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# Success Factors in Private Contracting for Public Transportation

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## **About the Eno Center for Transportation**

Eno is an independent nonprofit that shapes public debate on critical multimodal transportation issues and builds a network of innovative and diverse transportation professionals. Eno has a long and proud history as an educator and thought leader on multimodal transportation issues. Founded in 1921 by traffic regulation pioneer William Phelps Eno, government and industry leaders rely on Eno for timely research and an independent voice on policy issues. Throughout Mr. Eno's life, he emphasized the importance of education and training. Our professional development programs come from a legacy of building leadership skills within the transportation industry.

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## Executive Summary

Service contracting is a tool that governments can use to deliver transit services for riders. It is also widely employed in the United States; nearly two-thirds of transit agencies already contract all or part of their operations. When contracting is implemented effectively and strategically, it can yield service improvements that benefit the riding public and, in some cases, lower costs. It can enable governance overhauls whose impacts may go far beyond increased service reliability by creating more adaptable, sustainable public institutions.

However, the COVID-19 pandemic has presented unprecedented challenges for public transportation, including workforce management issues, fluctuating ridership, and revenue declines. In response, transit agencies are exploring innovative ways to engage with private partners to address these challenges.

It is within this context that transit agencies are considering ways to engage with private partners. Previous work on contracting consistently points to the need for positive, healthy relationships between the public agency and the private contractor to achieve the best outcomes for both parties, their workers, and the riding public. This is intuitive because when there is public and private alignment, the public interest is protected.

This report finds that the current state of public transit in many regions makes the need for positive relationships even more acute. Public agencies should be tightly aligned and collaborate with the contractor on workforce issues to ensure good transit service and outcomes. At the same time, the dynamic period for transit means that contracts should allow the private contractor the flexibility to innovate to solve new problems.

## 1. Introduction

Across the United States, public transportation systems are under strain. The COVID-19 pandemic devastated transit ridership, resulting in alarming revenue gaps coupled with significant spending increases tied to historic inflation. Even pre-pandemic, passenger counts were declining almost everywhere.<sup>1</sup> Meanwhile, alternative mobility options like Uber and Lyft, bikeshare, private on-demand transit services, carsharing services, and the prospect of automated vehicles, continued to create headwinds for the industry and likely contributed to ridership declines seen in the 2010s leading up to the pandemic.

In response, public-sector transit providers across the United States are increasingly looking for ways to better serve their riders while working within tight budgets. One such strategy is contracting with private transportation companies—rather than directly operating fixed-route transit services with their own employees and using equipment procured and owned by the government agency. Achieving service-quality improvements through contracting can provide many potential benefits, but it requires a true spirit of collaboration and a willingness to partner in a way that optimizes the strengths of both the public and private sectors.

Agencies pursue partnerships for private service contracting for a variety of reasons. Financial incentives committed to and memorialized in contracts and fair market competition during the bidding process can enable significant operational performance improvements. Private contracting can allow a relationship that lets an agency focus on policy and planning rather than the nuts and bolts of daily operations. An experienced contractor can bring new expertise and references from work conducted by the same contractor (and its staff) elsewhere. A well-written contract can also introduce accountability into the operator-management relationship, regardless of whether the operator is private or public.

While such competitive tendering can yield cost-efficiency improvements in the short- and long-term, lowering costs may not be an agency's primary goal when approaching contracting. If implemented carefully, competitive contracting for transit operations can improve the overall service offered, increase operational performance, bring new expertise, and support agency goals while preserving essential labor protections.

The experiences in the United States, as well as those across North America and Europe, demonstrate that contracting's success and largest benefits are most likely to materialize when it is implemented in a collaborative, careful, strategic, cooperative, and context-appropriate way. Past research has shown that there are also potential pitfalls to realizing these benefits if these factors are not considered upfront during the proposal process. When agencies devise poor contracts, chase the lowest bidder, and undercut

worker compensation, the agencies and riders can be left with substandard, overpriced service and the private contractors are stuck in agreements that are suboptimal. Contracting success comes from the public and private sectors working together to ensure a contract that allows for mutual accountability and benefit.

A 2017 report by the Eno Center for Transportation and TransitCenter—*A Bid for Better Transit: Improving Service with Contracted Operations*—explained how and under which circumstances agencies can implement competitive contracting effectively to yield improved service for riders.<sup>2</sup> The report used case studies throughout North America and Europe to help identify effective strategies for contracting out transit service operations, the potential benefits and pitfalls of contracting, and existing barriers to implementation.

