public sector is determined mainly by political-social decisions. The private sector has the freedom to choose its market, and possibly not offer service if unprofitable. Such withdrawal is rarely possible for the public provider. Determining the proper market mix also offers private opportunities not readily afforded to public agencies.

Sometimes, market strategy for the public sector can affect the product itself, pricing, distribution and promotions. So much depends upon the resources available in the traditional urban transportation functions. The private sector again appears to have more flexibility to rely heavily upon market strategy.

Knowing the customer is considered fundamental, thus market segmentation becomes quite important. The attributes of the user should be understood in terms of demographic, geographic, psychological and benefit-received characteristics.

Marketing myopia is a constant threat for any organization. It is too easy to forget the basic organizational purpose. Consider the railroads. That industry thought it was only in the "railroad business" while competitors from other sectors viewed it as the "transportation business", a total concept. Public transportation agencies are forced due to resource constraint to limit severely what they do. Basic line-haul commuter and grid pattern operations are most appropriate for carrying the large numbers required. Private operations not having to deliver the basic core business can ask and answer the "what business are we in" questions more successfully.

A seemingly strange concept at first is demarketing or dealing with shortages.[8]

Public transportation has of course a finite limit of rolling stock. At some point demand exceeds supply, especially on popular commuter routes. Customers are turned away; buses or railcars are overloaded. Bad press and public image result and little can be done because fares do not cover the cost of additional service.

The private sector has the same potential problem however it in theory can respond differently. So long as fares cover the cost of operations, additional equipment can be acquired if the demand increase is perceived as long-lasting and not temporary.

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[8] *Ibid.*, pp. 49-50.

If the private sector does not respond to demand increases, it is not held accountable in the same way as the user would hold the public operators. When a shortage such as energy occurs, both sectors will have to find ways to communicate to the user the crisis status and what alternatives, if any, are available. Such messages require very careful application of demarketing concepts.

Clearly, marketing is very important but it provides more payoff and opportunity for the private sector if it is starting up new services. To hold market share, marketing must be used. However in general, the concept holds more utility in competitive circumstances, whether the competition is public or private.

7. New Product Development

It is in this function that the private sector has the most opportunity to have impact. Assuming that public providers are almost fully occupied with delivering existing services in an environment of revenue/subsidy squeeze, private providers may open up new areas and kinds of service. New product development[9] thus has little immediate relevance to public agencies.

For the private sector, the concept has much relevance. Basic ideas must be researched and analyzed, developed and tested in the marketplace. Successful commercialization depends upon attractive packaging and labeling, and correct pricing strategy. Ultimately, profit maximization and target return goals must assume top priority. A variety of pricing concepts do offer insight of market sharing building and profit maximization techniques. For example, a private transportation company may wish to maximize sales or price penetration in order to build market share. For high value service, it may price skim to see what upper level the customer will pay, or offer clear-cut price-quality relationships. Even psychological pricing might be used.

These ideas may become of greater relevance to the public providers if they have competition for current services or start new programs. In such cases, they most likely will buy technical consulting assistance from the private sector before establishing a permanent in-house staff function.

[9] Contemporary Business, op. cit., pp. 276-291.

8. Product Distribution Strategy

There are three types of product distribution strategy[10] and they at the present time are strongly affected by the degree of public utility regulation in the service area. Intensive distribution or full market coverage is generally descriptive of public transportation agencies that have a monopoly on traditional commuter bus and rail services. Saturation coverage is an ideal public distribution goal. At the same time, public agencies often have exclusive distribution or sole right granted to operate. In some areas a selective distribution system has been in use permitting mixed public and private operations.

The public sector has been forced by economic reality to relinquish intensive distribution strategies. It simply cannot collect the opportunity provided. The public sector is also feeling pressure on the exclusive distribution system rights for all the reasons discussed above (economic, coverage, quality, political). The trend is moving to a mixed, selective distribution system.

These changes offer tremendous market opportunities for the private sector if profit potential is perceived. Operating rights are less restrictive as a result and present more traditional business opportunities. The less regulated market entry is, the more private operators may establish new service or attempt to compete for existing rush hour public service.

9. Business Relationships

Both sectors have an immediate and macro business environment requiring different operating relationships.[11]

For the immediate environment, both must deal with suppliers, customers and employees. But the public sector under a monopoly need not strictly deal with financial creditors, shareholders and competitors. Of course, the citizens and elected representatives in theory are creditors and shareholders and do not require a profit be made. Public agencies do have creditors for operating expenses and outstanding bonds. Competitors are not yet a concern.

The macroenvironment is even more difficult to work with. The forces at play are often uncontrollable for both sectors.

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[10] Ibid., pp. 308-315.

[11] Grover Starling, The Changing Environment of Business, A Managerial Approach (Boston: Kent Publishing Company, 1984, 2nd. ed.), pp. 9-12.

Technological change may affect commuting habits (telecommuting); but, it is not now a significant influence on mode, equipment and operations. Computers might promise more responsive scheduling, inventory and cost control. Economic and social factors have great bearing on the degree of public subsidy and type of ridership. The public sector has little capability to take advantage of these highly important forces. The private sector may see the economic aspects as critical to its ability to raise capital and take advantage of new business opportunities.
Both are affected by political forces, which currently are moving in the direction of deregulating urban mass transportation. Deregulation is fundamental to the new opportunities for the business sector to enter the field. Internationally, both sectors are affected by energy supply and price, equipment manufacturers and architectural, engineering, and general transit consulting firms.

10. Competitive Advantage

Another business function relates to how to stay in business. Getting and maintaining competitive advantage[12] is not a real concern of most public agencies. There most likely are no competitors and funding is assured to a large degree. If the public agency does begin to compete with private (and other public) transportation providers, it too will then experience the thrill of getting and maintaining competitive advantage.

General factors to be considered include cost leadership, product differentiation, competitive forces and generic strategies. Figure II-2 illustrates the competitive forces influencing a business. An industry structure is elaborated in Figure II-3. Much attention must be given to entry barriers, rivalry and the threat of substitution. Buyer loyalty may evaporate quickly. To maintain the competitive advantage, a company could stress cost leadership, product differentiation, or narrow focus. If it attempts all three, it may be stuck in the middle with no single effective strategy. The public transportation provider is stuck in the middle -- it usually is required by public goals to serve a multitude of geographic areas, clientele, and hold fares down.

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[12] Michael E. Porter, Competitive Advantage, Creating and Sustaining Superior Performance (New York, N.Y.: The Free Press, 1985, 5-17.

Conclusion

Business concepts and functions have been applied in this chapter to the urban mass transportation field. The relevance of the ten has been tested for the public and private transportation provider. From that base, the degree of private sector business opportunity was reviewed and analyzed.

For the public transportation agency fully committed to providing traditional rush hour commuting service, most have relevance with the exception of marketing strategy, new product development, and competitive advantage. Should they initiate new service or compete with other providers (private and public) for existing service, these exceptions will quickly grow in importance.

The private sector, once afforded the opportunity to enter a field and compete in a deregulated environment, is very concerned about the listed functions. At the very least, private consultants may assist public agencies in their functions. As opportunities are created by dissolving public monopolies, the private sector will find potentially most attractive the functional areas of operationalizing production, production control, marketing strategy, and new product development. After installation of the new product and service, maintaining competitive advantage becomes critical.

The next chapter will explore these targets of opportunity and address ways by which the process of deregulation and opportunity creation yields a smooth transition to the benefit of all.

Figure II-2
The Five Competitive Forces that Determine Industry Profitability

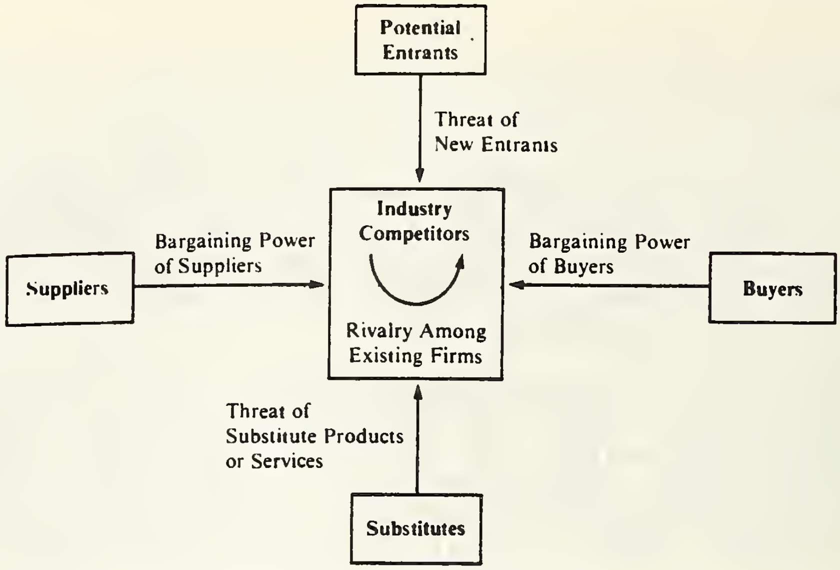

Figure 1-1. The Five Competitive Forces that Determine Industry Profitability

Source: Michael E. Porter, Competitive Advantage, Creating and Sustaining Superior Performance (New York: The Free Press, 1985), p. 5.

Figure II-3
Elements of Industry Structure

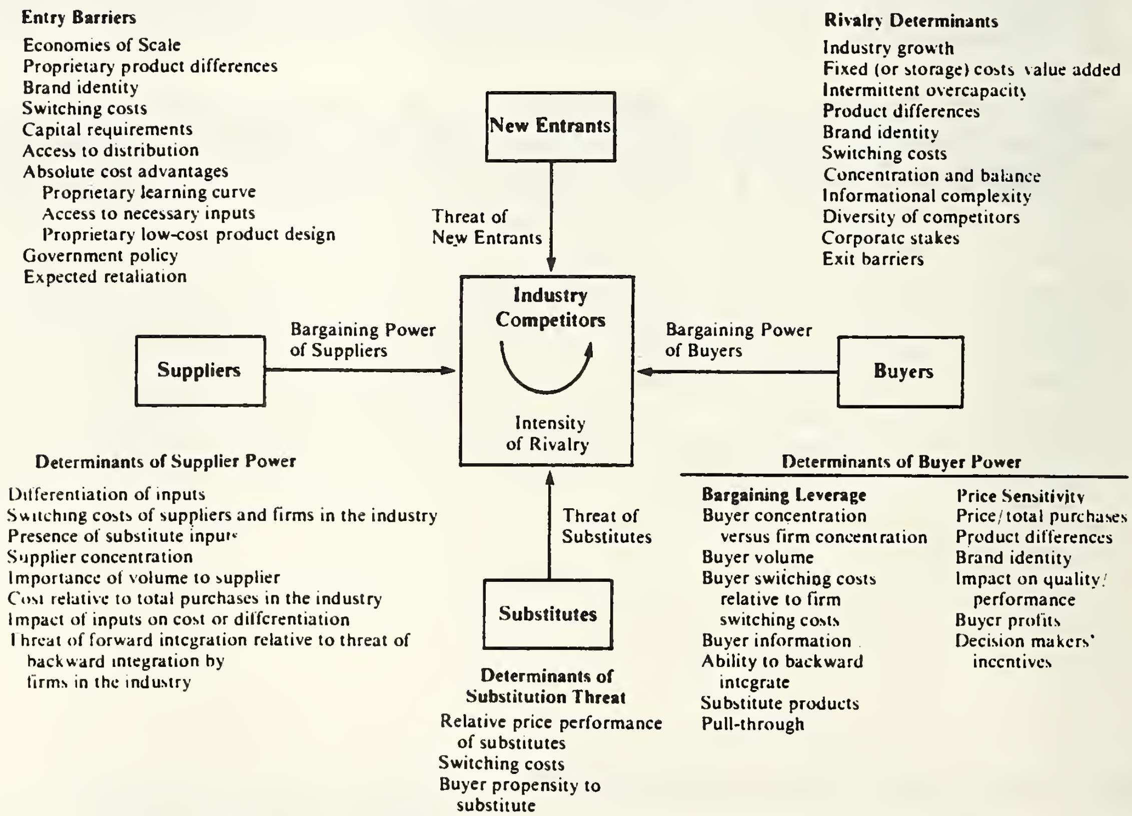

Figure 1-2. Elements of Industry Structure

Source: Ibid., p. 27.

Chapter III

PRIVATE SECTOR INVOLVEMENT

Introduction

The private sector is returning to the urban mass transportation field. Many reasons may account for the new perceptions of business opportunity and profit where few were seen before.

Chapter I discussed changes in population, urban development and travel demand, along with parallel economic and financial shifts. In part responding to these fundamental trends was a gradual shift at first in federal transportation policy. By 1981 fuller emphasis was placed by the federal government upon returning programs to the local and state levels and lessening federal financial support. The private sector, it was viewed, had a natural role to play in urban transportation. If governmental access restrictions were eased and encouragement provided, the private sector would return to transit. Business attitudes were changing too. Increasingly, business recognized that transportation accessibility is a necessary ingredient of a healthy economy and successful business. Opportunities were seen.

Chapter II conducted a broad business environmental scan to see what general functions common to business and urban transportation might be strong candidates for greater private involvement. Several key areas were identified and investigated.

This chapter builds on these foundations and specifically examines the private sector opportunities in urban mass transportation. Discussion will focus upon examples of opportunities created and, in more and more situations, realized.

Urban Transportation Functions

The general business functions described in Chapter II take on the specialized conceptual framework and jargon of the urban transportation industry in this section (Table III-1). Cross-references show the linkages.

Table III-1

Urban Transportation Functions in a Business Context

Business Functions:	Urban Transportation Functions:
1. Production Planning	Systems Planning
2. Facility Location	Project Planning
3. Production Facility Layout	Site Planning
4. Operationalizing Production	Operations Planning/ Programming
5. Production Control	Route/Service Planning/ Management
6. Marketing Strategy	Planning/Management
7. New Product Development	Research/Demonstration Planning/Management/ Finance
8. Product Distribution Strategy	Service/Management/ Finance
9. Business Relationships	Management
10. Competitive Advantage	Management

The same basic functions presented in an urban transportation conceptual format are customarily found in the following sequence:

1. planning
2. programming
3. finance
4. service
5. management

Planning addresses the spectrum of functions such as demand analysis, equipment inventory and supply, establishing goals and objectives, policy and program development, project design, evaluation, engineering, construction, and operational changes.

The task of programming establishes the political and administrative decisions necessary to organize and prioritize major activities and their subcomponents. Essentially, it is a public decision process to determine future activities. Costs and financial requirements are identified.

Hard, "in hand" finances are not necessarily stated. The programming in many jurisdictions stands as a "wish list" should funds become available. For all practical purposes, the bulk of real funds is dedicated to existing service commitments and not new activities. Consequently, programming is a critical task to the statement of priorities, present and future. Yet, it does not represent a firm funding commitment until the funds are authorized and committed.

By comparison, private sector companies are not required by federal or state laws, as public transportation agencies are, to formulate and announce such a list. Good business practice certainly encourages internal work programs serving the same purpose, however the managerial freedom to change priorities and directions is something that public managers must on occasion envy.

The task of financing is often incorporated in the functions of planning, programming and management. Here, it is broken out separately to call attention to its extreme importance. It can no longer be presumed that capital will be readily available. All parts of the economy, public and private, must give more attention and energy to arranging funds for existing and new activities. Even when commitments are made and activities funded, the flow of funds could be slowed down, halted or cancelled altogether. Thus management must grant constant vigilance to the matter.

The delivery of urban mass transportation service or operations is a complex and technical task. Routes, equipment, frequency and staffing must be blended with funds in order to provide basic services. If acquiring rights-of-way and new facility construction are necessary, then the effort becomes even more involved. Equipment maintenance, operating safety and training are also important. Operations must also perform internal management functions such as personnel, budgeting, coordination, evaluation and audits.

The final typical task, management, performs an integrating role to ensure proper coordination and functioning of the preceding tasks. In fact, each major task is a management concern. Leadership on all levels must be provided. Overall policy decisions are raised by management to the public or private boards of directors. Issues, problems, alternatives and impacts are discussed. Once a decision or course of action is taken, management makes it work. Such policy implementation by its very nature integrates the activities of planning, programming, finance, budget, personnel, labor relations, public affairs, evaluation and audits, procurement, construction and operation, and coordination.

Providers and Producers of Urban Transportation Service

The typical functions of planning, programming, finance, service, and management are of interest to both providers and producers. They form the core of two different concepts of privatization.[1]

Basic to the idea is the theme of "sectors" which combine both functions of provision and production. Providers are the agencies which perform policy-making, deciding, buying, requiring, regulating, franchising and subsidizing. Producers are the agencies which perform operating, delivering, running, doing, selling, and administering.

Much confusion potential exists here. The same organizations can be a provider or producer. The range of units include: all levels of government; numerous private sector entities (operators, chambers-of-commerce, consulting firms, banks, real estate developers, industry, manufacturers, retailers); non-profits (Transportation System Management groups, Transportation Management Associations, social service organizations); and, hybrid groups (joint development entities, public-private partnerships).

In addition, either role may be suitable for privatization. Currently, privatization has come to mean contracting out whereas it may also be turning over (loadshedding) governmental activities to the private sector, or organizing partnerships. In the former, the public keeps control of the policy mechanisms. In the "turn over" case, the entire decision making and delivery function is transferred. The public and private sectors share in decision making. Sector roles are depicted in Table III-2 below.

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[1] Ted Kolderie, "The Two Different Concepts of 'Privatization'", Public Services Redesign Project (Minneapolis: Humphrey Institute, University of Minnesota, February, 1986), pp. 1-3. See also, Ted Kolderie, "The Two Different Concepts of Privatization," Public Administration Review (July/August 1986, Vol. 46, No. 4), pp. 285-291.

Table III-2
Sector Role Definition

	Provider (buyer)	Producer (seller)	Degree (sector mix)
1.	public	public	**Pure Public**
2.	public	private	**Contracting**
3.	private	public	**Reverse Contracting**
4.	public/private	public/private	**Partnership**
5.	private	private	**Pure Private**

Another way to visualize the range of possibilities is a continuum of relationships:

Public -- Cooperative Forms -- Private
*contracting
*reverse contracting
*partnership

Until the early 1980's in the urban transportation sector, most activity was in the public arena. Other local governmental functions were long accustomed to the combination or hybrid mixture of activity, especially for community economic development and redevelopment.

More and more, urban transportation is exploring and utilizing a fuller range of the possibilities shown on the continuum.

Pure Public and Private Cases

The two extremes on the scale are the pure public and private cases. For most urban transportation functions, and many other local government functions, the pure public case has been the norm. The provider of the service buys it from the producer. In other words, government performs both roles--it buys from the seller--itself. Similarly, the private sector would buy from the seller, itself. Often, the private sector would purchase from another private seller, not within the buyer's corporate control. In contrast, the same public agency would conduct frequently both activities with itself--one agency, or buy from another governmental agency.

A well known local governmental variation on this theme is the "Lakewood Plan" (named after the city of Lakewood, California). The concept of new cities buying services from an established public operation was started when the city was just formed with completion of a suburban real estate development south of the city of Los Angles within Los Angeles County. Lakewood purchased most of the essential local government-type services from the County of Los Angeles (fire, police, refuse collection, sewers, recreation, library)and managed the contracts with a small city staff.

Many municipalities applied the model to other functions and contracted or purchased water, gas, electricity, street maintenance and repair, and health services from parent or adjacent governmental units, or utilities. Some contracted with the Southern California Rapid Transit District. Consequently, this form of public to public jurisdictional relationship is well established in American local government as a sound practice of public administration.

Cooperative Forms

Combinations become more interesting with both sectors relating to each other instead of staying internal or "in-house." For example, contracting is represented by the case in which the public sector provides the function and the private sectors produces it. Often, the public agency would decide the policy, arrange for funds, and manage the process. The private firm would deliver the function under contract terms specified by the public agency. The majority of interrelationships are of this kind.

Interestingly, no jargon has been created yet to describe the opposite of the above situation. Although it has not widely occurred, the public sector might compete in the marketplace for private sector business, just as any other producer. The concept is clearly feasible if the public meets competitive market terms. For lack of any official phrase, this role relationship might be called reverse contracting.

Special events often have provided examples of reverse, temporary contracting. Private sport or commercial event producers would buy police, paramedic and bus transportation to facilitate crowd management.

To date in the urban transportation field, "privatizing" has mostly meant "contracting out", not "turning over" the function entirely as in the case of the United Kingdom, or proposed U.S.

activities (Dulles and National Airports, Amtrak, Conrail).[2] Such full transfers presume that there is a private sector buyer. Many public transportation executives are unsure if there would be a private buyer willing and able to assume an entire urban transportation system. No full turnover has happened, though theoretically it could.

Several issues swirl around the conceptual confusion of contracting.[3]

1. competition: is the public contract with one private producer or several?

2. creaming: which sector performs the more profitable functions?

3. corruption: how is it controlled?

4. costs: will the public be able to analyze accurately private costing? what happens if private sector loses money and defaults on contract terms?

5. control: how to ensure contract performance, or that risk is transferred to the private producer? what if the contract is not renewed?

6. community: what happens to public values and goals?

None of these issues is insurmountable for successful contracting out. What is required is a strong, affirmative decision by the public agency provider to specify what it wants to purchase, penalties, and incentives if any. Most important is a commitment to dedicating its own internal staff resources to manage the contract, review all ongoing elements, and wield the power to enforce it.

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[2] U.S. Congress, Congressional Budget Office, Economic Viability of Conrail (Washington, D.C.: Government Printing Office, August, 1986).

[3] Kolderie, "Two Different Concepts...", op.cit., pp.5-8. See also: James Ferris and Elizabeth Graddy, "Contracting Out: For What? With Whom," Public Administration Review (July/August 1986), pp. 332-344.

Once the public decision has been made to privatize,[4] the government withdraws from a function. Again, it may be a matter of degree. If it withdraws entirely, it is turning over or loadshedding. It may on the other hand introduce fees and charges for services it continues to produce, while still shedding the load.

The contracting out aspect of loadshedding has several interesting variations:[5]

1. A provider might buy the entire service by a single contract or multiple contracts with competing producers. It might buy the entire service and still own the capital, or vice-a-versa. Often, a performance contract might be used.

2. Partial buying and owning a function is also used. In a sense the public would be a purchaser of production and share ownership responsibilities.

3. A provider might only buy the support services. This model is fairly commonplace in the technical consulting and engineering fields.

4. Acquiring management services only has been a popular approach.

5. Lastly, buying the management of the support services offers a very specialized relationship.

It would seem that the urban transportation field has been accustomed to utilizing approaches three to five, but not one and two. Federal policy has opened up the possibility of number one,

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[4]Contracting out was considered a high priority by many local governments according to the most recent comprehensive survey. Conducted by the International City Management Association in 1982, over forty-seven hundred local governments were surveyed.

In the public works and transportation function, cities and counties already contracted out two mass transportation functions, which ranked highly: number seven, paratransit system operation/maintenance (22 %) and, number 8, bus system operation/maintenance (21%).

John Tepper Marlin, ed., Contracting Municipal Services, A Guide for Purchase from the Private Sector (New York, New York: John Wiley and Sons, 1984), pp. 10-12.

[5]Ted Kolderie, "Contracting as an Approach to Management" Public Services Redesign Project (Minneapolis: Humphrey Institute, University of Minnesota, 1985), pp. 1-6.

purchasing the entire service. Partial purchase and ownership, number two, has not been truly attempted in most areas, although it is under active consideration.

A caveat should be stated at this point. Contracting out should be considered as one of several approaches to providing better public functions, not merely as a way to augment scarce public resources.

A true public-private partnership, in essence, is created within the context of a business relationship with certain legal rights and performance requirements. Both obviously have something to gain and possibly lose by doing so. A "win-win situation" might be created if the following is kept in mind about partnerships:[6]

> While certain local agencies are effectively marshalling private resources, others view partnership opportunities strictly as a means of substituting corporate grants for federal grants. Such thinking in not only naive but misguided.
>
> If corporate giving were to double, or even triple, it could not compensate for the cuts already made and anticipated in federal programs. Additionally, charity is not the central purpose of business. While certain private enterprises have contributed substantially to public purposes, business as a whole is generally neither organized nor equipped to handle public responsibilities.
>
> Public-private partnerships are most applicable to those activities which produce mutual benefits, on a mutually profitable basis. Unless such opportunities exist, there is little rationale to pursue private enterprise participation for solutions to public programs.

A larger dimension to the private sector involvement in public affairs is evident when viewed from a higher plane. The operational dimension of the partnership relationship includes:

1. private initiative for public benefits;

2. government initiative to facilitate or encourage private activity in the public interest;

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[6] John Gunyou, "Financial Analysis for Public/Private Partnerships," Chapter One, in Barbara Weiss, ed., Financing a Common Wealth, Public/Private Partnerships (Chicago: Government Finance Research Center, Government Finance Officers Association, 1985), pp. 3-4.

3. joint ventures by government and private organizations.[7]

A large amount of urban mass transportation activity with the business sector has come to mean "partnerships" as a code word for joint development, finance, and service. Some executives in the business sector look warily upon the notion and question the sincerity and good faith of elected officials. Also, public officials have developed a healthy respect for the negotiation and business acumen of private executives. In many urban areas, both sides through hard experience are more realistic about the good and bad aspects of partnerships.

Regardless of the institutional relationships, the private sector has several new business opportunities. Juxtaposing the concept of providers and producers with the typical assortment of urban transportation functions, the following array (Table III-3) opens up the possible areas of fruitful contact. Later, a geographic-service matrix will further show the cross fertilization.

Table III-3
New Business Opportunities

Urban Transp. Functions	Traditional Provider	PSO	Traditional Producer	PSO
1. planning	public	yes	public/private	yes
2. programming	public	unlikely	public	unlikely
3. financing	public	yes	public	yes
4. service	public	yes	public/private	yes
5. management	public	yes	public/private	yes

(PSO=private sector opportunity for new business area)

Significant opportunity exists in almost all categories, whether from the provider or producer perspective.

From the government (buyer) point-of-view, more common possibilities are in the financing sector; in other words, a

[7]Committee for Economic Development, Statement by the Research and Policy Committee, Public-Private Partnership, An Opportunity for Urban Communities (New York, New York: Committee for Economic Development, February, 1982), p. 3.

source of new funds! The private sector can assist in planning by a consulting role. For its own contract services, it has opportunities to offer service and manage it or others' service.

An area of increasing interest is the private sector role in the "political" programming decision process. Until recently, most jurisdictions reserved this function as solely a public function. There is sound political theory dictating that privilege. Yet, as the private sector gets more involved in all areas, including financing, subtle shifts are becoming visible. The shifts are disturbing to local governments. They parallel the phenomenon when federal programs tempted local governments. In this situation, the "golden rule" may prevail. He (the public or private agency) with the gold, rules. Local governments may begin to shift their own transportation priorities and program those that are more fully funded with private sector participation. The different priorities may not necessarily be in agreement. The tendency is understandable, though of concern.

This aspect of programming is the heart of what local government officials do, allocate funds. Nevertheless, indications are increasing that private sector funds and the ability to complete projects or offer service at no or little up-front public costs prove extremely enticing.

Public agencies may also perform any of the typical functionss for the private sector, thus becoming a competitor. So far, the "threat" of a new entrant to the private marketplace has been theory and not a widespread reality.

Trendline of Opportunities

The preceding sections discuss the institutional relationships and opportunities for new business. Notwithstanding the importance of having a conceptual framework, it is now desirable to place the scheme over the nuts and bolts of urban transportation service -- clientele need, types of service and location.

In the first chapter, two trends were reviewed. Urban growth showed a pattern of centralization based on the rail network, then decentralization based upon the automobile/highway network. Urban transportation ownership shifted from the private to the public sector during the same period.

Table III-4 illustrates the evolutionary direction of these and other significant trends.

Table III-4

Interrelationships of Key Trends in Urban Areas

Year	Growth Phase	Pop. Density	Transp. Technol.	Service Provider	Service Producer
1940	central city	concen-trated	rail, bus	private	private
1950	"	"	"	"	"
1960	suburban	dispersion	auto	public	public
1970	more "	more "	"	"	"
1980	" "	" "	"	"	some private
1990	urban village	med. dense suburban	auto/bus rideshare/ some rail	mixed public/ private	mixed public/ private

The growth phase of the urban population category distinctly exhibits a shift from central city to an urban village[8] profile with a medium suburban/city density. Transport technology may well be a mixture of old and new, suitable for the different population patterns. Providers of service will very likely shift from a predominance of the public sector in the 1960-1980 period to both public and private. Producers appear to follow the pattern in providers, ie., a mixture of public and private producers.

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[8]The urban village concept seems to represent, more and more, the new metropolitan form in the nation. One expert suggests that the suburban phase was a transitional era between the pre-WWII central city form and the urban village of the 1980's and 1990's. The significance for urban transportation is profound.

See: Christopher B. Leinberger and Charles Lockwood, "How Business is Reshaping America," The Atlantic Monthly (October, 1986), pp. 43-52; Edmund Newton, "'Urban Villages' Viewed as Successors to Cities," Los Angeles Times (April 16, 1987) Part II, p. 11; "The Urban Village" -Cover Story, Time Magazine (June 15, 1987); Christopher Conte, "The Explosive Growth of Suburbia Leads to Bumper-to-Bumper Blues," Wall Street Journal (April 16, 1985), Section 2, p. 37.

A strong message in the population growth and urban form trends is that the field of urban mass transportation, to be responsive, must become almost all things to all users. For the dense urban central cities, heavy rail (subway, commuter rail), and freeway express systems are necessary. For local circulation, shared ride systems whether bus, car/van pools, taxis should be considered. For the urban village, a mixture as appropriate should be applied. Table III-5 shows the relationship of urban form patterns to technology.

Table III-5

Urban Form and Appropriate Transport Technology

Form:	Central City	Suburban	Urban Village
Technology:			
fixed route			
commuter rail	yes	yes	no
light rail	yes	yes	yes
subway	yes	no	no
HOV	yes	yes	yes
flexible route			
bus	yes	yes	yes
taxi/limo	yes	yes	yes
jitney	yes	yes	yes
van/carpool	yes	yes	yes
rideshare	yes	yes	yes

Clearly, the more capital intensive (fixed routed) transport facilities meet the needs better of more concentrated population areas, whether it be for internal circulation or line-haul express commuting. Such facilities are either conventional rail High Occupancy Vehicle (HOV) freeway modes, including newer technologies (people movers, monorails, etc.).

To attempt to install expensive facilities in dense urban areas would require a larger financial capability than most urban transportation organization could arrange. That is the very problem confronted today in many jurisdictions. It is a significant problem for either the public or private sector.

Expensive facilities in less dense areas would be considered almost impractical today given the financial capabilities and climate. Current travel demand probably would not justify the investments though future growth projections would. It may well require skillful farsightedness to prepare for anticipated higher densities while the cost of land, equipment and labor may be cheaper than at some distant future period.

Flexible route systems utilize less expensive technology based upon highway/automobile variations. Market entry is considerably easier if the start-up cost is lower. Thus many more organizations, public or private, can gain access and offer service.

If facility expense alone was the primary criterion for deciding upon public or private opportunities, things would sort out very quickly. Cold marketplace reality cuts through several spheres of concern. Table III-6 presents the relationship of transport system expense and producers.

Table III-6

Transport Technology Expense and Producer Financial Capability

Producer Capability:	Public	Private
Technology:		
Fixed Route		
commuter rail	moderate	low
light rail	moderate	low
subway	low	low
HOV	moderate	low
Flexible Route		
bus	moderate	moderate
taxi/limo	moderate	high
jitney	moderate	high
van/carpool	moderate	high
rideshare	moderate	high

In terms of low cost market and capital cost entry, the private sector would find the flexible route technologies more tempting. Public agencies would consider them attractive as well, however if public funds are already scarce, starting a new transport function might be impractical.

Furthermore, operational costs for either sector would become the central issue. Attractiveness of market entry is one thing, covering operating costs and making a profit demands financial staying power is another. Transit worker unions most likely would seek to organize new start-ups if there were sufficient new membership potential.

Private Sector Opportunities: Existing vs. New Functions?

Discussion to this point has attempted to focus upon private sector opportunities by business functions, sector role of provider and producer, technology, finance, and urban form. These categories in fact may represent hypothetical standards or guidelines to determine the probability for new business opportunity.

Basic assumptions about the nature of urban mass transportation by the public and private sectors undergird the analysis. For example,

1. the large, central city regional public transportation operator is under financial pressure;

2. such traditional operators cannot meet demand increases from the principal clientele - those least able to afford full costing fares;

3. attempts to meet demand from more affluent clientele may divert scarce fiscal and organizational resources from the transit-dependent sector;

4. thus, traditional operators appear fully occupied in the predominant function--they cannot easily nor effectively address more specialized flexible system demands, often found in the suburban and urban village areas;

5. new service opportunities might be allocated to the private sector and existing service to the large public operators; theoretically, a public agency could attempt new service opportunities too. Fundamental internal organizational changes would have to occur first to make it feasible and initially competitive with the private sector.

In essence, the public sector has a sunk cost investment that the private sector could not quickly nor easily match. Public goals to serve the transit dependent or provide poorly used service are not profitable for the private sector unless public subsidy was added. The current political, cost and organizational structure effectively serve as constraining gamerules. The public sector is fully committed.

The private sector role in existing public transportation service, therefore appears fairly limited. Some special conditions already exist or will be created to bring in the private sector. They are viewed in terms of the following categories:

1. <u>replacement</u>: public operator routes be relinquished to the private sector;

2. <u>supplemental</u>: public operator specific activities and support services be contracted to the private sector;

3. <u>competitive</u>: outright public-private competition be permitted for the same service.

The vector of this way of thinking is very much evident to the industry. Encourage the private sector towards new areas of business: fixed route or flexible route systems, central city, suburban or urban village, specialized functions, or organizational support services.

However, it is another matter for the private sector to shift from new service opportunities to existing public service replacement or competition!

Conclusion

The primary business functions of a typical business organization have been compared to the customary functions of urban transportation agencies. Ten functions can be reduced to five, however such consolidation and reduction tend to mask the importance of certain activities. For example, marketing is often absorbed by planning functions. New product development may also be consumed by planning or management functions. Aside from the conceptual differences, "blending" and renaming key activities may permit their omission from strategic and operational management thinking about what the agency is supposed to do, and how to serve the customer.

Another key distinction is that of "provider" and "producer" of urban mass transportation. Either function can be performed by the public or private sector. Traditionally, the public sector has been the provider <u>and</u> producer.

An area of promise on the spectrum of institutional activity is the combination or hybrid forms in the public-private relationship. Contracting is growing. Furthermore, partnerships are increasingly utilized.

Now, "privatization" is opening up the opportunity for the private sector to be a producer for the public provider. In time, the private sector may be able to provide urban transportation service too. For example, private sector organizations with profit centers might use them to fund "breakeven" or "loss" centers. Ample precedent exists. Many private urban transportation companies at the beginning of the century used a loss operation, interurban rail lines, to promote very successful profit centers, real estate developments at the end of the line or along the right of way.

The trendline of private sector opportunities reflects the changing urban form and source of travel demand. Central cities are losing population to the suburbs and a new in-between form called the "urban village."

Urban villages are not well served by large, old-line public transportation providers and producers. Such unserved, new demand areas open up rich possibilities for private sector involvement which would not compete with existing public activities. The lower-capital costs necessary for more appropriate transport technologies make it easier to new private entrants in the field.

To the extent that unmet central city needs are not addressed by public providers and producers, there will be new private opportunities to augment its operations.

The final opportunity is the most sensitive and explosive. For the central city public operator, the private sector may be seen as an outright competitor for existing service or new service. In some cases, it may be perceived as a replacement for existing public service.

The dynamic field is full of opportunities; some easy, others politically charged The next chapter explores the barriers that clearly or are perceived to confront greater private sector involvement.