Today, transit agencies face operating shortfalls associated with fundamental shifts in commuting behavior and travel patterns. These changes, spurred and accelerated by the pandemic, have reduced transit ridership across the country.<sup>3</sup> Congress plugged transit agencies' operating deficits temporarily, but a funding crisis is looming as the emergency aid is running out. That means there is now an opportunity and an urgency for transit agencies to make changes that they might not have considered before and to re-evaluate the benefits of transit contracting. Doing so can not only improve quality of service, but also rethink the fundamental responsibilities of the transit agency itself.

The purpose of this report is to re-contextualize the options for private transit contracting. Three new case studies from the United States are used to garner better understanding of the pandemic's impacts on service delivery and transit contracting. This research confirms that—when implemented carefully—competitive contracting can yield improved cost efficiencies, improved transit service, and other innovations that benefit the riding public.



## 2. Background

Since the early half of the twentieth century, the public and private provision of transit service in the United States has witnessed several changes. Initially, public transit was a retail and for-profit enterprise where the passenger revenue paid for the cost to run the service.<sup>4</sup> The rise of the automobile meant that cars competed with transit for riders and by the 1960s, transit operating costs routinely exceeded revenues.<sup>5</sup> Private owners sold their operations and infrastructure to city governments, and public transit ultimately transitioned to become a necessary public service meant to serve everyone in a fair and equitable way.<sup>6</sup> As a broad government-run public service, costs grew rapidly: between 1950 and 1980, inflation-adjusted transit operating expenses rose 183 percent.<sup>7</sup> Meanwhile, ridership dropped by 50 percent during that time as the number of automobiles in operation tripled.<sup>8</sup> A range of public policies facilitated low-density land use patterns, making it difficult for public transit to serve those places.<sup>9</sup>

In the 1980's, the Reagan Administration developed policies to encourage contracting out transit operations, maintenance, and administration. The intent was to spur competition and prompt "public agencies to make their own in-house services more efficient and responsive to customer needs."<sup>10</sup> The federal Urban Mass Transportation Administration linked funding to private-sector activity and published reports supporting the concept of service contracting.<sup>11</sup> As federal spending on transit operations fell from 22 percent of agencies' budgets in 1980 to seven percent in 1984, many localities turned to contractors in hopes of reducing costs under tight budgets.<sup>12</sup> For their part, states such as New York, Texas, Colorado, and Connecticut passed legislation encouraging private-sector participation in public transit.<sup>13</sup>

The Americans with Disabilities Act (ADA) of 1990 was a landmark for civil rights, and had an important impact on transit contracting.<sup>14</sup> The ADA prohibits discrimination and ensures equal opportunity and access for persons with disabilities.<sup>15</sup> In order to comply with ADA requirements for complementary paratransit—which is intended to ensure that individuals whose disabilities prevent them from using a fixed route transit system have transportation available to them on the same basis as individuals using fixed route systems)—many transit agencies turned to private contracting to provide these services.

Paratransit, or demand responsive (DR), service is provided using vans and smaller-sized buses in response to requests from passengers. Rides are grouped together when possible, but this mode still incurs costs on a per trip (or per revenue mile or revenue hour) basis that are much higher than those for fixed route service. In 2022, the average cost per passenger mile for DR service was \$7.54, compared to fixed route bus service costs of about \$2.50.<sup>16</sup> (It is worth noting that DR service costs per passenger mile have decreased 21 percent since 2013, while fixed-route bus service costs have increased 92 percent, narrowing this differential.<sup>17</sup>)

DR service includes both the service required by the ADA, but also service open to the general public. Nationally, DR operations serve only one percent of all passenger trips (80 million); however, in 2022, 10.6 percent (\$5.7 billion) of all of the money spent on operating transit was spent on DR service, up from 8.9 percent in 2013.<sup>18</sup> Federal law places a cap on the fares that transit providers are able to impose on paratransit riders.<sup>19</sup>

Over the last decade, some transit agencies have turned to transportation network companies (TNCs) such as Uber and Lyft to fulfill their needs for paratransit, vanpool, and DR service. TNCs typically cannot provide all of an agency's DR service, as they usually are not able to accommodate non-ambulatory passengers or other passengers with special needs. (Two of the agencies interviewed for this report had contracts with TNCs to deliver services.) This report focuses solely on contracts with private transit operators, many of whom do not operate these types of services. While the best practices put forth in this report are likely applicable to contracts with TNCs, more research is needed on contracts with that business sector in order to affirm this assumption.

Among the 533 agencies that fully reported service data to the Federal Transit Administration (FTA) in 2022, only 210 (about 40 percent) do not contract any of their bus service.<sup>20</sup> The remaining 60 percent is nearly evenly split between those that contract all of their bus services (168 agencies) and those that contract only a portion (155 agencies). Among the agencies in the latter category, the share of their riders served by private providers is generally less than 10 percent.