Chapter IV

INTERGOVERNMENTAL BARRIERS TO PRIVATE SECTOR INVOLVEMENT

Introduction

As discussed in the previous chapters, the private sector vacated the urban transportation marketplace over several decades, starting in the 1930s. The historical reason is that it became increasingly difficult to compete with the automobile and to earn a fair return on capital and labor. Others noted as well that transit even earlier was not a sound, robust business. Available funds could, and subsequently did, earn higher rates of return from other corporate profit centers or passive investments of stockholder equity.

The impact of governmental barriers did not play a large role until more recent times. Principally, a simple rational business decision directed the industry to other non-transit activities.

Now, a profit opportunity is again perceived by the private sector. The change in perception appears to be a function of several forces. Firstly, federal policy changes have helped to create an atmosphere much more conducive to experimentation on a limited scale (Chapter I). Secondly, a number of traditional public provider and producer functions may be good candidates for private sector performance (Chapter II). Thirdly, new business opportunities are rapidly developing in the "urban village" areas of the nation's larger urban regions (Chapter II). The net effect of these forces is a level of interest, experimentation and market entry not seen for decades.

Given heightened private sector interest and public willingness to nourish the relationship, what public institutional impediments exist, or are perceived, that discourage private sector involvement? This chapter will review the variety of local, state, and federal regulations, rules, and practices which effectively preclude or discourage sustained private sector participation.

There are barriers to private sector involvement from governmental and private points-of-view. For both, the barriers may well be considered as risks. Government is concerned about public goals and needs being met by the private sector. The private perspective is minimally concerned about the risk of losing shareholders equity by not making a profit.

Not all the barriers are present-day oriented. Some are legacies of much earlier public policy decisions and resulting "mind-sets" that have carried forward. For example, most transit operations in the turn-of-the century large municipalities were local government sanctioned monopolies, run as public utilities. Route structure, fares, and rates of return were often controlled or strongly influenced. When private operators vacated the field, municipalities had to face a decision --- with little precedent to guide them. Instead of assuming the operation of transit, they might have contracted service to the private sector. For those municipalities facing the decisions in the early 1960s, the historical precedent and the imminent passage of the federal Urban Mass Transportation Act of 1964 helped to create an environment conducive to public assumption, rather than private contracting.[1]

Local Government

Local public utility commissions (PUC) generally govern major aspects of transit service. A new private operator would have to apply to the commission for "...a certificate of public convenience and necessity in order to initiate new service." While the application is pending, interested parties may offer comment. Often, vigorous comments against are from the public transit operators, who believe that "skimming" the best peak-period commuter bus service would be detrimental to them. Some believe that "there is no cream to skim...; peak period operations are among the most costly to operate." If the local PUC is also the regional transit agency, "a private bus operator wishing to offer competing service has little chance to gain approval."[2]

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[1]Ronald F. Kirby and Arlee T. Reno, Urban Institute, The Nation's Public Works: Report on Mass Transit (Washington, D.C.: National Council on Public Works Improvement, Categories of Public Works Series, May 1987), p. 83; see also, Southern California Association of Governments, Commuter and Express Bus Service in the SCAG Region: A Policy Analysis of Public and Private Operations (Washington, D.C.: Government Printing Office, U.S. Department of Transportation, Office of the Secretary, Urban Mass Transportation Administration, February, 1982), pp. 34-47.

[2]Urban Mobility Corporation, Unsubsidized Transit Services, Potential to Meet Public Needs and Reduce Subsidy Requirements (Washington, D.C.: U.S. Urban Mass Transportation Administration,

Other urban transportation activities have been controlled too. Taxi regulations of local PUCs affect entry controls, fare determination, operating standards, and financial responsibility. Established firms perceive that new entrants to the field, as with paratransit (jitney, ridesharing, Dial-a-Ride), not only provide a source of competition from the public, nonprofit, and private sectors, but benefit from less stringent regulation.[3]

Getting information and communication about contracting opportunities in a timely manner provides another source of concern. Local governments, and their transit operators, often do not have ready access to interested private parties.[4] Frequently, mail lists are incomplete, out-of-date, and inaccurate. Sometimes, information is mailed out too late for private sector response.

Whether the information gets out or not, private operators would like to be involved in much of the planning process. Information sharing is an important element of it. Yet, some private operators are unable to participate on account of limited staff resources. The smaller the operator, the less likely participation will be. Put another way, "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 policy and planning."[5]

In Los Angeles, the planning process afforded an opportunity for large downtown, central business district developers to participate in the development of an innovative ridesharing program. For some, it is a barrier to their freedom to develop the valuable parcels in the way they might prefer. The City of Los Angeles Community Redevelopment Agency (CRA) worked out

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Office of Budget and Policy, December, 1985), pp. 22-23.

[3]University of the District of Columbia, Taxi Regulation in a Free Entry Market, A Case Study of Washington, D.C. (Washington, D.C.: Government Printing Office, U.S. Department of Transportation, Office of Technology Sharing, UMTA University Research and Training Program, October, 1983), pp. 10-26.

[4] Robert Kaiser and Harold Morgan, "Information: The Key to Participation," PTI Journal (Los Angeles: Southern California Association of Governments, July/August, 1987), pp. 4-5.

[5]Theodore A. Thompson and Thomas J. Cullinan, Contracting for Public Transportation Services, Some New York State Findings (New York State Department of Transportation, Transit Program and Evaluation Bureau, Transit Division, Paper Presented at Transportation Research Board 64th. Annual Meeting, Washington, D.C., January, 1985), pp. i, 12-14.

agreements with developers of more than six million square feet of new office space.[6] Each agreement requires:

*a 60 percent employee rideshare participation goal;

*establishment of an employee ridesharing program by the developer;

*establishment of a Commuter Transportation Coordinator;

*implementation of a monitoring program;

*a provision that the developer will augment transit/carpool modes by creating a vanpool program should ridesharing participation requirements not be achieved;

*a commitment to participate in area-wide private sector efforts to coordinate management of site specific rideshare programs;

*<u>recording of the program on the project's title and application to subsequent owners</u> (emphasis added).

As might be imagined, traffic congestion has to be very severe in order for developers to agree to such requirements. Land, though, is so valuable in the CBD that one might conclude such public barriers were perceived as a another cost of business to pass on to, indirectly, to the firms leasing office space. The mediating device for the program development was the Mayor's Blue Ribbon Committee. Concerns about the program raised by the developers or their representatives (consultants, attorneys) were:

*project location will affect the ability to achieve requirements;

*project tenant mix will affect ability to achieve requirements;

*flexibility among rideshare modes is essential;

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[6]Patrick Roche and Richard Willson, <u>Rideshare Requirements in Downtown Los Angeles: Achieving Private Sector Commitments</u> (City of Los Angeles, Community Redevelopment Agency, Paper Presented at the 65th. Annual Transportation Research Board Meeting, Washington, D.C., January, 1986), pp. 7-9, 11.

*alternatives to free vanpool compliance measures are essential;

*all projects should have similar requirements so that no one project would be subject to perceived market risks.

In effect, the developer is being pulled (encouraged) into the urban transportation business!

Basic communication is a problem. In some jurisdictions, public and private sector officials serve on joint committees. But a breakdown seems to occur at the official level of the principals, not the staff. Joint programs in Los Angeles, New York City, Northern Virginia (Dulles), and Orlando showed indications at key stages of the decisionmaking process. One program, Orlando, almost came to fruition then "fell apart" because a principal private sector corporation withdrew.

Public-private consortia, especially when dealing with large development projects can be very "iffy." Both sectors have much to lose and gain. Distrust is often rampant, built up over years of ill-will and institutional animosity. On occassion, local politics and personalities make complex, technical issues even trickier.

The <u>New York City West Side Transitway</u> concept is an attempt to respond to dramatic changes in land use on Manhattan. Long left to decline, the West Side of the island is now growing quickly with increasing demand for transit. Since 1974, and earlier with the West Side Highway closure, concern was evident and studies undertaken to analyze the more effective ways to provide a corridor(s) from the George Washington Bridge in the north to the Battery Park at the southern tip of the island.[7] During that period, land use changed quickly with the addition of completed or proposed vast amounts of square footage--73 million square feet of offices and businesses, and 61,000 residential units as of 1986. An estimated 220,000 new trips will be created by the projected development (156,000 may be carried by transit.[8]

The innovative study examines institutional, legal, financial and transportation/land use elements. Special attention is

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[7]City of New York, Department of City Planning, <u>Request for Proposal, Transportation Consulting Services for the West Side Light Rail/Transitway Study</u> (New York: City Planning Department, Manhattan Office, June 10, 1986), pp. 4-5.

[8]City of New York, Department of City Planning, <u>West Side Transitway Study, Phase I Summary; Statement of the Problem</u> (New York: Department of City Planning, undated (1987), pp. 1-3.

given to financial mechanisms and risk to the public and private sector. The study is guided by a two tier committee structure. A steering committee composed of eleven agencies, all from the public sector provides technical oversight. The agencies represented on the steering committee are:[9]

Battery Park City Authority
Borough of Manhattan
Department of City Planning
Harlem Urban Corporation Development
Office of the Mayor
Metropolitan Transportation Authority
N.Y.C. Department of Transportation
N.Y. Metropolitan Transportation Council
N.Y. State Urban Development Corporation
Port Authority of N.Y. and N.J.
Public Development Corporation
U.S. Department of Transportation, Urban Mass Transportation Administration

An advisory committee was established to provide policy direction. Advisory committee working groups included over sixteen agencies from large nonprofit, community or professional groups, and business. The many private sector representatives were from:[10]

Helmsley Spear
Downtown Lower Manhattan Association
Westway Coalition of Business
World Trade Center
Siskind-Hennessy
American Express
Smith Barney
West Side Chamber of Commerce
Real Estate Board
Cushman Wakefield
Lower 5th. Ave. Association
Harlem Business Alliance
N.Y. Builders Association
42nd. St. Development Corporation
Building Congress
Webb and Booker

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[9]City of New York, Department of City Planning, West Side Transitway Study Steering Committee (New York: Department of City Planning, April 23, 1987), pp. 1-9.

[10]City of New York, Department of City Planning, West Side Transitway Study, Advisory Committee/Working Groups (New York: Department of City Planning, April, 1987), pp. 1-7.

For any private sector project, full communication and cooperation are desirable. The sheer number and size of the participants in New York most likely are exceptional for other jurisdictions. The principles, though, are transferrable.

One common concern is the posture of elected officials and corporate executives. New York corporations are tempted to to leave Manhattan for lower rent areas in New Jersey or elsewhere in the country. As a negotiating ploy, many attempt to extract (successfully) financial concessions from the City of New York to encourage them to stay. Others, propose grandiose projects that depend upon cooperation of local government while wishing to receive favorable permit, tax, loans and other benefits to make the developments feasible.[11]

A key question is: what is the balance between the public and private sector? How much should be granted as incentives and how should be demanded? Neither side, apparently can go ahead without the other. Consequently, a compromise will be ultimately worked out. The land is too valuable not to develop and the city needs the tax revenue.

In Orlando, Florida, innovative concepts for institutional, financial and transportation elements almost worked. As formal commitments were about to be made, state and Walt Disney World support became in doubt. Communication seemed more than adequate between the sectors and among the participants. Yet, no formal statement of support was ever received from the Disney Corporation, though staff representatives participated on key committees. When it came time to commit, that is, support study recommendations, the corporation chose not to participate. Full state legislative support was not provided because of the debate over transit and highway improvements in the corridor. In effect, that killed the project.

The Southwest Corridor in Orlando connects many of the major employers and hotel/motel complexes in the area. Growing rapidly, it was foreseen in 1975 that demand would justify a fixed guideway transit system between Disney World and Orlando Airport. Initial plans assumed a reverse role for public-private financing. The majority of required funds would come from private sources. Subsequently, the initial system was expanded into a three-legged, thirty-five mile system.[12]

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[11]James R. Norman, "Donald Trump: What's Behind the Hype," Business Week (Cover Story, July 20, 1987), pp. 92-99.

[12]Michael J. Tako, Background Paper, Southwest Corridor Transit System (Orlando, Fla.: Orange County Transportation Department, 1986), pp. 1-16.

By 1982 it was clear that private financing was the only way the plan could continue. A committee of high-level public and private officials was created to manage the process. Seventeen letters of interest were received in response to an August, 1982 advertisement in the Wall Street Journal soliciting private sector funds. In 1983 a Public/Private Coventure Task Force started to study the financial alternatives. The recommendation in 1984 was that "benefit assessment districts and station cost sharing" were the most appropriate. "The assumption throughout all of the Task Force deliberation was that developers and land owners would donate right-of-way required by the System." Unique financial arrangements included: federal, state, and local government funds; local developers, French banks and investor group; and industrial development bond issues. Under the leadership of a French firm, MATRA-SOFRETU, construction would be funded by credits arranged by MATRA. After construction, MATRA planned to sell the system to a corporation, that would lease it back to MATRA.[13]

As noted above, local land owners were anticipated to contribute right-of-way and make access to their land available for station stops. The first leg of the system depended upon Disney, who was facing aggressive competition from other theme park operators and hotel owners. The route identified would make general local circulation easier for residents but it would also make access easier for tourists to visit Disney competition. Why should the company expose itself in this manner? Apparently, the question of land donation and access was never formally placed before Disney. When it came time in 1986 to go public with the fully agreed upon plan, Disney understandably declined to participate.

Nevertheless, new plans are underway to handle the local transportation congestion along the backbone Interstate-4 route. "The project, first proposed more than three years ago, has sparked rumors that operations such as Walt Disney World, Harcourt Brace Janovich, Inc. and Galleria Orlando have approached state officials about building or improving interchanges near company holdings." Local officials indicate

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[13]See also: MATRA/SOFRETU, Market Study, Phase I Segment, Regional Transit System (Orlando, Fla.: Orange County Transportation Department, January, 1986); Parsons Brinckerhoff Quade and Douglas, Inc., Transitional Study, Summary Report, Southwest Corridor Transit Project (Orlando, Fla.: Orange County Transportation Department, 1985); Rodd Zolkos, "Orlando plans private rail," City and State (February, 1986), pp. 3,35.

the motivation is economic. More earnings depend on easier customer access.[14]

This case example illustrates how the private and public sector and private sector view risk differently. Sound business practice is to never commit legally or financially until all terms are acceptable. Options should be kept open until the last moment. Losses can be cut at any time should key assumptions change for the worse. And, if there are penalities in term of money or public image, they too are up to a certain point an acceptable cost of business. Disney acted prudently from its own self interest. The public sector appeared to assume that the firm would automatically be involved. A final important lesson from the Orlando experience is communication must be started at the earliest point and be part of a continuous negotiation dialog. Any assumptions need to be clarified almost immediately. The danger is too great that each party will interpret the same words and events differently.

Communication and financial problems affect the Northern Virginia - Dulles Airport Corridor too. Dulles Airport has a narrow access corridor restricted to automobile/bus usage. In the 1960's and 1970's surrounding growth did not overload local roads and the restricted access airport road. With high-technology office and residential growth, it has been clear additional facilities would be necessary to serve the burgeoning demand between the Capital Beltway and Dulles. Ideally, an extension of the Washington METRO would be the most logical easy solution. But financial difficulties preclude any foreseeable action by the Washington Metro Area Transportation Authority; thus the genesis of turning to the private sector.

The Dulles Access Rapid Transit Corporation (DART) was formed in 1983. Its Board of Directors is composed of private executives, attorneys, and land developers of the highest level. Many held prior top federal posts including the Department of Transportation, Federal Aviation Administration, Amtrak, and Pan American World Airways.[15]

The corridor would be served by a high-speed rail system from Dulles International to WMATA's West Falls Church Station. Growth is so rapid a Virginia 4 lane tollway opened along the corridor route in 1984 carried sixty thousand cars the first day (50% more than projected). The fixed guideway transit planned would carry 24,000 people by the year 2005 from as base of 15,000

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[14]Dan Tracy, "Study aims to put the zip back in I-4," The Orlando Sentinel (June 25, 1987), pp. D-1, D-9.

[15]Dulles Access Rapid Transit Corporation, DART (Washington, D.C.: DART, brochure, undated), pp. 1-3.

in 1995. The line could become the basis of an expanding system for Northern Virginia counties in the area and for METRO.[16]

Initial research determined that if public agencies solely developed the project, costs would reach $181,278,000; however, it private firms developed it, costs would be $119,374,000. The reduction is due to encouraging the private sector to assume more of the financial and construction risks. The public process was considered far more expensive than the private procedure.[17]

> The current transit system development process is based upon a series of sequential planning and approval steps of increasing detail. This process has been designed to insure prudent public decisionmaking. Under a private/public partnership, this complex process would change significantly, removing many of the reviews and delays necessarily resulting from the requirement to achieve both local and Federal approval. The <u>reviews would be replaced by contractual obligations and performance specifications.</u> The private sector would have to satisfy itself that costs, ridership forecasts and other details were such as to yield them a profit from the project. Sponsoring government would also have to assure themselves that their costs to secure the service were justified. (emphasis added)

According to this view, the biggest problem for public sponsors is to find the lowest rate of return on equity that private investors, a firm, or consortia would accept. On the other hand, the risk is transferred from local public agencies to the private sector, who is accustomed better to dealing with financial, construction and technological risks.[18] That is the theory. The key problem for government is to convince the private sector that the risks are worthwhile and debt instruments will cover the revenue and expense streams necessary.[19]

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[16]<u>Ibid.</u>, pp. 4-8.

[17]Rice Center, Joint Center for Urban Mobility Research, <u>Dulles Corridor Rapid Transit Development Feasibility Report</u> (Washington, D.C.: U.S. Urban Mass Transportation Administration, Office of Budget and Policy, October, 1985), pp. iv-vi.

[18]<u>Ibid.</u>, pp. 3-13 - 3-15.

[19]Rodd Zolkos, "Congress studies feasibility of private rail; Tests methods of privatizing mass transit," <u>City and State</u> (July/August, 1985), p. 4.

DART also faces communication problems with local governments. More precise intergovernmental relationships need to be defined to offer a clear sense of the necessary coordination. Some kind of larger structure is desirable, formal and informal, to bring all the actors together. Time is money for this fragile consensus and holding the coalition together is very difficult. The new federal tax law (1986) "grandfathered in" previous favorable provisions regarding tax credit, accelerated depreciation and industrial development bonds until January, 1991. To order and purchase equipment, for example, takes three years. DART is concerned that such tax benefits may expire before financial arrangements are secure.

Another factor of concern is the accuracy of the demand estimates. The State of Virginia is considering adding a lane in each direction to the Dulles Toll Road. But growth is so great that after the 1984 opening, demand reached the 1990 projections in 1985.[20] The implication might be that initially, DART may draw fewer riders. In the long run, growth would likely fill up both the toll road and DART.

If a private operator is contracted, many public operators and their local government political leadership may be concerned by the capability of the private operator to meet public agency standards. Also, maintaining a competitive environment to encourage contractors to hold costs down may be difficult, where few competitors exist.[21]

Illustrating further the complexity of existing interrelationships is the "qualification issue" for new entrants and small firms. How can they compete against the larger ones? Public bidding procedures tend to favor the larger, more fully staffed and financed private corporation. To the extent that more competition is sought, such processes may inhibit or prevent smaller firms.[22]

Yet, these kinds of regulatory practices are grounded in

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[20]Nell Henderson, "Dulles Toll Road Improvement And Possible Widening Cleared," Washington Post (January 14, 1987), p. B3.

[21]Roger F. Teal, "Transit Service Contracting: Experiences and Issues," Transit Planning and Technology (Washington, D.C.: Transportation Research Board Transportation Research Record 1036, 1985), pp. 34-35.

[22]Ronald F. Kirby, Involving Private Route Associations in Public Transit (Washington, D.C.: Urban Institute, July, 1986), pp. 18-23.

solid reasoning. The public does need protection against opportunists, poor service, unsafe driving and equipment.[23]

Parallel experiences are found in the highway field. Many state departments of transportation are turning to private contractors. A survey of state DOTs found that:[24]

1. loss of direct control over the activity;

2. contracting-out process takes too long; it is difficult to get jobs started and completed on schedule;

3. uncertainty about the quality of work;

4. disputes about contract interpretation;

5. changes in contract are costly;

6. federal and state requirements for contractor selection and contract administration are too complex;

7. difficulty in getting contractors to correct problems after they have been paid;

8. contractor profit orientation may impede performance quality;

9. contractors may not have sufficient personnel, equipment, and incentive to meet specifications and required performance;

10. overhead charges and salary ranges are high compared to state DOTs;

11. lack of adequate scoping and definition of work at the outset results in numerous supplemental agreements;

12. danger of selecting "favored" contractors when bids are not solely based on price, and the

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[23]Carol Everett and William Gellert, Local Government Options for Protecting Consumers of Private Mass Transportation Services (Washington, D.C.: Urban Institute, March, 1986), pp. 4-12.

[24]Kenneth E. Cook, "Use of Contract Services by State DOTs," TR NEWS (Transportation Research Board, November-December, 1985), pp. 24-29.

danger of poor performance quality when the lowest bid price is the sole criterion.

Several other fundamental questions were raised. What is the public "liability for torts, negligence and nonperformance by the contractors"? Under the "deep pockets" principle, attempts by public jurisdictions to require "hold harmless" clauses and contractor liability may not be sufficient. Collective bargaining agreements may prevent contracting out if clauses prohibit laying off public employees when they could do the job.

Public transit operators face many challenges from numerous sources. Perhaps the first to address is management attitude. Management has developed a career track working in the public sector, believing in the worthwhileness of its cause. For many, their jobs are based on the fact that the private sector vacated the field. How, in their opinion, could it come back in and do any better now? Public transit was a savior to the transit dependent. Thus an important barrier may be fear for the ridership.[25]

Realistically, other levels of psychology may be relevant: management job security, perceived loss of professional respect and reputation for managing an allegedly "inefficient" public service, and the urban context of the operator.[26]

Rarely would these personal kinds of observations surface publicly, however there must be little doubt that they exist. If one has made a career in a field, been dedicated, and hard working, even been honored for it, privatization probably is perceived as a critical reflection of performance.

Now that the thrust to the private sector has been in process for at least five years, the initial shocks to public transit management have more likely been absorbed. There are indications in some jurisdictions that management is cautiously cooperating with the trend and, in fact, helping to facilitate it. Further, political support is gaining; despite the fact that

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[25]Joseph R. Stowers, "Overcoming Barriers to Competition," Conference on Transportation Partnerships: Improving Urban Mobility Through Public-Private Partnerships (Washington, D.C.: Transportation Research Board, Transportation Research Circular, No. 290, March 1985; Dallas, Texas, March 14-15, 1984), pp. 19-20.

[26]E. James Flynn, "The Effects of Environmental Characteristics on the Institutionalization of Public Transportation: A Test of the Ross Model," Transportation Journal (Spring 1987), pp. 30-38.

many of the hesitations stem from elected official loss of direct control.[27] One large system manager put it this way:[28]

> I do think that we need, as an urbanized area, to sort out a lot of transportation priorities that we haven't sorted out. For example, there's a lot of talk about privatization of buses and privatization of bus operations in Los Angeles today. To a degree, that has significant merit. There's a substantial role for private bus operators, but I don't want to say that it means replacing the public operator or replacing the public operations very much. The reason is we don't have enough bus capacity in this area today.... There's a big role for private transit supplementing the existing system, feeding the lines, and cutting off unproductive public lines. Substituting private operators and developing a coordinated, integrated system. That's what ought to be happening and I don't see it happening yet. It's pretty important that we begin to deal with that, though, as a major issue.

Still other possibilities abound. Public managers are unaccustomed to "thinking market." That perspective includes a spectrum of related private-orientations: contracting, user fees, privatization, public sector-private sector competition, and competitive bureaus. The very difficulty in "thinking market thoughts" is of significance. Not to be underrated as well are: "We Can't Charge for That!", "We Can't Turn That Over to a Private Firm", and "You Call It Duplication, I Call It Competition".[29]

Joint development of urban transportation facilities opens up a concern with which many public managers are not fully versed. Questions of organizational structure for joint ventures

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[27]"Public Transportation: A Time for Change," Policy and Research Report--Urban Institute (July, 1985), pp. 1-4.

[28]John Dyer, General Manager, Southern California Rapid Transit District, "Can Transportation Meet The Challenge of Economic Growth," Update (Los Angeles: Southern California Transportation Action Committee, February, 1985), pp. 1-2.

[29]Jeffry D. Straussman, "More Bang for Fewer Bucks? Or How Local Governments Can Rediscover the Potentials (and Pitfalls) of the Market," Public Administration Review (Special Issue, "The Impact of Resource Scarcity on Urban Public Finance," January 1981), pp. 150-157.

and finance become very important.[30] The structure of the relationship determines the need for public oversight and management participation. A complete joint venture requires a great degree of participation and influence. Less public involvement suggests participation at a distance in general terms.

There is also a significant financial risk for both parties in a joint venture. The development project may be projected to have insufficient net operating income, shortage of equity, or insufficient return on investment. Local government participants might offer incentives such as industrial revenue bonds, land cost write down, capital improvements, tax exemption or abatement, second mortgages, lease alternatives or direct equity position.

From the local operator perspective, accounting for the cost of service is technical and different from private cost accounting practices. Recent federal policy encouraging private sector competition requires equivalent cost accounting principles be employed. The arcane subject may be considered a barrier by all parties because of the complexity and lack of uniformity.

In an attempt to bring clarity and agreement to the subject, UMTA contracted with Price Waterhouse to develop a set of guidelines. The study was coordinated with the Competitive Services Board; members from public and private operators, state DOTs, local governments, regional councils, and nonprofit associations. Issues addressed were:

- income tax
- profit
- registration and licensing fees
- administration of carrier contracts
- local/regional public transportation
- fuel, sales and other taxes
- cost of capital interest
- cost of prior unfunded pension liabilities

The Board drafted a set of principles for unique public or private costs (Table IV-1).

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[30] John Gunyou, "Financial Analysis for Public/Private Partnerships," in Barbara Weiss, ed., Public-Private Partnerships, Financing a Common Wealth (Chicago: Government Finance Officers Association, 1985), pp.14-34.

Table IV-1
Draft Principles for Treatment of Unique Private and Public Sector Cost Elements

Cost Element	Exhibit IV-1 Reference	Principle/Treatment
Taxes and Fees	Items (1), (3), (6)	Taxes and fees paid by some operators and not others should be recognized by decisionmakers as revenue to the public sector. To some extent, these revenues may be available for local public transportation purposes, and to that extent should be considered as an offset against the bid costs of those operators that pay them. Ideally, efforts should be made to remove these tax and fee differentials through changes in relevant laws and regulations.
Nonattributable Public Sector Costs	Item (5)	Public sector costs that benefit both public and private operators should not be included by the public carrier in a fully allocated cost comparison if they are not attributable to the service up for bid. Fundraising, grants management, and financial reporting, among others, generally fall into this category. Other activities, such as marketing and planning, may be partly attributable and partly nonattributable. For example, to the extent that a private operator is responsible under the contract for planning and marketing a proposed service, the public agency's costs of performing the same functions should be included in the cost comparison.
Costs Imposed by Federal and State Requirements		Public agencies incur some costs as a result of federal and state requirements for grant fund recipients. Some of these costs are not attributable to the service up for bid (such as financial reporting) and should not be included in a fully allocated cost comparison. Other costs, such as handicapped accessibility, will be attributable and should be included in both public and private sector costs.

COMPETITIVE SERVICES REVIEW BOARD - COST COMPARISON SUBCOMMITTEE
DRAFT PRINCIPLES FOR TREATMENT OF
UNIQUE PRIVATE AND PUBLIC SECTOR COSTS ELEMENTS

Cost Element	Exhibit IV-1 Reference	Principle/Treatment
Interest Expense	Item (7)	The cost of capital equipment used to provide transit service will often include interest charges. These charges should be included in the cost comparison to reflect the cost of capital. Although the public agency will often have access to a lower interest rate than private operators, this appears to be an advantage inherent to the public sector, and there is no valid reason to compensate for it in the cost comparison. Where public sector interest charges are much lower, it may be preferable for the public agency to obtain the vehicles, regardless of who operates them.
Costs of Contracting	Items (4), (8)	Certain costs will arise as a result of contracting services to the private sector, such as bid preparation, labor protection, and contract management. To the extent that these costs are identifiable and unavoidable, they should be included in the costs associated with the contracting option.

Source: Price Waterhouse, Fully Allocated Cost Analysis, Guidelines for Public Transit Providers (Washington, D.C.: Office of Government Services, November, 1986), Exhibit 22, Appendix.

When the guidelines and principles are adopted by UMTA and local transit operators, accounting practice should become less of a concern.[31]

Other technical problems or "roadblocks" include:[32]

-supplier availability
-transitional difficulties
-service interruption
-fraud and corruption
-political issues
-inertia

Each of these roadblocks may offer substantial problems and complex remedies (Table IV-2).

For transit, there are not yet many suppliers. Depending upon the geographic area, size of operation, costs, and local economic environment, suppliers may need to be nurtured to foster a competitive market over the long term.

Transitional difficulties will most likely occur and should be expected. When going from public service to private contract, not too much should occur. If the public sector must pick up a defaulted private operator, or shift private operators, then there too will be real transitional concerns.

Service interruption is a serious possibility if the contractor is unable to deliver the service. For what many consider to be an essential public good, interruption is a most disturbing thought and should be avoided, almost at any cost. This kind of thinking and resulting political pressure frequently led to avoiding labor strife to ensure service.

Fraud and corruption concern all citizens. To the extent the public agency exercise less contract management oversight, then either might occur. Yet, the same might well happen on in-house public operations.

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[31] Price Waterhouse, Fully Allocated Cost Analysis, Guidelines for Public Transit Providers (Washington, D.C.: Office of Government Services, November, 1986), pp. 54-64.

[32] John Tepper Marlin, ed., Contracting Municipal Services, A Guide for Purchase from the Private Sector (New York: John Wiley and Sons, Ronald Press Publication; Council on Municipal Performance, 1984), pp. 101-110; see also, "How to Keep Contractors Competing," The Privatization Report (September, 1986), p. 3.

Table IV-2
Techniques for Removing Roadblocks to Competition

Roadblock	Techniques for Reducing or Eliminating Roadblocks
Supplier Availability	Use short-term contracts Encourage contract bidding Advertise widely Open up the contract process Reduce start-up costs Encourage new firms Pay bills on time Split service into parts Remove exclusionary practices'
Transitional Difficulties	Retain partial government service Use multiple contractors Evaluate each contract
Service Interruption	Seek out and maintain backup contracts Maintain government supply capability Break up service and contract in parts
Fraud and Corruption	Require rebidding Use short-term contracts Remove exclusionary practices Open up the contract process Require sealed bids Evaluate each contract
Political Issues	Remove exclusionary practices Use open process Evaluate each contract Formulate legislative policy
Inertia	Use short-term contracts Remove exclusionary practises Open up the contract process Evaluate each contract Formulate legislative policy

Source: John Tepper Marlin, ed., Contracting Municipal Services, A Guide for Purchase from the Private Sector (New York: John Wiley and Sons, Ronald Press Publication; Council on Municipal Performance, 1984), p. 102.

Political issues are always in the wings. Much depends upon the local political environment and attitude towards public services, the role of government, and labor unions.

Inertia is found in any organization and is not the sole province of the public sector. Human nature tends toward a preference for the known as to the unknown. "If it ain't broke, why fix it?" is a not uncommon attitude. On the other hand, many believe the system is "broke".

Many local officials routinely cite such concerns as reasons not to contract. Clearly, they have and can cause difficulty, but they should not be insurmountable.

State Government

State laws and regulations may be a source of general and specific barriers to private sector operations. Some may be considered at this time more as hindrances.

Discussion has already addressed the power of public utility commissions at the local level. At the state level, there may be significant power to control local activities, whether jurisdictions be incorporated or unincorporated, charter or general state law.

Tax powers are very important to local viability. States preempt many of the more useful revenue generators. Most local areas rely on the sales tax and special property taxes. Sometimes, private sector activity in transit might depend on extraneous factors such as state income taxes, license and use taxes, capital depreciation and leasing provisions.

The extent to which state regulations in the labor, environmental, health and safety areas pertain, they too may be an important source of concern for new program feasibility. Research so far has not found current problems in this regard except for the labor issue. Labor will be addressed in depth in a subsequent section of this chapter.

Transportation licensing is a powerful tool. For example, the fifty states have different regulations governing charter bus activity for:[33]

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[33]"METRO'S Charter Operators Guide '87," METRO Magazine (Jan-uary/February, 1987), insert.

1. size and weight
   - width
   - height
   - length
   - gross load limit (per single axle, 2-axle unit, 3-axle unit)

2. license
   - agency requiring registration
   - agency requiring trip permit
   - cab card required
   - prorate decal required
   - limit on trips

3. authority and insurance
   - ICC filing required
   - state stamp or decal
   - trip lease allowed
   - Commercial Vehicle Safety Alliance

4. fuel tax (agency requiring fuel tax)

5. other
   - international registration plan
   - multi-state agreement
   - uniform vehicle prorate and reciprocity agreement

Charter buses are affected. For multi-state operators, the variations are significant. All but twelve states belong to the Commercial Vehicle Safety Alliance; all but fifteen require filing with the ICC.

Federal Government

Federal policy has potential impacts in many areas. The current principle areas appears to be tax, antitrust, finance and other areas such as labor.

Tax policy often plays an important role. Until 1986, tax law encouraged a variety of investments based on tax-free bonds, accelerated depreciation, and other technical points. One observer believes that, "On balance, the new tax law is probably a minus for privatization approaches, but is not likely to be a major deterrent to such approaches." According to the Tax Reform Task Force of the American Public Transit Association, the key changes are:[34]

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[34]Kirby, op. cit., pp. 92-94.

1. Transit related provisions in the tax bill fell two categories: those dealing with state and local taxes and those dealing with the tax-exempt bond market.

2. State and local sales taxes will no longer be deductible. All other state and local taxes remain deductible. This was an important issue as currently state and local contributions to transit have risen to about $3.5 billion, equal to that of the federal government.

3. The entire tax-exempt bond market may be hurt by this bill. -- First, because individual tax rates will be lower, the desirability of tax free investments is lessened...-- Second, earnings from many tax-exempt bonds will be subject to alternative minimum tax coverage. -- Third, restrictions such as the state volume cap on industrial revenue bonds, arbitrage changes, financial institution usage and other tightening provisions will make them less appealing.

4. Mass transit did retain its right to be funded by tax-free bonds issued by state and local governments, but the current 25 percent rate of trade or business use and the current security interest for such bonds have been lowered to 10 percent.

5. Mass transit also retained its ability to qualify for Industrial Development Bonds (IDBs) as an "exempt facility, non-essential function bond," but is subject to state volume caps. That cap is $75 per person or $250 million per state for FYs 1986 and 1987 and will drop thereafter to $50 per person or $150 million per state.

In the U.S. Supreme Court decision, Community Communications Company, Inc. v. City of Boulder (1982), the question of municipal antitrust exemption arose. Until then, "...local governments were thought to share by extension in the general exemption from prosecution granted to states by the Sherman Antitrust Act." "Left unanswered, Boulder largely undoes home rule status for local governments across the nation."[35]

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[35] U.S. Senator Dave Durenberger, "Public-Private Partnerships: New Meaning, New Advocates, New Problems," National Civic Review (January, 1984), pp. 7-10.

For local private firms interested in competing with municipal services, there is a new opportunity created by the Court. In effect, cities cannot be both regulators of private activities and providers of public service. This speaks to the earlier point about local PUC's also being regional public transit operators. The opportunity afforded by the decision still leaves open issues of specific grants of state authority, and local municipal monopoly exposure to antitrust suits.

To date, no serious challenge of urban transportation public monopolies has been made based on the Boulder decision. However, it would seem ripe for the challenge in many jurisdictions.

The federal presence in the transportation industry has since 1964 had an important and strongly growing influence. In transit, availability of federal financial assistance (capital grant funds, then later operating assistance), tempted local operators to make decisions based on other factors than the most appropriate service or cost structure. Similarly, federal legislative influence was long obvious in the highway program. Particularly interesting was the interrelationship of automobile sales and tax, import, and energy policy. So long as the economy is not in a recession, Americans prefer large automobiles.[36]

> One thing is certain. Since World War II, when gas is down and GNP is up, Americans prefer big, sporty, or powerful cars. No surprise therefore that, since the last recession, that is what we are back to.