First-time contracting can be an imposing and complex undertaking—especially for agencies with limited staff capacity. In this way, contracting enables agencies to access additional expertise and resources from the private sector that would not be available to conventional in-house operations.<sup>21</sup> This can be particularly useful when an agency is deploying new services. For example, all 18 new commuter rail services launched between 1980 and 2016 use private contractors for operations.<sup>22</sup> The Nashville Regional Transportation Authority has contracted out its commuter rail service since it began operation in 2006; along with insufficient internal expertise to directly manage transit operations, it also did not have facilities for storing and maintaining vehicles.<sup>23</sup>



New bus routes are also often contracted. For example, the Washington, D.C. Circulator was launched in 2005 to provide bus service to neighborhoods not previously well served by the region's rail network.<sup>24</sup> In 2016, Burlington, North Carolina launched its Link Transit network as a contracted service, rather than an in-house operation, because at that time the city did not have experience operating public transportation.<sup>25</sup> Others, like Capital Metro in Austin, Texas, evolved in stages from in-house service to private operation and maintenance contracts, while still retaining responsibility for planning, management and oversight.<sup>26</sup> Agencies such as SamTrans, Golden Gate Regional Transit, Marin Transit, San Diego Metropolitan Transit System (MTS), and Denver's Regional Transportation District (RTD) require that there are contractor provided services alongside their own "in house" services. Nassau County's Inter-County Express (NICE) was operated by the New York Metropolitan Transportation Authority (MTA) up until the county shifted to a private contractor a decade ago. The county recently renewed the contract and found that their rate hours are approximately 20 percent less than similar operating bus operations in the region.<sup>27</sup>

Strong federal labor laws exist to help regulate transit contracting and ensure proper protections for workers. Most notably, all mass transit systems that receive federal financial aid are subject to "13(c)" labor protection requirements (named for the section number in the Urban Mass Transit Act where the provision was found from 1966 to 1994).<sup>28</sup> This law is intended to protect the rights of incumbent workers and applies whether the agency is contracting or using in-house employees for service operations. Section 13(c) was first enacted in 1964, when most urban bus companies were still privately owned. Bus company employees usually had good benefits and strong union representation while public employees were rarely unionized.

The purpose of section 13(c) was therefore to protect the benefits, working conditions, and collective bargaining rights of the unionized employees as they transitioned into the then-comparatively hostile public sector.<sup>29</sup> The law applies equally to today's public-sector employees in cases where agencies may decide to contract out. Specifically, 13(c) requires all grants for federal mass transit funding assistance to include provisions protecting "the interests of employees affected by the assistance" that are determined by the U.S. Secretary of Labor to be "fair and equitable."

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

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

The U.S. Department of Labor has developed a standard protective arrangement for inclusion in mass transit grant agreements and has promulgated regulations explaining its procedures for assessing individual agreements to be negotiated between labor and transit agencies, or the private operator.<sup>30</sup> Public agencies are obligated to be in compliance with 13(c) regulations in the same manner as private contractors in order to preserve the rights of employees.

## Previously Identified Success Factors

While contracting models vary widely across the United States, and globally, there are clear commonalities that have led to successful private contracting relationships in transit. These three main lessons are derived from previous Eno work prior to the pandemic but are still relevant today.

### ***Government and the private sector need to partner to safeguard public interest***

Contracting presents a major strategic opportunity for public officials and transit agency leaders to provide safe, reliable, and cost-effective public transportation. While not automatic, when the public interest is prioritized in contracts, these outcomes are likely. This requires public-sector leaders to have a clear strategic vision and goals in mind and to recognize the potential opportunity to use contracting to improve cost efficiency, improve governance, increase service levels, and/or reform agency management. For many agencies, this is a particularly attractive offer considering potential and looming fiscal concerns. As previous examples repeatedly demonstrate, contracting can be a powerful means of improving agency management practices in general. For instance,

contracting can help gather expertise and resources from other locations to make informed operational decisions based on industry experience and best practices.

Competitive procurements and processes can maximize contracting's efficacy. Public agencies need to ensure that their requests for proposals (RFPs) are structured and written in the spirit of partnership in order to attract enough private contractors. This ensures competitiveness within the market for private transit operations. Agencies pursuing contracting need to understand their specific markets in order to attract sufficient competition to make contracting worthwhile.