By implication, ride-sharing activities, including traditional transit will not pick-up the discretionary patron unless the economy turns down again!

Federal regulations play a significant part in privatization, including <u>normal grant-in-aid program rules</u> on important public policy goals: environmental, labor (13c), "Buy America", elderly and handicapped, and cargo preference requirements. Recent UMTA interpretations suggest that:[37]

> ..."Buy America" and the elderly and handicapped requirements can be met and still leave room for competitive contracting. Some of our greatest

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[36]Frank Gregorsky, "Oversteer, Twenty Years of Federal Auto Policy," <u>Regulation, AEI Journal on Government and Society</u> (November/December 1985), p. 41.

[37]"Interview with UMTA Deputy Administrator Alfred Delli Bovi, <u>PTI Journal</u> (Los Angeles: Southern California Association of Governments, September/October 1987), pp. 4-8.

success stories on the competitive contracting side involve services for the handicapped and elderly. And, when you're talking about competition for the service provided, it really doesn't make any difference where the vehicle that delivers that service was made, so "Buy America" certainly is not an obstacle.

On the other hand, federal labor provisions, Section 13(c) of the Urban Mass Transportation Act of 1964, require that labor be guaranteed continuation of its existing employment rights and conditions by the federal grant recipient area should changes be funded.[38] Some believe:[39]

> Now there is no question that the DOL (Department of Labor) has been an obstacle, but I think that the cat is somewhat out of the bag, or maybe I should say that the skunk is coming out of the bag. More and more people are aware of the fact that DOL has been a road block to privatization....
>
> This quarter we have added a new twist. We are listing in the Federal Register the grants that have been delivered as well as those which have been held up by the DOL where they won't certify it. So we're

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[38]Section 13 (c): It shall be a condition of any assistance under section 3 of this Act that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training or returning programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements.

U.S. Urban Mass Transportation Administration, Urban Mass Transportation Act of 1964, As Amended through May 1983 and Related Laws (Washington, D.C.: Government Printing Office, 1984), Para. 1609, Labor Standards, pp. 40-41.

[39]Delli Bovi, PTI Journal, op.cit., pp.4-8.

going to have a little sunshine focused on this Labor Department and their management systems. We are continuing to monitor their progress or lack of progress, and we are going to be looking to the help of concerned people in the industry to highlight the fact that the DOL is dillydallying and delaying. And, you know, the real sad thing about the way this program has been administered by the DOL (is) their mismanagement of the 13(c) certification, that it's creating the loss of jobs, and I think that's a terrible tragedy. We're working now on a new index. We hope to be able to calculate how many jobs are being lost because of the way this program is being managed. But I think together, taking these initiatives, we may see some improvements.

Private Sector

Independent of governmental sources of regulation, there are private sectors concerns with insurance, attitudes about transit, other private competition and the procurement process, among others.

An issue of continuing concern for all parties, public and private, is liability insurance. The president of the American Bus Association "identified high insurance rates as the industry's number one problem. "The cost for liability insurance for a coach is so high these days that it becomes a factor in how much capacity any particular operator can put on the road. Many operators have had to park their vehicles."[40]

By 1985 insurance rates for public operators had increased an average 400%, along with a reduction in coverage provided. An American Public Transit Association survey found that "70% of its member agencies had experienced or anticipated problems renewing liability coverage." The crisis forced operators to find other ways to insure themselves. Some sought complete replacement of private insurers by self-insuring. Others attempted to augment private coverage with self-insurance. Some raised funds by structuring a pool of bonds. Most such attempts require local or state legislative approval.[41]

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[40]Bill Paul, "A Year of Change for the Private Sector," METRO Magazine (January/February, 1987), pp. 11-12.

[41]Rodd Zolkos, "Public Transportation, Insurance in Crisis," City and State (June, 1986), pp. 17, 26.

Private sector attitudes about transit may be a barrier. Urban activity centers (urban village-type concept) are often influenced by the large developers. Some experts believe:[42]

> The biggest institutional problem to providing better transit service to suburban activity centers is that most developers, building managers, and employers are not interested in transit service, and are unwilling to plan for it or accommodate it. Their emphasis is on free parking and car oriented access, not transit or pedestrian access.
>
> Free parking is a uniform benefit provided throughout suburbia by developers and managers and is a major competitive issue for financing and marketing new developments.

Perhaps a strange, unanticipated barrier for the private sector may be that a source of competition may be public agencies.

> Many transit agencies have negotiated labor agreements for new job categories such as "mini-bus", "community", or "paratransit" operators. These new jobs have lower wage rates and benefits and less restrictive work rules than the regular bus operators. Such agreements provide some precedent that unions may consider major changes to obtain new jobs that otherwise would be lost.

Oddly enough,

> (c)ompared to many private providers who could bid on the new service, transit agencies have several advantages such as management expertise, existing storage and maintenance facilities, lower-cost insurance, marketing experience, operating rights, established driver and maintenance training procedures, and, perhaps, existing vehicles.

In brief, it would seem that for new suburban service,

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[42]Mary Kihl, G. Bruce Douglas, III, and George T. Lathrop, Workshop on Transportation Requirements for Urban Activity Centers (Washington, D.C.: Transportation Research Board Transportation Research Circular, June, 1986), pp. 4-5.

existing large public operators might well have an advantage that could be formidable if wage rates are controlled.[43]

Private contractors have reason to fear government competition for another reason. "Scale economies" pertain whether the advantage of large scale is held by the private or public sector. In this situation, a local government contracting out its transit service may find that the best bid is from a larger governmental unit in the region. "Equipment and material cost savings and higher capacity utilization..." can be significant.[44]

Still another source of competition to private operators might be neighborhood, civic groups. Some city services have been contracted to such smaller units for very local scale services.[45] The model has not been widely applied in urban transportation. Other caveats note that:[46]

> *it is difficult for a private vendor, unless engaged in the same business, to suddenly begin a new activity;
>
> *the skills and competence necessary to do the jobs are not necessarily available in the private sector;
>
> *sometimes you can't find vendors to perform the service that you want to buy;
>
> *it is difficult to write specifications for a contract in some cases, where the city is not familiar with the job either.

Private sector perceptions of the opportunities afforded by

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[43]Gerald K. Miller and James J. McLary, Competing for Suburban Services: A Challenge for Transit Managers (Washington, D.C.: Urban Institute, July, 1985), pp. 5-7.

[44]James Ferris and Elizabeth Graddy, "Contracting Out: For What? With Whom?" Public Administration Review (July/August, 1986), pp. 337-338.

[45]Peter Hames, "When Public Services Go Private: There's More Than One Option," National Civic Review (June, 1984), pp. 278-282.

[46]Ibid., p. 280.

the public sector are enlightening.[47] Some private managers believe that only the less desirable service needs are contracted out. They may be fringe, minor scale activities or very specialized services. Public operators will retain the mainline, profit-making operations. Such policies may limit the value of open competition.

The procurement process also is disconcerting. Many times requests for proposals are not well drawn up, or on the other hand, too specific. There often is too little time to respond to the RFP. One said the "public procurement process is scary."

Often, contracts are written for a short period of time. Contractor costs would be lower if they had the incentive to program out costing over multiyear efforts. Start-up costs for new, separate contracts are significant.

Another factor in procurement is the cost of liability insurance. At $5-10 million coverage necessary, smaller firms are precluded from market entry. There will be fewer eligible companies.

Some firms expressed a desire to have more flexible use of transit assets under contract. For example, it should be acceptable to use buses during non-public contract hours for other profit-making opportunities. As a rule, it was observed, transit contracting is a low profit margin business.

Public agency contract management and monitoring not infrequently is considered to be meddling, not fair performance monitoring. Recognizing the need for public oversight, these experts believed many jurisdictions had lost sight of the balance necessary between allowing desired flexibility of the contractor and rigid adherence to the contract.

Still another concern was the addition of costs not in the contract. New mandates add costs. Drug testing, driver training, safety procedures, and driver license certifications are all desirable. However if they are not part of the original work and added as a non-reimbursable cost, then the narrow profit margin quickly evaporates.

All in all, even with federal stimulation, there are only eight to ten national level companies large enough to meet the bigger service needs. There are a myriad of local very small-scale firms. The implication is that the local government public

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[47]The following observations are based upon many informal off-the-record background conversations with private sector transportation executives and experts. It is a distillation of a noteworthy, widespread growing concern.

procurement process is often drawn as if only the largest, nation-wide firms will bid on jobs that are funded at under-estimated true, full costing given the detailed specifications. As more and more local operations turn to the private sector, it is predicted that the RFP process will become more complex, specific, and unrealistic given the market capability to provide a reasonable number of established firms to bid, and properly perform the contract at a fair rate of return. In effect, there may be fewer firms to bid as demand increases.

Should the above situation occur, market theory would suggest that a new market niche would be created and an entrepreneurial firm would quickly, and successfully, fill the void. Private experts are concerned that during the rough, shake-out transition period, private sector contracting may get a bad public image.

Union Representation and Service

Many facets of private sector involvement are of interest to union leadership and membership. The current situation in Southern California provides an enlightening example.

Several major forces in the area may dramatically change transit and the role of unions. First, federal emphasis upon privatization is strongly supported by key local political leadership of the County of Los Angeles and City of Los Angeles. Second, transportation zones are being created to provide an opportunity for the private sector to bid on service. Third, major institutional changes are in process which may consolidate the Southern California Rapid Transit District (RTD) and the Los Angeles County Transportation Commission (LACTC).

The United Transportation Union, General Committee of Adjustment (Locals 1563, 1564, 1565, and 1607) anticipates fundamental changes. In a letter[48] to the membership, it said:

> More than two years ago the Committee recognized that your contractual rights could be threatened in three key areas. These are **privatization, establishment of Transportation Zones, and passage of potentially adverse legislation.**

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[48]Earl Clark, General Chairman, United Transportation Union, General Committee of Adjustment, Letter to Officers and Members, "Dear Sisters and Brothers" (Pasadena, CA: July 30, 1987), pp. 1-4.

The union said privatization is "simply taking bus routes which had been operated by a public carrier and turning them over to private entrepreneurs....In essence, by giving a private operator the service, the city, county or whatever allows that operator to pay substandard wages and benefits while reaping a personal profit." The City of Los Angeles had contracted out the downtown minibus service. The union believed that cost savings were "minimal" to the city. "We were shocked then, and are still shocked, that the City was a party to such a program, but we believe that some of the politicians who supported privatization at that time may be realizing that they might have picked the wrong horse."

The union is actively against the transportation zone concept and has been lobbying intensely. It assumes that the new operators in the zone will be private and any bid from the RTD will not be seriously considered (if any made).

Early legislative proposals in the California State Senate and Assembly regarding the consolidation of the SCRTD and LACTC into a new Metropolitan Transportation Authority included clauses adverse to prior union contracts. Later legislative forms were less onerous but at the time of the letter, it was stated that: **"We are doing this to protect your contractual rights, your pension benefits, your health insurance programs and the rules under which you work. You have every right to expect that these will be continued, no matter what entity eventually operates the service."**

Of the several important issues raised for identification of possible barriers to privatization, the contractual relationship issue may for the near-term period by very significant. Local government contracts with existing agencies may not be automatically nullified by creating a new agency. And, contracting out existing service areas to nonunion private operators may violate state and local clauses on union employment in public service zones.

Other perspectives are raised in general by the American Federation of State, County and Municipal Employees, AFL-CIO. The president of the union believes "...that the use of private companies to perform public services far too often results in higher costs, in lower quality, loss of accountability, and in old-fashioned corruption."[49]

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[49]Gerald W. McEntee, "Contracting Out-An Overview," When Public Services Go Private: Not Always Better, Not Always Honest, There May Be A Better Way (Washington, D.C.: AFSCME, 1987), pp. 5-6.

More often than not, attention has been given to labor-management issues in the public sector and their impact upon going private. But, the private sector is not immune to labor problems. When GLI Holdings took over the Greyhound Corporation, labor relations became a top priority issue. Over sixty-five hundred drivers were represented by the Amalgamated Transit Union. Another five hundred employees were represented by several Teamster bargaining units. Several innovative provisions in the new labor agreement were:

1. guaranteed job security for operators and mechanics with five or more years seniority, a first in the intercity bus industry;

2. an incentive plan that gives operators increased pay based on increases in average passenger loads;

3. rates per mile that are closer to competitive rates, but with premium pay for drivers in eight large cities.

It was perceived that the real issue was not the labor rate per mile but "guaranteed job security for employees in a company that, over the past six years, has lost almost half its work force." Furthermore, the company plans to expand aggressively into feeder bus service and public agency contracting out. The new contract allows the firm to "set up separate new units" which will permit adjustment of the "labor rate to be competitive with rates that are prevalent in the community."[50]

From this experience, labor barriers were identified to be <u>job security</u> and, to a lesser extent, <u>productivity</u>. It opens up the issue of once a public service has successfully gone private (received UMTA 13(c) certifications), what is the status of the union relationship with the private operator. At first, it is likely that the private operator labor force will not be organized. In time, though, experience indicates that unions will quickly organize such private operations. Hard-won labor cost savings and productivity increases may soon be offset. The Greyhound contract example of productivity incentives linked to increased business offers an intriguing intermediate solution.

An illustration of what might happen to <u>union-management</u> relationships if locked in <u>rigidity</u> is the New York Metropolitan Transportation Authority (MTA). Over the decades, union strength increased to the point where many managers believed that the MTA subsidiary, the Transit Authority (TA), could not be managed. Political observers familiar with the labor-management traditions

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[50]Bill Paul, "New Owners Take Over Greyhound Lines," <u>METRO Magazine</u> (May/June 1987), pp. 38-44.

in the older, larger northeastern cities would suggest that such experience was typical. But in 1984 some very major structural changes were started and they indicate the nature of challenge before many local public operators with strong union traditions. Should these operators attempt to privatize part of their service, then they too may begin to encounter the MTA initial experience.

According to Robert R. Kiley, Chairman of the Metropolitan Transportation Authority, [51]

> Soon after I arrived, in late 1983, it became evident that the New York City Transit Authority, by far the largest of MTA's agencies, had virtually no managers accountable for the performance of a service that carries more than 6 million passengers daily. I persuaded David Gunn to assume the TA presidency in February, and we agreed that it was essential to re-structure the authority into an organization whose managers would be responsible for the system's successes and failures.
>
> In March I announced a three-part management-reform program for the TA, designed to give us the power to hire, evaluate, and reward managers, to control their assignment, to promote them, and if necessary, to remove them from office for poor performance. To accomplish this, we had to loosen the straitjacket of civil service and unionization that enveloped nearly 95 percent of the TA's 5,000 supervisors, who directed a labor force of nearly 50,000.

The importance of remedying this structural problem was further emphasized by the Chairman:

> ...An emphasis on recruiting, training, and re-rewarding good managers and good workers, and a commitment to shed the anachronistic, demoralizing work practices of the past that continue to cost us hundreds of millions of dollars and squander priceless time every year. In our atempt to reverse the neglect of our physical plant and our human infrastructure, we have found ourselves hampered by restrictive work practices that have grown up during years of inattention by transit managers and political leaders alike. We have begun a campaign to eliminate many of these practices, and we hope our labor unions will realize that the future of this

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[51] Metropolitan Transportation Authority, 1984-Annual Report (New York: MTA, June, 1985), pp. 7-10.

area's public transit - and all our jobs - hinges on our success.

The preceding problem identification and solution represent, perhaps unintentionally, a brief that might encourage many public operators to privatize, rather than attempt to change union-management relationships!

Goals, Political Forces and Risk

The debate about urban mass transportation has been vigorous and long-lasting. Arguments pro and con purport to call upon the gains to the public by a public operation or private operation. At the level of large capital investment, the debate has centered upon heavy rail projects as either technically desirable and necessary or as "pork barrel" legislation and programs. National media attention has raised this kind of political juxtaposition several times since 1980.[52]

Other observers point out that "(p)rivatization is not a zero-sum game, and various combinations of public/private activities can be formulated. The potential for privatization is also a tacit bargaining chip in labor-management negotiations" (emphasis supplied). One group of employees is being replaced by another. If the replaced group is civil servant, union, and mainly minority, how will the goals of privatization be viewed if

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[52]A sample of the attention given to large urban projects, privatization and the federal deficit is the following:

"Mass Transit: The Expensive Dream, Are Federally Funded Systems an Urban Panacea or a Fiscal Fiasco?" Business Week (August 27, 1984), Cover Story, Editorial, Letters to the Editor; John Semmens, "Public Transit: A Bad Deal Getting Worse," Wall Street Journal (June 6, 1985), Editorial Opinion Page; "Billion-Dollar Carfares," Wall Street Journal (May 12, 1986), Editorial; Martin Tolchin, "Private Concerns Gaining Foothold in Public Transit," New York Times (April 29, 1985), pp. 25-26; Wendell Cox, "Transit Is in Real Trouble; Let Private Sector Play Role," Los Angeles Times (April 1, 1985), Editorial Opinion Page, Pt. II, p.11; Paul Richter, "More Private Firms Doing Public Tasks," Los Angeles Times (May 23, 1985), pp. 1, 18-19; "Going Into the Holes," Wall Street Journal (September 11, 1985), Editorial, p. 34; Dale Russakoff, "Deficit Worries Bolster New Push for 'Privatization'," Washington Post (January 13, 1986), p. A-11; Peter Young and John C. Goodman, "U.S. Lags Behind in Going Private," Wall Street Journal (February 20, 1986), Editorial Opinion Page.

the replacement group is non-civil service, non-union, and non-minority?[53]

Such questions illustrate how politically and value charged the issue of barriers to privatization might be. Nevertheless, about sixty percent of the industry uses outside contractors. Generally, the larger systems employ contracting more than the smaller, and fifty-two percent utilize both part-time employees and outside contractors. Still, the most frequent problems have been with the "control/monitoring of outside contractors... (and) substandard work performed by contractors."[54]

All aspects of private sector involvement in urban mass transportation seem inherently to carry risk for the public and private sectors. Operations present risks in the variability between fixed and variable costs. These elements have been discussed in previous sections. Financial risk is found in any large capital investment; but, it may be particularly acute in the urban transportation industry.