### ***Clear contracts must align contractor and agency goals***

Many transit agencies use service contracting to yield major service improvements to benefit riders. Structurally, contracting enables agencies to focus their efforts on policy, funding, and other strategies to improve service and rider experience, rather than primarily managing the nuts and bolts of service operations.

The possibility of ensuring that those operational basics are well managed and the possibilities for service and rider experience enhanced through innovation can be strengthened through a solid mix of contracting incentives and contractual requirements clearly embedded within the contract. The most effective operating contracts thrive when the public sector clearly aligns service contract incentives with overall transportation goals by way of specific performance metrics tied to financial rewards and penalties during the RFP process.

Contracts tend to vary based on a diverse set of judgments that agencies must make according to their own interests—including how to define the specific roles and responsibilities of contractors relative to the agency itself, how to allocate financial risks, who will procure and own vehicle and infrastructural assets, and how long the contract should be. While agencies may wish to make many of these decisions unilaterally, agencies should also strive to strike a balance in their RFPs between being prescriptive and flexible. Such a balance helps to ensure clarity about the scope of services available for bidding, while allowing for proposals that may offer new or innovative services and strategies.

Public agencies must maintain a high threshold and commitment to transparency due to the stewardship of public funds. Working in partnership with the private sector simply extends that same responsibility to the contracting partner, albeit with public sector oversight. All parties need to ensure public funds are being used appropriately and it is incumbent on agencies to establish accountability mechanisms to track and report on contractor performance, both financially and operationally, in the contractual language.

## ***Symbiotic agency contractor relationships can improve operations and foster innovation***

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

A clear contract is an essential foundation for this relationship and ensures that everyone knows what is expected, but the contract’s execution should also be consistent and respectful. Agencies should strike a balance between what is reasonable, how strictly to enforce penalties, and when to work together to solve shared issues. If the agency is consistent in contract execution, they will be more likely to receive added predictability in the responses to their RFP process. Private contractors must price their proposals taking into account their perceived risk, so the agency administering the contract consistently provides contractors with predictability when pricing.

Contractors serve as an extension of the agency’s staff, and as transit operators, contractors will often be better positioned to identify on-the-ground needs and challenges as they arise. Private companies—especially those working in multiple places—can provide valuable insight into industry trends and best practices. Thus, agencies should build not just an operational but a strategic relationship with contractors. This will ensure that they are able to use these insights to inform agency planning and policy with respect to operations and beyond. Once a contracting relationship is relatively well established, agencies can benefit from adapting their own staffing to complement the skills provided by contractors and avoid staffing redundancies.

Recent literature on transit contracting continues to support these success factors. A 2023 report from the Transit Cooperative Research Program (TCRP) identified three strategies for a positive contracting experience: consistent agency and contractor interaction, adequate contractor oversight, and unambiguous performance measures and standards.<sup>31</sup> These strategies align with and reinforce Eno’s previous recommendations for fostering and ensuring symbiotic agency-contractor relationships via clear contracts and performance metrics.

## Post-COVID Challenges

While the key success factors identified prior to COVID-19 are largely still relevant, it is difficult to overstate its impact on public transit.

### *Recruiting and retaining workers*

The pandemic caused workforce shortages and hiring challenges across most sectors of the U.S. economy. In 2021, there was a record number of job openings and fewer workers to fill them, leaving more jobs than people looking for work in 42 states.<sup>32</sup> According to the Federal Reserve Bank of San Francisco, it was the most acute worker shortage since 1968, based on the vacancy-to-unemployment ratio.<sup>33</sup>

Throughout the United States, COVID-19 made hiring bus operators and other agency employees across all agencies more challenging for both directly operated and contracted service. Bus operators make up more than 60 percent of the public transit workforce and play a vital role in elements of service delivery, such as customer satisfaction, on-time performance, and reliability.<sup>34</sup>

But operator capacity problems have forced some agencies to cut service in response. The Chicago Transit Authority (CTA), which operates bus and heavy rail services in the city of Chicago and suburban Cook County was the second largest transit operator by ridership in the United States prior to the pandemic.<sup>35</sup> In February 2023, its two busiest rail lines ran only 72 percent and 67 percent of their weekday scheduled service, even after adjusted schedules were put in place with more attainable service levels for the number of operators they had.<sup>36</sup> These operator shortages have major impacts on the rider experience, where riders have reported waiting upwards of 30 minutes for trains on elevated platforms in cold winter temperatures. Data confirms these wait times, as the CTA reported in the period spanning May through October 2022, an average of 158 daily occurrences of double headways—when the time between trains is twice the scheduled frequency—and an average of 29 daily occurrences of triple headways—when the time between trains is three times the scheduled headway—across all its rail lines.<sup>37</sup>