A particular kind of risk, though, is customarily associated with the transfer of public assets and operations to the private sector. A useful parallel may be drawn from the Conrail experience. Conrail is the public entity formed by the federal government in order to maintain essential freight rail service in the Northeastern and Midwestern sections of the country. In 1976, the Consolidated Rail Corporation (Conrail) took over the most important lines from bankrupt private carriers (Penn-Central, etc.) along with their equipment. After large infusions of federal capital funds, adequate service and a profit were restored. Congress in 1981 determined that Conrail should be returned to the private sector.[55] How should it be done?

Here, then, is the interesting part for public urban mass transportation systems. If local governments decided to sell part or all of their systems to the private sector, how should the transaction occur? Conrail examined four options:

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[53]Eugene Garaventa, "Private Delivery of Public Services May Have a Few Hidden Barriers," National Civic Review (May/June, 1986), pp. 156-157.

[54]Robert C. Lieb and Frederick Wiseman, "A Survey of Part-time Labor and Contracting Out in the Transit Industry," Transportation Journal (Winter, 1986), pp. 33-34.

[55]U.S. Congress, Congressional Budget Office, Economic Viability of Conrail (Washington, D.C.: Government Printing Office, August, 1986), pp. xi-xvii.

1. private sale to a single purchaser

2. private sale to an investor group

3. public sale

4. temporarily retaining the government's stock (in Conrail)

Each of these options, or some variation of them, would seem attractive to local governments. The risks involved for both parties to the transaction would be potentially high. Each would need to be structured very carefully and exactly in great detail. In options one to three, the public sector might retain some kind of share of ownership and be a co-participant, possibly contributing cash, other incentives, or granting the equipment at no cost to the private buyer. Guarantees would need to be incorporated to maintain an agreed-upon level of service. Penalities would be specified. In any case, the actual manner of transferring the right and assets to urban transportation service depends more upon the number of private buyers willing to assume the risk of such operations. If only one or none appears, then much of the speculation is moot.

Once the decision to sell or transfer an operation to the private sector is made, an important subsidiary of the above choices becomes paramount. Which <u>financial mechanisms</u> shall be used?

In the urban transportation field, a variety of financial mechanisms may serve agency objectives: tax assessments, taxes and user charges, use of property and property rights, issuance of debt, contracted services, and voluntary participation programs.[56] Criteria for reviewing private financing techniques among these opportunities have been suggested to be:[57]

1. cash flow
2. gross dollars invested
3. stability of performance in periods of economic fluctuation (e.g., volatile interest rates)
4. type and level of risk (public and private)
5. impact of technique on financial position of

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[56]Duane Windson, Rice University, <u>Administrative Impacts of Private Financing Techniques for Urban Transportation</u> (Washington, D.C.: Government Printing Office; Office of University Research, U.S. Department of Transportation, January, 1984), pp. 4-3 to 4-6.

[57]<u>Ibid.</u>, pp. 5-6 to 5-7.

all parties involved
6. labor-management issues
7. impact on administrative effectiveness
8. legislative considerations
9. political acceptability (local and national)
10. control by and responsiveness to local electorate
11. local regulatory impacts
12. general attractiveness to private sector

In turn, this list may be further refined to:

1. financial impact
   - revenue potential (cash flow, gross dollars invested, impact of technique on financial position)
   - ease of collection (stability of performance, level of risk)
   - general attractiveness to private sector

2. legal problems
   - labor-management issues
   - local regulatory impacts
   - contractual implications
   - level of risk

3. political problems
   - labor-management issues
   - political acceptability
   - control by and responsiveness to local electorate

4. legislative requirements

An interesting note to this list arises from the experience in fields other than urban transportation. Development groups, banks, corporations have sometimes felt that they have "illegally" been encouraged to guarantee <u>"demands of community groups"</u> and activists to meet locally perceived needs as a condition of approval.[58]

Much of this perception depends on stated, upfront public and private goals. To the extent that new conditions are added after basic agreements are signed, then private firms have reason to distrust public agency commitment. Nevertheless, the

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[58]Richard B. Schmitt, "Public Service or Blackmail? Banks Pressed to Finance Local Projects," <u>Wall Street Journal</u> (September 10, 1987), p. 35.

political process in many areas can be wide open and fluid right up to the last moment. Private fears may be well founded.

Ideally, any decision for the private sector to become more involved should consider such factors as part of the feasibility analysis of the new service. In any given local jurisdiction, all or only some of the factors may be in play. Further, a single issue such as financial problems (interest rates) or legal problems (labor) can be a mortal blow to proposed plans. These kinds of realistic "barriers" in general terms illustrate the spectrum of concerns facing increased private sector involvement in the provision of urban mass transportation operations.

In the case of joint development activities, a plethora of nightmares for the developers and public agencies often are in the tunnel, not at the end of the tunnel. Consider these sources of project delay:[59]

> 1. Despite an agency's efforts to build public support, a project may become controversial.
>
> 2. The planning and impact studies required for the funding or approval of some projects can take much longer to complete than anticipated.
>
> 3. Legal issues may arise that cause delays.
>
> 4. New issues may emerge and have to be resolved before the project can proceed.
>
> 5. Staff changes within transit or other public agencies can interrupt the timing of a project.
>
> 6. Anticipated funding from State and Federal sources may not materialize or take longer than anticipated to be approved.
>
> 7. Natural disasters may occur.

A specialized set of barriers is encountered by business firms not well established or experienced in development (or transit). Some firms may lack risk or equity capital, experience in real estate development, knowledge of the technical and legal aspects of real estate development, knowledge of the underlying political processes, and lack of minority organizations. Any one

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[59]Public Technology, Inc., Joint Development, A Handbook for Local Government Officials (Washington, D.C.: Government Printing Office, U.S. Department of Transportation, Office of Technology Sharing and UMTA Office of Planning Assistance, September, 1983), pp. 29-30.

of these practical barriers is sufficient to be a severe impediment to such private sector involvement.[60]

Similarly, what service should be turned over to the private sector? Much risk is inherent too. Some believe that full opportunity for all or significant sections of existing operations should be open to competition. Still others suggest that limited portions be considered. For example, the better opportunities may be:[61]

1. transportation of the elderly and handicapped;

2. contracting out certain regular fixed transit routes to private firms;

3. use of the private sector to perform certain support activities (cash receipt management, maintenance, etc.);

4. contract management of mass transit properties;

5. shared facilities.

This list is clearly a more limited approach but based upon practical calculation of the risks to both parties.

Conclusion

From the private sector point-of-view, the public sector is a source of enormous business potential. Yet, the process of government must seem to be an unending source of restrictions and problems.

From the public sector perspective, private sector goods and service are a necessity but reason for fear and distrust.

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[60] Comprehensive Technologies International, Inc., Minority Business Participation in Public/Private Partnerships: A Manual on Joint Development (Washington, D.C.: Government Printing Office, U.S. Department of Transportation, Office of Technology Sharing, UMTA Office of Grants Management, February, 1986), pp. 15-17.

[61] George M. Smerk, "Urban Mass Transportation: From Private to Public to Privatization," Transportation Journal (Fall, 1986), pp. 87-89.

The love-hate relationship is often one of mutual dependence. In calmer moments, both would acknowledge the validity of each other's concerns. An important mission of government in general terms is to provide a level playing field for the private sector to perform services standing the test of the free marketplace. To the extent that the market is not free and heavily regulated in key aspects, the private sector thus is hindered.

The purpose of much government regulation is beyond dispute. Disagreement often exists about the implementation of legislative goals, though, and subsequent application to new situations. In the case of some provisions (e.g., labor; corporate tax breaks), special interest protections have become law. Until more even-handed public policy is evident, public and private managers will be cautious and maintain psychological barriers to changing the rules of the game very much.

Fear of risk is very rational, and itself, a barrier that must be confronted. Government programs might help lessen risk financially in areas deemed critical to public goals. But at some point, the private sector must assume risk, given the potential of significant return on capital. Profit must be perceived as a valid incentive to reenter the urban transportation field. It would seem in high-visibility major project areas (Los Angeles, Orlando, New York City, Dulles Airport) full communication and trust must be developed early, respected, and continually nurtured by both parties. As simplistic as it may be, "good faith" is the final ingredient if additional mutually beneficial cooperative work is to be accomplished.

Chapter V

KEY DECISION OPPORTUNITIES TO ENHANCE PRIVATE SECTOR INVOLVEMENT

Introduction

The concept of privatization has been forcefully brought to the attention of the urban transportation planning and service community. No longer is the idea considered beyond the pale. The tenor of the rhetoric has become less shrill and pragmatic issues have been debated.

When the fundamental idea was first advanced in urban transportation, public and private managers were uncertain how to react. Few knew that the notion of private sector performance of customary public activities (since World War II) was grounded in sound philosophical, legal, and operational practice. Federal law has long stressed the importance of private sector involvement in aerospace and defense activities. Local governments, especially after Proposition 13 revenue crunch era began (1978) turned to the private sector for provision by contract of many specialized activities, formerly delivered by public agency employees. Even before then, joint development, urban development, community development and redevelopment, and economic development activities sought out the private sector for participation, funding, expertise and leadership in these local functions. State governments were aware of the value of the involvement and supported mainly indirectly such public-private connections.

Despite numerous surrounding signs, the concept came as a shock and surprise to many. Once stripped of emotion, assistance from any sector should be welcomed in a tight public revenue and budget era. Most now accept the need for it and no longer feel so threatened. But informal indications suggest that a sizeable number of local governments and public transit operators have not fully embraced application of the idea.

Consequently, discussion should be able to address more easily questions such as:

1. what long term cycles affect the demand for urban transportation?

2. how can decision opportunities and strategies be crafted as long-term structural changes in the urban transportation delivery system?

3. what practical steps may the intergovernmental system take to enhance the role of the private sector in urban transportation?

Major Cycles and Trends

As many other local governmental functions, it appears that urban transportation is caught in a complex web of strong forces. In some regards, the governments help to create or encourage them, in others they are reacting to them. The principal patterns evident relate to:

1. urban form and development
2. travel demand
3. cost and finance
4. administrative form
5. labor
6. role of government and business

Urban Form and Development

Urban form and development has progressed through the stages of rural and small towns, central cities, suburbs, and now urban village. In each case, transportation technology and finance played basic roles in the patterns. Occasionally, counter trends indicate reversals; consider the gentrification of older central city neighborhoods by younger urban professionals, or suburban residents returning to amenity-rich central city areas.

The most recent stage, the urban village, mixes residential and work requirements as the larger, older cities once did, but in a smaller, medium sized density setting. At least through the first decade of the twenty-first century, this trend appears to be firmly rooted. Along with it are all the implicit requirements for life-support infrastructure, including jobs and transportation. But at the same time, the central cities still retain sizeable populations that are lower income and often unemployed or retired. In some locations, these demographic groups are growing in number.

As a result, two population groups with considerably different demographic profiles are providing very separate challenges. In terms of economic capabilities, they sort out very quickly over the fabric of urban form and development. From such spatial allocation, a host of public-private decision opportunities are presented.

Travel Demand

Travel demand is a function of the population's need or desire to make a trip and capability to purchase the trip, whatever mode of travel. Clearly, the intermix of transport technology (automobile/freeway) and low cost suburban housing tantalized the tremendous group of post WWII family formation to vacate en masse the central cities for suburbia. Even earlier, the growth of the large central city in a hub and spoke pattern was greatly encouraged by land developers and low cost line-haul rail systems. For the quite real demand for housing, another demand was "created" and filled by real estate speculators. The customer had to have a way to travel from home to work. Creating travel demand was a very successful technique, however the cost of serving that demand ultimately was too high compared to public subsidized roads and automobile flexibility.

The same forces again seem to be "driving" the need for urban transportation, but for unexpected reasons. Now, developers fear that demand for urban village-type work and housing requirements is too great. Congestion on the road system is forcing a real limit in many areas, and "slow growth" or "no growth" grass root political movements. Simple mobility, avoiding gridlock, have become major media issues. The developmental effort has been too successful and created an enormous travel demand that is not yet served by urban transportation.

Concurrently, a large and growing segment of the population is not benefitting from the urban village pattern. Central city residents dependent upon urban transportation are finding their travel options continually reduced while travel needs for work, education, health, recreation keep growing. The disparity is serious. More than ever, as jobs move to the urban village, central city workers need transport to them.

Cost and Finance

Given the trend to the urban village and travel demand redirection, urban transportation cost and finance have become acute issues. The cycle at this point has not run full circle--both keep increasing.

Initially, the cost of urban transportation was low and in tempo with the cost of living of the period. As operating costs increased and farebox revenues declined, private operators vacated the business and local government became a provider and funder of last resort.

With that, the basic relationship of cost increase, revenue and financing decline was established for the public function. Federal capital and operating infusion only enable a delay of the developing policy crisis.

Public trusteeship has experienced more inflation than the prior private operations. In addition to the general upward pressure of the Consumer Price Index, a special factor has been felt. Peculiar to transit and other labor-intensive industries, unions negotiated large wage and fringe benefit package increases, changes in work rules, stronger guarantees of job security, control of new hires, discipline, and discharge. Energy and equipment costs increased significantly as well. Yet, service finance did not keep pace. The public nature of the urban transportation business was in effect a ceiling on the size of fare or tax increases economically and politically desirable or feasible. Between the late 1970's and 1985, interest rates (and inflation) were so high that borrowing was almost prohibitive.

Returning the private sector to an important role in cost and financing considerations is essential for maintaining current levels of service and starting new functions. <u>But</u>, the opportunity must be sweetened. Cold, rational economic decisions will govern private decisions to enter or reenter the field. Quite possibly, public sector guarantees of subsidy or cost sharing will be necessary. Furthermore, the very reason why the public assumed the originally private function may return. Bankruptcy will happen. Not all private ventures will make it. In the meantime, riders may be left without service and, again, the public sector will need to continue operation itself or with a new private operator. The transition period might be very exciting and politically uncomfortable.

To the extent that labor is a principal factor, private carriers believe that if too successful, an unorganized labor force will quickly become organized thereby removing cost advantage and profit margins!

Capital seeks out the highest rate of return. As many passenger and freight transportation companies have already demonstrated, staying in the business may be romantic, nostalgic and admirable. It is not the highest profitable return on owners and investors capital. In our short-term oriented economy, the time horizon for profitability may be less than two years, before losses are cut.

Administrative Forms

Another major change is management attitude. Here too, a full cycle is practically completed. The Industrial Revolution in the United States was predicated upon scale and technology.

It is popular in the 1980's to move from administrative centralization to decentralization. Large private sector corporations have radically changed form under the pressures of foreign competition, inflation, and weak demand. Instead of mega-corporations, conglomerates, and holding companies, the model has turned towards consolidations and mergers (and bankruptcies) which are smaller, more automated, fewer management and decentralized. And, rather than produce all essential services, companies buy them now on the open market.

Slowly, the public sector is learning from the experience. Economies of scale from big, centralized operations are not so unchallengeable. Public agencies in many jurisdictions have cut back staff, contracted out for essential services, and begun to decentralize operations. In urban transportation, some of the larger public systems are allowing more autonomy to operating sections. Politically, decisions are being made to relinquish exclusive operating rights to large geographic areas and to allow the private sector to bid and operate in a smaller units.

Current belief holds that organizational attributes of smallness and diversity promise significant advantages of flexibility and responsiveness to local situations. On the other hand, it also may overlook a concomitant requirement for more rigorous public and private management oversight to ensure uniformity of service and protection of the public interest.

Labor

The influence of labor is changing as well. In a soft national economy, unions attempt to preserve jobs. Wage agreements have been renegotiated, cuts in compensation and fringes made, work rules changed. Originally though, workers needed the protection afforded by union membership. The transit industry did not appear to experience the acrimony and strife that made headlines in other basic industries and services. Nevertheless, in a public negotiation process, strong provisions were often granted to unions by public managers under the often secret instruction of local elected officials.

The cycle is turning full circle. Public new hires are declining. The threat of job actions or even strikes is still powerful but relevant only to those services performed by labor. As seen in other industries, strike breakers (people willing to work at the offered wage and conditions) are readily available. New service functions do not always have union agreements governing them as well. In practical terms, the power relationship has changed so long as the economy remains soft.

Private operators entering the business no doubt have a cost advantage compared to public carriers. How long that will continue may be a function of the nation's economy or labor perceived management errors or abuse.

It may be prudent during a period of transition to offer some form of "golden parachute" or job buyout for union members affected by privatization of their functions.

Role Relationships

Lastly, the role relationships of government and business are changing. In most local government functions, the public sector has been the provider and producer of key services. For the many reasons discussed above, it is more feasible now to suggest that government should continue to provide, but not necessarily produce, vital services. The concept of privatization introduces fundamental considerations not really been raised until recently.

Few envision business taking over the responsibility for local government service. Still, it is advanced, business may be able to perform certain functions more economically, efficiently and productively.

In the urban transportation field, financial necessity has created motivation and opportunity to explore and test out the possibility. The experiment underway looks quite promising.

As the experiment enlarges, care must be taken during the transition that public goals are served in operations, joint development projects, and community development programs.

In summary, it is definite that changes in urban form and development, travel demand, cost and finance, administrative form, and labor are interacting in unanticipated ways. The environment of public policy has become more fluid and dynamic under the impact of these major cycles and trends. It is less risky to propose and try new ideas. The point-of-contact is the role relationship between the public and private sectors.

Decision Opportunity Strategy

Local government is a field that has not been strongly encouraged to utilize strategic planning. For that matter, urban transportation has often ducked the big questions posed by strategic planning. Public agencies have employed the concepts of long-range urban transportation planning (comprehensive urban planning); yet, few have asked the basic question --"what business are we in?"[1] If a more generic approach is taken, then a response might be -- "to move people" or "to provide urban mobility." Larger conceptual thinking of this kind presents a menu of key decisions or strategies from which to choose. In terms of urban transportation planning and service, they may be viewed by:

1. status quo strategy opportunities
2. incremental strategy opportunities
3. innovative strategy opportunities

Each stage opens up a decision-tree sequence for public and private urban transportation policy makers and executives to consider.

Status Quo Strategy Opportunities

Basic directions have now been established by the federal government. The Urban Mass Transportation Administration has defined a new way of viewing the planning, financing and operation of urban transportation. Existing strategy opportunities have been created. They represent the status quo. For example, the private sector shall be included in important functions, if local governments wish to receive federal funds. Such funds are governed by regulations stipulating certain conditions, as a prerequisite for grant eligibility. Many of the grants are demonstration, rather than continuing support. Thus, a "seed money" approach stimulates testing out the opportunity but limits promise of continuing support.

Efforts to bring the private sector into the planning process are essential for long-term change. Full communication and informed participation may not occur if vital data are not shared. The most obvious aspect is simply being informed of bidding opportunities, or changes in regulations.

Demonstration or pilot projects also test out theories and help to refine programs and operating procedures. Without them, there may be a real chance of errors and mistakes becoming far more expensive if not caught earlier in the program development sequence.

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[1]"Preface," Future Directions of Urban Public Transportation (Washington, D.C.: Transportation Research Board, Urban Mass Transportation Administration, Proceedings of a Conference on the Future Directions of Urban Public Transportation, September 26-29, 1982, Woods Hole, Mass.; Special Report 199), p. iv; see also: Richard S. Page, "How Do We Position Ourselves for the Future? pp. 80-82.

Opening up new service opportunities such as charter bus regulation changes establishes an incentive for the private sector to develop operations in a highly restrictive market entry function. A few public operators were known to maintain exclusive operating rights to preclude the private sector from starting up service.

By these federal program changes, fundamentally new forces have been unleased in the urban transportation sector. Their collective value may be more symbolic at this point than significant in financial or service impact. Some suggest that federal funding cuts have a more serious immediate impact than institutional changes. Nonetheless, changes in the basic game rules of urban transportation may have a quickly growing, cumulative influence that far exceeds capital or operating grants. If the way in which business is performed is modified, then many critical decisions have already been made.

The essence of the existing strategy opportunity is to let the game play itself out over a longer period of time. In most cases, the changes have been in place a year or two. The vigor with which they were debated suggests that the stakes were high. If resisted, local governments will have to lobby for more federal funding or turn to the state and local arenas if business continues as usual. Option number one, therefore, is to leave the status quo.

Incremental Strategy Opportunities

A more active level of policy involvement is to identify incremental strategy opportunities. Assume that the existing strategy opportunities (status quo) are developing throughout the nation and strengths and weaknesses grow in visibility. Incremental situations are likely to arise, which would benefit from "fine tuning" and policy modifications.

From the federal perspective, additional inducements might be offered to local governments to try more aggressively policies designed to involve the private sector.

The provision of additional grants or 100% funding might tempt more local officials. Demonstration periods must be funded long enough to allow a smooth transition. It should not leave local officials economically and politically exposed should federal support be reduced or cut out prematurely. Ridership may be very severely impacted as well. In other words, willingness of local officials to modify existing practices (or try new ideas) is very dependent upon their perception of risk and exposure for themselves and their constituents (transit patrons).

Working with other federal agencies to streamline cooperative regulations (Sec. 13 (c) labor conditions, Sec. 504 elderly and handicapped, Sec. 102(c) environmental rules) would help expedite processing. To the extent that private money is at risk waiting for federal approvals, such modifications could well be the deciding factor for making the deal or holding it together. Indications at this time suggest that the major concern is Sec. 13 (c). The Los Angeles County Transportation Commission demonstration in the San Gabriel Valley (former Southern California Rapid Transit District service) required over fifteen months for Department of Labor approval.

Local management incentive is a fundamental ingredient. In Los Angeles County, the Board of Supervisors instituted a management incentive system in 1986. Each of the eighty county department directors is reviewed annually for progress towards county program goals. One major goal is privatizing county services. To the extent that a department director succeeds in contracting out, a salary bonus is awarded as incentive. This system may be transferred to urban transportation managers, while still within the rules and regulations of local civil service personnel systems.

Should a local decision be made to move fully into private sector delivery of urban transportation, labor considerations will become paramount. "Severance clauses", "golden parachutes", and "job protection" are synonyms for the same concern. Someone is out-of-work because of a change in employer needs. In the labor arena of urban transportation, strong unions have negotiated clauses protecting employees to some degree. And, in California, the Southern California Rapid Transit District unions are protected by stipulations in the District's authorizing state law.[2] Other large urban operators face similar restrictions.

Perhaps, an incremental change might be to change management attitudes about such provisions. If all attempts fail to change union agreements or to negotiate lower cost new agreements, then a private sector approach may be applicable. Railroads and ocean carrier industries have faced similar difficult choices. If permitted, "contract buyouts" should be considered. Assuming the cost of buying out is lower than that of a strike, then associated costs should be viewed as a "cost of business."

Attempts to void completely union contracts may backfire and be counterproductive in the long run. Some jurisdictions believed that a new agency would have a clean slate. It could accomplish what it would wish without labor or other restrictions placed on predecessor agencies. Usually, such

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[2]California Public Utilities Code Division 1, Article 2; Division 10, Part 3.

techniques promise short-term changes but soon become governed by the same relationships. The proposed Metropolitan Transportation Authority in Los Angeles (combining the LACTC and SCRTD) initially promised an authorizing law which excluded labor requirements and rights. Not too long after its introduction, strong protection of union jobs was inserted into all subsequent drafts. The change in expectation was so great that original proponents of the legislation withdrew their support during the last month before final bill passage. Primarily for this reason, the governor vetoed the bill.

Other areas of incremental opportunity relate to basic communication and trust. No big, new legislative change is necessary for something that should be viewed as "common sense." However, where there are many different public and private actors involved, working groups should be established and full communication openly sought.

In the construction, supplier or contracting out functions, often proposed work is at such a large scale that only one or two mega-companies may be eligible. It may be prudent to divide the scope of work to allow smaller firms to bid on subsections of the total project. More specifically, large operations selected for contracting out may be well served by private route associations. Pursuing this course would open up greatly the competitive nature of private sector involvement at a smaller scale.[3]

Major attempts to incorporate the private sector have had, as a result, mixed success.

Orlando included private interests, but somehow a principal did not openly state its support for the program. No commitments were required upfront; certainly, none were offered. By the time the proposal appeared to come together and have a real chance at succeeding, the private interest in response to a public question said "No."

New York City is still at the conceptual stage of its working group studies. As in Orlando, the deal hinges on private sector involvement in financing and granting access to private land for rights-of-way and facilities. Further complications relate to a quite public debate between the mayor and key private sector land owner.

The DART program in Northern Virginia has not progressed far enough to experience fully the above. Already though, better local intergovernmental communication would help.

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[3]Ronald F. Kirby, "Involving Private Route Associations in Public Transit," Transportation Quarterly (July, 1987), pp. 411-426.

Three such seemingly unique policy environments appear to make open communication and trust difficult, if not impossible, to achieve. Incremental changes in attitude and behavior are needed more than statutory changes.

There still may be a way in which public policy may create a more conducive environment for communication and trust.

Current federal planning requirements state that private sector operators be fully included in the urban mass transportation process. These are mostly applicable to service changes or new service. Undoubtedly, they represent an important incremental step forward.

In the case of large projects, early public statements by the public and private principals would lend an atmosphere of pragmatism and guiding sense of the possible. No tricks or surprises would be necessary. Private sector development negotiations, as a matter of routine custom, are secret and not legally binding until a contract or agreement is signed and validated. At any point in the negotiation process, any party could back out, demand a change in terms or conditions. More and more the public sector will be entering negotiations with the private sector and at a disadvantage. On many projects, the social and political cost of backing out is too much to be borne in a public forum. Despite such handicaps, open and frank communication at the staff level will help to avoid public posturing and fixed positions by the principals.

Still other incremental opportunities are in the extent to which the private sector assists urban transportation operators in their normal business functions. Whether it be planning, facility location, production facility layout, operationalizing production, controlling production, marketing, new product development, and product distribution, many possibilities abound. At the very least, private sector consultants could advise in each business function. Some functions may be partially or fully performed by private interests. Models abound in non-urban transportation local government functions. If legally and politically feasible, administrative decisions can start policy in that direction. The extent and speed of the change can be modulated by the operator board of directors.

Most likely candidates are in planning, finance, service and management.

In the planning function, a public-private organization has been created to study major problems at a regional level. The Southern California Association of Governments established in 1985 the Regional Institute of Southern California (RISC). It is composed of leading executives in the public and private sectors and is funded principally by private donations. RISC offers "strategic regional data and research to provide the intelligence required to chart the region's future course." Already studied have been private sector concerns about telecommunications, decentralization, transportation and land use patterns.[4] Orlando is considering private sector regional planning too.[5]

SCAG has also published a directory of private sector operators in Southern California, identifying over three hundred.[6]

Some public operators in the nation have "voluntarily" initiated task forces to study privatization, established a strategy on privatization or opened up selected routes and key service functions to private operators. The Orange County Transit District (OCTD) in Southern California funded a "Long-Range Privatization Feasibility Study" to:

> -develop objective of privately operated service;
> -develop and rank criteria to be used in evaluating the privatization potential of various types of services;
>
> -identify existing and potential types of service, evaluate and rank them, and assess impacts and other institutional constraints.

At the same time, task forces have been studying the short and long-term possibilities, as well as internal staff activities supporting privatization.[7] In addition, the OCTD has set up a contract with The Irvine Company, a large land developer, to provide Newport Center with special services (a high density, office and shopping activity center). The transportation demand

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[4]Regional Institute of Southern California, RISC Annual Report (Los Angeles: Southern California Association of Governments, 1986), pp. 1-4.

[5]"Regional Planning through Privatization," The Orlando Monthly Magazine (June, 1987), p. 150.

[6]Southern California Association of Governments, "SCAG Lists Region's Private Transit Operators to Implement UMTA Policy," SCAG FORUM (December, 1985), p. 5.

[7]Orange County Transit District, Long-Range Privatization Feasibility Study Proposal (Garden Grove, CA: Orange County Transit District, FY 86-87 Overall Work Program Project Proposal), pp. 1-4.

management service would focus upon ridesharing activities.[8] A commuter express line and internal circulator were contracted also with The Irvine Company.[9]

The Southern California Rapid Transit District adopted a policy on privatization. A key concern is the possibility of fragmentation. A possible goal was to subcontract a total of fifteen percent of the RTD service over the next five years (three percent a year). "It is hoped that this action will yield unit cost savings of 20%. Of course, such progress cannot be achieved without the cooperation of local government, labor unions, and private operators."[10]

A similar goal was sought in proposed legislation in the state legislature. The "Public Transportation Competitiveness Act of 1987" was introduced March 6, 1987 by Assemblyman William Duplissea. It is designed to stimulate private sector contracting of local transit service by establishing two requirements. Existing service would be competitively bid incrementally each year at three percent of non-competitive bus service. New service would be entirely competitively bid. Provisions protected labor during the transition. Every five years contracts would be reopened for bidding. The bill did not pass in the 1987 legislative session; it will be reintroduced.[11]

In another arena, highway and transit-related highway projects are being delayed in California due to insufficient personnel in the State Department of Transportation (CALTRANS). The backlog may reach several billion dollars of work. To get over the short-term hump of intensive project work, attempts are being made to permit CALTRANS to hire extensively from the

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[8]Orange County Transit District, Request for Approval of Agreement with The Irvine Company for the Establishment of a Newport Center "Centerride" Transportation Management Program (Garden Grove, CA: Orange County Transit District, Memorandum to Board of Directors from General Manager, May 19, 1986), pp. 1-3, attachments.

[9]OCTD Commuter Network, Route 55, Commuter Express Line Proposal for Service (Garden Grove, CA: Orange County Transit District, December, 1985), pp. 1-11.

[10]California Business for Infrastructure, "Public Transit in Transition: The Federal Government's Private Enterprise Initiative," Infrastructure Quarterly (June, 1986), Comments by John Dyer, p. 5.

[11]State of California Legislature, Assembly Bill 2626, Public Transportation Competitiveness Act of 1987 (Sacramento, CA, March 6, 1987).

private sector. If state law is not changed, projects will be delayed at least three to four years should understaffed CALTRANS perform the work.[12] To the extent that transit districts attempt to build their own facilities, they too may be faced with skilled professional labor shortages and find that the private sector is a prudent source.

There may be one function that should not be made available for private involvement except in a support role. Programming of projects and service is a political function based upon elected official representation of citizen needs. In fact, a more radical decision would be to retain only the programming function!

Innovative Strategy Opportunities

Innovative strategy opportunities may at first seem beyond reach or simply impractical. Present-day American society has come to expect and anticipate, though, change. Six years ago, public officials would be quite surprised by the then "innovative" concept of privatization. The first shock wave from that new direction is for the most part over. Managers are accustomed to the basic theme and prepared to work more cooperatively with it. Relatively speedy acceptance may have been hastened by the power of the federal purse (grant programs) and eligibility conditions, as well as local government financial pressures. In other words, innovation now may not seem so radical compared to the initial idea. There is far more receptivity to learning new approaches and trying them out.

This is not to suggest that managers are "jaded" and there is nothing new anymore in turning to the private sector. What may be truly innovative will be those jurisdictions attempting to implement such strategies on a grand scale; and, finding irrefutably that many are successful. Another aspect will relate to large projects requiring private sector financing or institutional support. Each major success becomes quite visible and encouragement to others to consider the approaches. One caveat to keep in mind is the temptation to want fast results. Often, the pipeline for such projects is measured in years, not months. There must be administrative and political commitment to make it work over time, not just at the ceremony announcing the agreement.

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[12]Bruce Nestande, California Transportation Commission Member, "The Need for CALTRANS Contracting Out; SB 516-Senator Marian Bergeson, October 2, 1987, pp. 1-3.

Major opportunities are found in at least three arenas:

1. new urban village forms of urban development;

2. established central city/suburban forms;

3. transportation connections between them.

The new urban village areas offer the chance to apply new thoughts with fewer of the major constraints found in central city systems. The older large cities provide considerable opportunity for specific large scale development projects and service modifications, including substantially changing the governmental role relationships.

Urban village-central city connections will continue and grow. Travel is both ways. Commuting to central city jobs from the urban village areas is the more typical route until recently. More likely to grow in need and structural opportunity is central city residents commuting to urban village work locations. The latter form is poorly served now in most locations and, if properly designed, may open up significant employment opportunities for employees seeking work and career opportunities. Important public policy goals in economic, educational and social spheres would be well served by providing central city to urban village mobility. This kind of function may at first be a candidate; for some public subsidy to private operators to begin the service. As job opportunities grow, the demand will likely increase. The service quite possibly will meet the market test of self-sustaining profitability.

The urban village phenomenon presents a new, bold and fascinating strategy opportunity. Most urban village locations do not have strong, well organized and structured local governments. Often, the newly developed land is in unincorporated areas of a rural county rapidly joining the urban fringe of a large, traditional central city area. To the extent that the county is proactive, which it mainly is not, public and private transportation organizations may be forced to fill a governmental structure and policy void.

Rapidly developing unincorporated areas have a limited tax base and large infrastructure needs. Automobile dependent, growing population quickly overloads an inadequate road system. Two new institutional forms become the predominant forces; both created out of necessity.

The first most likely to appear is a homeowner's association set up by the developer. As density increases, associations bind together and propose local ballot initiatives to form new municipalities. Should a new local government be formed, developers rush to have county-level plan approval for projects about to start. Most fear a slow-down or ceiling on growth by the new governments.

Next in this scenario is the formation of commercial development associations (shopping centers, malls, business parks) through local chambers of commerce, builders or voluntary self-establishment. In areas further along this path, Transportation Management Associations (TMAs) or Transportation Management Organizations (TMOs) may be formed. They as the new residential associations fear the effects of rapid population growth on an inadequate road and freeway network. But, the response appears to be different. Rather than limit growth, they generally wish to create new transportation system supply.

Here is the innovative strategy opportunity for urban transportation. Such areas are in a classic, head-on-collision mode for public policy. Although a limit on growth may occur, at first it is a radical solution that is exclusionary. It may violate the rights of other citizens to live, work or develop property in the urban village area. On the other hand, business interests are unlikely to find total acceptance of automobile based transportation system improvements. At the very least, cost may be prohibitive to upgrade the infrastructure.

Urban mass transportation by private producers and providers may be the answer. The most logical organization to implement the concept is the local TMA, if no local government exists or public transport exists. A totally clean slate permits the idea to grow. Given their estimation of trip origin and destination, new transit service may be started. In some areas, it may be a mini-bus on a mall; in higher density areas, it might be new fixed route bus operations, ridesharing, or even light-rail facilities. If a local government forms and wishes to take on the transportation function, it probably will continue the kind of arrangements already with private operators.

Big ticket items provide even more innovative strategy opportunity. In Orange County, California freeway congestion has become extremely heavy at rush hour and often non-rush hour travel periods. The problem is not restricted to new areas on the urban fringe. It includes well established and fully built older sections of the county. High travel demand and financial pressures forced the local cities and counties to seek a new approach for California. Several new freeways will need to be constructed to serve the existing congestion and future growth.

Funding was insufficient and private sector involvement was intensely considered, and, ultimately, required. As a result, large developers have donated rights-of-way, agreed to construct interchanges and other support facilities as a condition of the right to develop. California started to move in this direction as early as 1983 in transportation,[13] and 1979 in general local government after Proposition 13 greatly reduced public tax revenue.

Special fees have been assessed by some municipalities and the county for every new unit permitted. In effect, the developer adds the fee to unit selling prices. Eleven large developers will pay over $235 million for road improvements in their planned residential development areas before starting construction. "The 11 companies will pay 100% of the bill for the "backbone one" portion of the program even though they own just 90% of the property, and will receive credits for the amount they overpay. Owners of the remaining 10% will eventually have to pay their share." Privately subscribed developer bonds will fund the up-front payments.[14] It is anticipated that some of the road development will include transit-related facilities.

A second approach utilized was to create toll roads. More and more, toll roads are again viewed as a viable alternative.[15] In Orange County, the proposed freeways are to be financed from bonds sold by the Orange County Transportation Corridors Agency. The private sector would be the purchaser of the bonds.

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[13]California Transportation Commission, "Funding Policy for Interchanges and Crossings on the Sate Highway System" (Sacramento, CA: California Transportation Commission, May 10, 1984).