The Washington Metropolitan Area Transit Authority (WMATA) also faced a shortage of train operators. In December 2022, Metro reported having 60 fewer operators than needed per day to run the number of trains it had scheduled.<sup>38</sup> However, WMATA workforce levels have since recovered, as the agency has been able to increase service on two occasions in 2023—reducing rail headways to three minutes in the core of the system (from 5 minutes in 2022<sup>39</sup>) at stations served by multiple lines.<sup>40 41</sup>

Workforce challenges affect more than just the largest agencies across the country. A survey conducted by the American Public Transportation Association (APTA) indicated that more than nine in 10 public transit agencies are having difficulty hiring new employees, most notably bus operators.<sup>42</sup> Seventy percent of transit agencies reported having to cut service or delay service increases due to operator shortages.<sup>43</sup> While there has been research to help inform bus operator recruitment and retention, post-pandemic workforce constraints continue to affect the transit industry. When public agencies partner with the private sector, they may be able to increase the pool of employment talent and take advantage of private expertise in recruitment and hiring.

### *Changes in ridership and travel patterns*

Historically, transit services (especially heavy rail and commuter rail) in much of the United States focused on peak hours and catered to commuters working regular weekday schedules. The COVID-19 pandemic upended those patterns and transit ridership in early 2024 is only about 70 percent of pre-pandemic levels.<sup>44</sup> These trends forced many transit agencies to reassess this approach to service, and to reorient toward all-day service that meets the needs of essential workers.

Ridership changes have also severely disrupted farebox recovery rates and caused significant transit budget shortfalls—leading many transit agencies to a so-called "fiscal cliff."<sup>45</sup> Some are facing existential challenges and being forced to adapt to the new realities of travel patterns in their communities and regions. However, the impact of the pandemic on transit agencies has not been uniform. Bus ridership seems to have recovered more rapidly and more fully than rail ridership. Some regions, such as Tampa and Tucson—which are dominated by bus service—saw ridership recover and exceed pre-pandemic levels by the end of 2022.<sup>46</sup> Agencies can work together with contractors to bring cost savings and efficiencies to transit services and help mitigate their fiscal cliff.

Travel patterns no longer are dominated by the suburb-to-downtown office commute. Transit agencies have seen travel demand change, spreading out more evenly throughout the day. Some agencies have gone through bus network redesigns to better serve these changing ridership patterns.<sup>47</sup> Heavy rail services are offering less rush hour 'peak' service, instead having steady frequencies throughout the day and on weekends.<sup>48</sup> Commuter rail services are striving to shift from their typical pattern of trains into the downtown core in the morning and trains out to the suburbs in the evening, to more of a regional rail model, with at least hourly service in both directions for most of the day.<sup>49</sup>

Transit agencies need to explore innovative ways to provide service and add efficiencies. The private sector is particularly skilled in supporting clients with new technology, advanced service planning, and other innovations to support the process in collaboration with the agencies.

### *Revenue drops due to ridership declines*

Most transit agencies across the United States rely on fare revenues to cover some of their operating costs. In 2019 (the last year National Transit Database (NTD) information was unaffected by changing pandemic ridership trends), the large transit providers in the San Francisco Bay Area, New York, Boston, and Chicago all relied on fare revenues to cover more than 40 percent of their operating budgets (see Table 1.)

**Table 1: U.S. Transit Agencies with High Pre-Pandemic Farebox Recovery (>40%)**

Transit Agency	2019 Agency Farebox (\$ Millions)	2019 Agency Operating Expenses (\$ Millions)	2019 Farebox Recovery Ratio (%)
Hudson Transit Lines, Inc. (Short Line)	46	54	85%
Peninsula Corridor Joint Powers Board (Caltrain)	103	140	73%
San Francisco Bay Area Rapid Transit District (BART)	483	673	72%
Metro-North Commuter Railroad Company, (MTA Metro-North Railroad)	758	1,265	60%
Virginia Railway Express (VRE)	42	77	54%
Potomac and Rappahannock Transportation Commission	21	40	54%
MTA New York City Transit	4,608	8,755	53%
Alaska Railroad Corporation	26	51	51%
MTA Long Island Rail Road (LIRR)	769	1,507	51%
Port Authority Transit Corporation (PATCO)	27	58	47%
Northeast Illinois Regional Commuter Railroad Corporation, (Metra)	366	782	47%
Massachusetts Bay Transportation Authority (MBTA)	672	1,506	45%
Port Authority Trans-Hudson Corporation (PATH)	207	465	45%
Northern Indiana Commuter Transportation District (South Shore Line)	23	52	43%
New Jersey Transit Corporation	980	2,265	43%
Chicago Transit Authority (CTA)	589	1,448	41%

*Source: The National Transit Database, 2022 Time Series*

By mode, heavy rail, commuter rail, and commuter bus had the highest farebox recovery rates (outside ferry boats) pre-pandemic, as shown in Table 2. Note that this data excludes the New York MTA as transit ridership in the New York region is significantly



higher than other regions across the country. The farebox recoveries by mode in Table 2 are comparable to national averages of all urban agencies.

**Table 2: Farebox Recovery of Top 25 U.S. Agencies (by 2019 farebox recovery), by Mode (Excludes New York MTA)**

Transit Mode	2019 Farebox (\$ Millions)	2019 Agency Operating Expenses (\$ Million)	2019 Farebox Recovery Ratio (%)
Ferry Boat	25	35	72%
Heavy Rail	1,993	3,951	50%
Commuter Rail	1,406	2,800	50%
Commuter Bus	64	170	38%
Bus Rapid Transit	32	103	32%
Streetcar	61	197	31%
Intracity Bus	2,111	9,433	22%
Light Rail	381	1,747	22%
Monorail	5	35	15%
Demand Response	111	1,581	7%

*\*Similar modes were combined to simplify analysis. In most cases, modes that made up a relatively small share of all modes, i.e. trolley busses and cable cars, were combined with bus and streetcar services, respectively.*

*Source: National Transit Database, 2022 Time Series*

In March 2020, ridership declined significantly at all urban transit agencies across the country as stay at home orders kept people from traveling. As ridership declined, so too did fare revenues. Agencies that were more fare reliant needed to rely heavily on three federal relief laws that supplied almost \$70 billion of funds.<sup>50</sup>

The importance of these relief bills for the continued operation of transit agencies cannot be understated. Pre-pandemic, most U.S. transit agencies did not receive operating funding from the federal government, as most federal transit dollars are reserved for capital expenses. Without the quick receipt of these relief funds, agencies would have had to lay off thousands of workers that would've resulted in detrimental service cuts, an unprecedented loss of institutional knowledge and experience, and would have created a hole in transit service that would have been almost impossible to rebound from.

Agencies can work together with contractors to bring cost savings and efficiencies to transit services and help mitigate their fiscal cliff. In a time when agencies are considering cutting service to reduce costs, it can be worth putting that service out to bid first, to see if a private operator can operate it more efficiently instead of that service not operating at all.

### 3. Case Studies

Given the recent impacts on transit, Eno conducted three detailed case studies on agencies that privately contract out transit service to understand how their transit service and contracts have or have not changed:

- Greater Attleboro Taunton Regional Transit Authority
- Regional Transportation Commission of Southern Nevada
- Denver Regional Transportation District

These agencies were selected because of their varied size, modal shares, and varied contracting history. The case studies are drawn from telephone interviews with officials at these agencies. Eno independently confirmed the data and assertions therein.

#### Greater Attleboro Taunton Regional Transit Authority (GATRA)

The Greater Attleboro Taunton Regional Transit Authority (GATRA) is a regional transit provider that serves 29 communities in southern Massachusetts. GATRA was created—alongside 14 other regional transit authorities—by Massachusetts General Laws Chapter 161B, which stated that they cannot operate service directly, and instead must contract with private operators for the provision of service.

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**"Nothing in this chapter shall be deemed to authorize or permit any authority established by this chapter to directly operate any mass transportation service" – Mass. Gen. Laws ch. 161B § 25 (1974).**

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GATRA service includes fixed-route, dial-a-ride, and microtransit services. Until February 2023, GATRA used three separate contractors for its different services, but recently consolidated the service to use a single contractor for its services.

#### Pandemic Impacts

In 2019, GATRA's annual ridership was 1.034 million, 317,000 of which were on demand response service. By 2022, only 58 percent of its ridership had returned. Pre-pandemic, many of its riders used fixed-route services to connect with commuter rail services provided by the Massachusetts Bay Transit Authority (MBTA) to Boston. While that ridership rebounded on days in the middle of the week, ridership for commuters

remains low on weekends, Mondays, and Fridays, contributing to its lagging ridership rebound.