The policy sets guidelines for programming project priority of a then current $2 billion proposal backlog. Private sector participation was permitted for new residential or commercial development areas of low congestion if privately funded. In other areas of higher congestion from existing traffic, private funds would be combined with public funds as a precondition for building more road access for new developments.

[14]John Needham, "Developers Agree to Pay Road Money Before Work," Los Angeles Times (September 12, 1987), Pt. II, pp. 1, 7.

[15]See the growing recent literature: U.S. Congress, Congressional Budget Office, Toll Financing of U.S. Highways (Washington, D.C.: Government Printing Office, December, 1985); U.S. General Accounting Office, Highway Funding, Use of Toll Revenues in Financing Highway Projects (Washington, D.C.: Government Printing Office, April, 1986); W.A. Rusch, Toll Highway Financing (Washington, D.C.: Government Printing Office, National Cooperative Highway Research Program, 117, Transportation Research Board, December, 1984).

Toll roads and variable rate use charges on private roads were advocated as important strategy opportunities in a significant business editorial. "Highway Parking Lots," Wall Street Journal (September 4, 1987, Editorial), p. 14.

Permission to take this financing approach was granted by a recent change in state legislation.[16] And, the Surface Transportation Assistance Act of 1987 (HR 2) designated the three proposed Orange County freeways (tollroads) as a demonstration, therefore eligible for federal funding.

In the case of totally private projects, private rights-of-way may be very lucrative. Utilities such as electric, water, waste, oil, natural gas, fibre-optics may provide extremely profitable opportunities as well.

As currently envisioned, the toll roads would have median strips reserved for transit, support facilities would be designed into the project, and ridesharing emphasized. Consequently, transit would benefit from an automobile/highway oriented project.

In the last year a more purely transit capital construction play is found in Denver. A private consortium has proposed a commuter rail project from downtown through the southeast corridor that limits reliance on the public sector. Like DART in Northern Virginia, the intent is to be fully operational and making a profit in a short period. It is estimated that local revenue bonds will cover sixty percent of the construction costs and the federal government the balance. Some press accounts question the concept's viability.[17]

The above illustrations address the innovative strategy opportunities in new areas such as the urban village, activity center or large scale construction projects (e.g., rail systems). These situations provide almost an "ideal" opportunity to incorporate the private sector because their may be fewer institutional barriers to confront.

For those areas not growing at the fringe, significant opportunity may exist for innovative modifications in existing activities, not just the new ones.

One such dramatic change is in Los Angeles. Service in a major section of the region, the San Gabriel Valley, will be put up for bid. Coordinated by the Los Angeles County Transportation Commission (LACTC), a demonstration proposal to UMTA was funded

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[16]Daniel M. Weintraub, "Deukmejian Signs Bill for Toll Roads in Orange County," Los Angeles Times (September 30, 1987), pp. 1, 3; Jeffrey A. Perlman, "OCTC Approves Proposal for State's First Toll Road," Los Angeles Times (October 13, 1987), Pt. II, pp. 4-6.

[17]Sandra D. Atchison, "He's Been Working on the Railroad in Denver," Business Week (June 8, 1987), p. 42.

in November, 1986. The grant of $13 million will defray capital equipment leasing costs, administration and transition activities. The RTD may bid on the eighteen routes along with the private operators.[18] The lines selected for contracting out were based upon the following criteria:

- -potential of cost savings to SCRTD and the region;
- -line deletion consistent with adopted SCRTD service policies;
- -minimization of conflict with existing labor agreements;
- -willingness of Los Angeles City or Los Angeles County to assume contract operations.

It will include a "broad spectrum, ranging from a local circulator... to a park-ride operation."[19] The program is scheduled to begin preliminary service in November, 1987. Some observers note that privatization of this kind represents a "break-up" of the centralized RTD,[20] despite the fact that several of these lines were to be cancelled by the RTD or have service reductions.[21] Peter F. Schabarum, County of Los Angeles Supervisor (representing the San Gabriel Valley) believes privatization is in the mainstream of local government experience.

> As awareness among the general public heightens, we see a good deal of misunderstanding on the part of the bus-riding public. No one in this room has suggested returning the pre-MTA (fragmented private operations) days. Still, there exists good reason

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[18]U.S. Urban Mass Transportation Administration, Summary Descriptions-Demonstrations of Fully Competitive Transit, Competitive Services, Maintenance Contracting, and Financial Infrastructure (Washington, D.C.: UMTA, November, 1986), p. 6.

[19]Letter from Rick Richmond, Executive Director, Los Angeles County Transportation Commission to Ralph Stanley, Administrator, U.S. Urban Mass Transportation Administration (June 26, 1986), pp. 1-3.

[20]Rich Connell, "RTD Faces New Challenge: Plan for Small Bus Systems," Los Angeles Times (August 11, 1987), Pt. I, pp. 3, 18.

[21]"RTD Cancels High Subsidy Bus Lines; Bus fare remains at 85 cents for '88," Metro News BULLETIN (SCRTD, June, 1987), p. 4.

for misunderstanding. 'Privatization' is a misnomer and should be more conventionally described as 'competitive procurement'.[22]

Probably, the most profound innovative activity to consider is a real change in role relationships of the public sector with itself and with the private sector. As noted in earlier chapters, some observers believe that local government in some functions might only set policy, manage activities, and fund them as desired (full or partial subsidy). In the urban transportation field, local government should consider contracting out as much service as the private sector can absorb. Through careful oversight, true problems and psychological barriers can be overcome. Government may then be the provider but not the producer of the service. If existing public agencies wish to continue to operate the services, they would have the right to bid on the contracts. Union transition guarantees should be structured as well. Supplier availability, transitional difficulties, service interruption, fraud and corruption, political issues, and inertia are not insurmountable.[23]

Practical Intergovernmental Policy Steps

Realistically speaking, one key to more federal, state, or local support is a philosophical (thus political) decision at each level of government. All the economic, service and administrative justifications help create a policy decision environment leaning toward more private sector involvement. Yet, in many jurisdictions, the inclination is only to experiment. Despite the fact that the advantages and disadvantages of the concept have been known in other local governmental functions, urban transportation is still very hesitant.

The major source of support for the movement towards private sector involvement has been the federal government. Urban transportation program has been seen as one of the more successful federal areas to develop and disseminate the approach. Several motivations support the direction. At the broadest level

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[22]"The key to better transit service: Benefits of competition stressed at SCTAC/UMTA seminar," Southern California Transportation Action Committee Update (September, 1987), pp. 2-3.

[23]John Tepper Marlin, Editor, Contracting Municipal Services, A Guide for Purchase from the Private Sector (New York: John Wiley and Sons, 1984), pp. 101-108.

shrinking federal budget revenues and increasing expenditures have created a receptive political decision making environment.

State governments have been, on the whole, silent parties to the efforts. Jurisdictions that have experienced severe public revenue cutbacks (California-Proposition 13) definitely sought any and all sources for increased funds to meet public program goals. Urban transportation was one of many in the early 1980's to turn toward private involvement. The pressure was felt first for most states in the highway program, and then transit. Federal and state gas tax increases have helped to lessen that stress.

Local governments are the most visible level of government. On the public firing line, they must serve as the "street-level bureaucrat" and have direct public contact. In a revenue crunch and facing increasing demand for most services, few seem to care too publicly about philosophy. Local fiscal pragmatism sees the private sector first as a source of more financial support, and second, as a possibly more economic and efficient service performer. Slowly the philosophical realization is growing that under carefully crafted conditions, the private sector can perform an invaluable role without necessarily destroying or weakening local official political power, control or responsibility. The primary motivation in most areas will continue to be, not federal or state regulatory pressure but, revenue squeezes. Cutting back federal support sharpens quickly local official focus on the situation.

If local governments can devise political-institutional arrangements that retain legal authority, fiscal power, and political control-responsibility, then it will be easier to incorporate the private sector.

At the very least, the myriad number of standard business-type activities required by public urban transportation planning or operating agencies can be contracted out to consultants, suppliers or private operators. This aspect of private sector involvement is in the main-line of local government activity and experience. More and more, such reliance will increase as revenues shrink.

More dramatic in contrast is allowing the private sector to perform the very purpose of many local agencies. That is accurately perceived as quite threatening to public organizational and professional existence. To the extent that public job reductions are required, transition programs for affected employees should be established to reduce impacts.

Political control will be retained in such situations. The public sector will provide the service but not necessarily produce it. Service transparency may be another way to mitigate opposition to sector performance changes. From the user, or public, point-of-view, so long as the service meets expectations and standards, there would be little concern as to which organization or sector performs the service. Imagine a local urban transportation governmental service that is managed by public officials but not operated. Private operators would perform the service in equipment, uniforms, advertising, etc. under the public agency logo. There might be two or twenty different providers.

In other situations, the local government might set service standards and allow any operator (under its own name) to provide service. If public control (e.g., public utility commissions) were removed entirely except for standard local laws for all transportation businesses, there would be only "the test of the market" to see what level of success is required. In selected situations, private firms under their own name might need partial public assistance in specialized markets. In general though, eliminating public monopolies and allowing freer market access would increase available resources in the short-term.

When institutional changes of this magnitude are implemented, there will be a trial period and market shake-out. Federal deregulation in aviation, railroads, trucking and ocean carriers has permitted many new firms to enter the market, and succeed or fail. Quite a few old and new companies have gone bankrupt, been purchased or merged with more successful ones. Already, the number in the market has shrunken to a few bigger organizations. Customers have been hurt and lost service, prepaid charges, and goods. With proper planning at the local level, these significant disruptions can be assuaged, and even prevented. Some service will be disrupted and difficult to restore immediately and public officials must be prepared with private or public logistical backup for essential operations.

These techniques may be employed both in existing service areas and new areas. For the most part, they are easier to start-up where there may be no formal local government, or labor union agreements. If it is a totally new service, it often would be attractive to try as well.

The basic principle is to look toward new, unchallenged areas first. Many attractive possibilities exist in the urban village areas, central city/suburban and service between them. With major central city existing service arrangements, effective planning and communication with political officials and unions will help develop experiments and, possibly, large contracting efforts.

Private sector involvement in financing, not just planning or operations, is a strong candidate too. Many jurisdictions would rather have private sector money and not bother with private contracting! However relying on the private sector for financial participation in capital projects is risky.

If it is a project controlled by local governmental approvals, there is some public leverage in terms of transportation facilities. Whether it be transit-related freeway/tollway facilities, rail stations, park and ride, ride sharing, etc., the private sector can see a direct benefit for very near-term profit return.

Longer range activities require a different perspective. The public sector is accustomed to long planning and construction schedules, even when key decisions are quickly made. But the private sector is not. The maxim "time is money" applies to a large degree. Several projects reviewed are in jeopardy because of the slow public decisionmaking process. Others appear caught in local political debates.

When the stakes are big capital projects, both sides have significant exposure. Many public and private executives are concerned about this facet. Even with the best of good will and intent, joint projects are complex. Should there be distrust, ill-will, and poor communication, the working environment becomes ever more difficult. Public exposure is in the increasing reliance on private capital. Private risk is in the slow public decision process. Both might back out at any time. Generally though, the private sector may be more willing to cut losses and backout if a joint financial activity is not proceeding as expected. Public officials will tend to avoid "on the record" commitments difficult to change later. Private executives are not bound to say anything and have quite a bit more flexibility in negotiation. It would appear in many arrangements the private sector has the better negotiating position, if it is a project the public clearly wants and initiates. For the most part, accordingly, the public risk is political and the private risk financial.

Conclusion

The long-term prognosis for change looks promising. The private sector in all probability will become more involved in urban transportation planning, finance and service. It also likely to assume a greater role in the performance of other governmental functions, particularly at the local governmental level.

Philosophy and politics notwithstanding, national economic realities are a powerful stimulus to altering our current practices and relationships. Demand for most governmental services increases while capability to supply the services is diminishing. Even without fiscal pressures, there is a substantial body of documented experience indicating that the private sector can and should be more involved.

In one narrow field of governmental activity, urban transportation, a window has been opened up to new ways of conducting business. This research report has identified the more fruitful ways, so far, that fresh air may come into the public policy arena of urban transportation. Problems and opportunities discussed here should offer useful background knowledge, perspective, and new approaches to the public and private urban transportation community.

Conference on:
June 19, 1987 - Friday
KEY DECISIONS IN URBAN MASS TRANSPORTATION PUBLIC-PRIVATE COOPERATION
The California Perspective

Graduate Center for Public Policy & Administration
California State University, Long Beach
1250 Bellflower Boulevard
Long Beach, California
1-17279

Conference on

KEY DECISIONS IN URBAN MASS TRANSPORTATION

PUBLIC-PRIVATE COOPERATION
The California Perspective

Presented by

California State University, Long Beach
Bureau of Governmental Research and Services
Graduate Center for Public Policy and Administration

Sponsored by the:

Urban Mass Transportation Administration
U.S. Department of Transportation
California State University, Long Beach

With the Cooperation of:

California Transportation Commission
Los Angeles County Transportation Commission
Commuter Transportation Services, Inc.
ATE/Transit Contractors
Deloitte, Haskins & Sells
PPTN/Public-Private Transportation Network

June 19, 1987

CSULB Student Union
Small Auditorium

CONFERENCE PURPOSE

The basic urban life-support function of mass transportation is on the horns of a dilemma. Clientele need and demand are growing while public resources become tighter. With the encouragement of the federal government, the private sector is getting more involved throughout the nation. In California, the Proposition 13 era inspired state and local agencies and the private sector to think cooperatively. Now, it is clear that much positive and innovative experience has been developed, especially in California.

This Conference is designed to explore national and California public-private cooperative activities for planning, financing and operating mass transportation.

It is time to step back to consider the more economic, efficient and effective ways by which public-private cooperation meets challenges in terms of:

KEY DECISIONS IN PLANNING:
estimating demand, and supply; establishing goals and objectives; developing policy, programs, projects; managing engineering, construction, and operation; program evaluation and modification.

KEY DECISIONS IN FINANCE:
funding sources (federal, state, local, private) and types (grants, loans, bonds, fees, licenses, permits; property, personal, and use taxes; fares) management of funds; funding stability and coordination.

KEY DECISIONS IN OPERATIONS:
service areas, technology, routes, schedule; equipment operation and maintenance; staffing, technology, training, safety; union agreements; full-time and part-time staff; service coordination; performance monitoring and audits.

8:00-9:00 AM REGISTRATION
Continental Breakfast
Student Union Small Auditorium

9:00-9:15 AM
WELCOME AND INTRODUCTIONS
Peter L. Shaw, Professor
Graduate Center for Public Policy & Administration

Mel D. Powell, Dean
Graduate Center for Public Policy & Administration

Jan Hall, Councilwoman
City of Long Beach
President, Board of Directors, Southern California Rapid Transit District

Edward L. Thomas
Senior Community Planner, U.S. Urban Mass Transportation Administration

9:15-10:00 AM
THE FEDERAL PERSPECTIVE ON PUBLIC-PRIVATE COOPERATION
Small Auditorium

KENNETH W. BUTLER, Associate Administrator for Budget and Policy, U.S. Urban Mass Transportation Administration

10:00-10:15 AM Coffee
Small Auditorium Foyer

10:15-11:45 AM
KEY DECISIONS IN PLANNING
Public-Private Cooperation
Small Auditorium

Chair: *Lawrence H. Dahms*, Executive Director Metropolitan Transportation Commission, San Francisco Bay Area

Norman H. Emerson, Emerson Associates (invited)

Jack Gabig, Director of Planning and Marketing, Long Beach Transportation Company

Roy E. Glauthier, Senior Vice President, DAVE Systems, Inc.

Paul H. Hatanaka, Principal-Transit Programs, Southern California Association of Governments

Robert C. Patrick, General Manager, Central Contra Costa Transit Authority

11:45 AM -1:15 PM LUNCH
Multipurpose Room A-B

KEY DECISIONS IN THE PUBLIC-PRIVATE RELATIONSHIP - A NATIONAL OVERVIEW

C. KENNETH ORSKI, President, Urban Mobility Corporation

1:15-2:45 PM
KEY DECISIONS IN FINANCE
Public-Private Cooperation
Small Auditorium

Chair: *Robert S. Nielsen*, Executive Director California Transportation Commission

Linda Bohlinger
Deputy Director-Transit Development
California Transit Commission

Keith Curry, West Coast Representative Private Sector Liaison, U.S. Urban Mass Transportation Administration

Michael W. Lewis, Chief Deputy to Los Angeles County Supervisor Peter F. Schabarum

Thomas A. Rubin, National Industry Director-Transit Services, Deloitte, Haskins & Sells (Invited)

Brad Williams, Manager, Transportation Planning, The Irvine Company

2:45-3:00 PM
Coffee
Small Auditorium Foyer

3:00-4:30 PM
KEY DECISIONS IN OPERATION
Public-Private Cooperation
Small Auditorium

Chair: *Rick Richmond*, Executive Director, Los Angeles County Transportation Commission

Timothy Collins, Senior Vice President, ATE Transit Contractors, Inc.

Jim McLaughlin, Transportation Engineer Department of Transportation, City of Los Angeles

Albert H. Perdon, Assistant General Manager, Planning and Communications Southern California Rapid Transit District

James C.Seal, Privatization Consultant California Bus Association

Tad Widby, President, Commuter Transportation Services, Inc.

4:30-6:30 PM
RECEPTION
President's Room
Hosted by

Deloitte, Haskins & Sells
ATE Transit Contractors, Inc.

R E G I S T R A T I O N   F O R M

KEY DECISIONS IN URBAN MASS TRANSPORTATION PUBLIC-PRIVATE COOPERATION-
The California Perspective

Friday, June 19, 1987, California State University, Long Beach

Name ____________________ Phone (____) ____________

Position ____________________ Organization ____________________

Address ____

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To reserve your place in the Conference, please return this registration form to: Public-Private Cooperation, Graduate Center for Public Policy and Administration, CSULB, Long Beach, California 90840; or telephone (213) 498-4177 to hold your reservation.

Please make checks or purchase orders payable to: CSULB Foundation

Registration Fee: $40 by June 10, $50 on-site. No refunds after Monday, June 15, 1987

Payment Enclosed $ ____________ (Please use a photo copy of this form for each registrant.)

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