**Table 3: Select GATRA Operating Statistics**

	2019	2022
Total Annual Ridership (UPT)	1,034,072	597,271
Demand Responsive Ridership	317,392	213,896
Operating Expenses	\$16,442,786	\$18,159,824
Capital Expenses	\$4,607,597	\$7,471,981

*Source: NTD Transit Agency Profiles (2019, 2022)*

GATRA identified its transit fiscal cliff—its gap in its operating revenues largely due to depressed farebox revenues tied to lower ridership—to be about \$2 million, or about 13 percent of its operating budget. GATRA eliminated fares at the onset of the pandemic at the instruction of the state, but reimplemented fares as soon as they were allowed. The private operator did not have a role in fare policy, but GATRA officials noted that good relationships between their contractors and agency staff existed before the pandemic and continue post-pandemic. This has contributed to successful outcomes amidst the tumultuous circumstances of the pandemic.

GATRA also benefitted from the expertise of their transit contractor amidst this uncertainty. As ridership changed, GATRA did not have the in-house expertise to fully understand where and how demand had shifted so they could make responsible service changes. The contractor also helped the agency recognize the trickle-down effects of changes to fixed routes on other parts of the network. The contractor brought in someone from their team deeply involved in the service operations (referred to as the "boots on the ground") to better understand those impacts and inform routing and service changes, leading to better outcomes for riders.

Workforce challenges in southern Massachusetts are especially serious, so GATRA and its private contractor worked together on recruitment. The contractor realized they were not competing for workers with other small regions in the state but, rather, with major metropolitan areas in Boston and Providence because of those regions' larger size, better benefits, and greater pay. GATRA pooled resources with other small agencies in the state to conduct advertising and coordinate hiring efforts to more effectively fill vacant positions.

# Regional Transportation Commission of Southern Nevada (RTC)

The Regional Transportation Commission of Southern Nevada (RTC) has administered bus service in metropolitan Las Vegas since 1992. RTC is the sole provider in the region, with a population of just over 2 million people in its 280 square mile service area. Pre-pandemic, RTC was the 24<sup>th</sup> largest transit agency in the United States by ridership. RTC privately contracts out all its operations, which consists of fixed-route bus service, microtransit, and paratransit services. Its fixed-route bus service contract is the largest single transit contract in the United States at \$674 million.<sup>51</sup>

## Pandemic Impacts

In 2019, RTC had an annual ridership of 65.8 million, about 2 percent of which was on DR service. RTC services and ridership are unlike those at many other large transit agencies and in 2022, 64 percent of its riders had returned to use of its services. RTC serves fewer traditional commute trips system-wide and instead sees higher patronage from lower income riders who find car ownership cost prohibitive, as well as large numbers of tourists along Las Vegas Boulevard in Paradise, Nevada, the area commonly referred to as ‘The Las Vegas Strip.’<sup>52</sup> Because of this unique ridership profile, RTC saw their ridership rebound more quickly than other agencies its size.

**Table 4: Select RTC Operating Statistics**

	2019	2022
Total Annual Ridership (UPT)	65,821,192	42,203,564
Demand Responsive Ridership	1,347,611	1,250,397
Operating Expenses	\$237,870,370	\$249,423,761
Capital Expenses	\$68,570,601	\$22,435,991

*Source: NTD Transit Agency Profiles (2019, 2022)*

Over the last two decades, RTC has had both combined and individual contracts for all its services. When they were combined, they first had a contract term of 10 years, followed by a second contract with a term of 12 years. This contract facilitated longer-term investment in the region because of the certainty those terms brought. As of 2022, RTC split the contracts between fixed route and paratransit and took a shorter-term approach with four-year contracts each due to the post-pandemic uncertainty of sustained public funding for transit.

RTC has been intentional about establishing partnerships with its contractors to better integrate service. The agency works with their contractors to make sure that they are well aligned and coordinated with the services that the others are providing. RTC relies on good relationships, which have benefitted both the contractor and the agency.

With these intentional relationships comes trust that RTC built into its contract. While most contracts include standard accountability measures in the form of liquidated damages (LDs) when key performance indicators (KPIs) are not met, excessive LDs make contracts more expensive because the contractor must build in increased risk cost. In order to ensure a successful partnership, RTC has chosen to limit the number of LDs in their contracts and focused on the ones tied to KPIs that most closely impact riders, such as missed trips.

RTC's private contractors introduced them to new technologies and companies that offer innovative services more quickly, including Swiftly (a transit data software), Safety Vision (a transit video surveillance company), and UZURV (an adaptive transit network company). The contractors bring their experience with these technologies and companies and help RTC be on the cutting edge of transit technology.

## Regional Transportation District (RTD) Denver

Denver's Regional Transportation District offers a variety of services in the region, including light rail, fixed-route bus service, and demand response service. Since 1969, RTD has operated fixed-route bus service over a 2,342-square-mile service area, encompassing a population of 2.92 million people. In 1994, the first light rail line opened in Denver, and has since expanded to a total of 218 track miles across the system.

Unlike GATRA and RTC, RTD does not contract out all its service and 52 percent of its fixed-route bus service is operated in-house. RTD has four different contracts for the remaining part of its fixed-route service, with contract terms that are staggered to ensure stability. These contracts are typically three years, with the option to extend a fourth year. Each contract bundle is awarded separately following an independent competitive bidding process.

## Pandemic Impacts

In 2019, RTD’s annual ridership was 105 million and by 2022, 58 percent of its ridership had returned. Surprisingly, both its light rail and commuter rail services rebounded a few percentage points more than its bus ridership. In most other metro regions with both rail and bus service, rail service modes have lagged significantly behind bus service recovery due to their typical reliance on office commuters.

**Table 5: Select RTD Operating Statistics**

	2019	2022
Total Annual Ridership (UPT)	105,207,478	61,284,680
Light Rail Ridership	24,585,300	13,604,641
Commuter Rail Ridership	9,711,377	7,935,811
Fixed-Route Bus Ridership	69,731,784	39,006,884
Demand Response Ridership (UPT)	1,179,015	737,344
Operating Expenses	\$870,018,988	\$664,481,002
Capital Expenses	\$349,764,075	\$25,292,546

*Source: NTD Transit Agency Profiles (2019, 2022)*

Since the pandemic, RTD has seen the most change in its micromobility services. As of 2023, four vendors operate these services for RTD. The agency used a request for qualifications (RFQ) as opposed to a request for proposals (RFP) in order to allow the agency to not just seek the lowest price, but to ensure the potential vendors were actually capable of providing the best service and to do so in a way that aligned with the agency’s priorities for equity and access.

To adapt to changing market conditions, RTD also relied on its relationships with its contractors which it had built-up through mutually beneficial agreements. For example, RTD negotiated an extra board rate, so their contractors could keep their operations staff employed during the pandemic. This insulated RTD from the workforce challenges that many other agencies saw at that time.

RTD maintains open communication lines with all of its vendors, a critical element of the success of their contracts throughout the pandemic. Notably, RTD has consistent meetings with all the contractors in the same room. This encourages contractor collaboration and cohesion, leading to better outcomes for transit riders who care more about getting from A to B quickly and reliably than they do about which contractor’s service they happen to be riding.

## 4. Success Factors for Contracting in a Post-Pandemic Environment

The case studies and current deliberations about the pandemic's impacts on transit reveal several clear success factors for private contracting.

But one thing is most evident: contracting alone is not a panacea. In many instances, private transit contracting is implemented with the goal of improving transit outcomes and reducing costs. Extensive research on the topic and the three new case studies indicated that simply contracting out transit service will not inherently lead to these outcomes. Ensuring that contracts are set up to be clear guidelines for a collaborative working relationship is critical to achieving success. The best outcomes are achieved when contracts are customized to the mode of service they are providing. Intracity bus service is different from commuter bus service which is different from light rail service, and they require different performance requirements and working environments.

This report's case studies underscore the opportunity and need for customized contracting approaches for different modes and changing markets. In Denver, the RTD uses different contracts for its fixed-route bus, light rail, and DR services. RTC and GATRA similarly used different contracts for their fixed-route bus and DR services to better serve the needs of each service's riders.

The case studies and recent literature also reveal several success factors for transit agencies and private firms as they consider contracting in this new, post-COVID environment.

***Public agencies should be tightly aligned and collaborate with the contractor on workforce issues to ensure good transit service and outcomes***

While in most instances the private transit operator is responsible for the workers that helps operate their service—including bus operators and mechanics—the public agencies that administer the contracts and the constituencies they serve are not insulated from general workforce challenges. If a transit operator struggles to consistently operate the service level required of them because they are understaffed, transit riders experience less reliable and less frequent service. It is essential to the riding public that public agencies and private operators work together to relieve these workforce challenges.

GATRA's strategy to partner with other regional transit authorities in Massachusetts to fund radio advertising for open operator and mechanic positions is a prime example of



how the public and private partners work together to solve difficult problems for mutual benefit. Even though the workforce is ultimately the responsibility of their private contractor, GATRA recognized that when the system is fully staffed, the experience of their riders improves. The advertising campaign helped hire operators in a challenging environment, enabling GATRA to compete with larger agencies in the state. As noted earlier, Denver RTD officials noted that they actively worked with the contractor to renegotiate an extra board rate that would be passed through to help retain staff for their shared system.

### *Contracts should allow the private contractor the flexibility to innovate*

In a constantly changing service environment, innovation can lead to better service outcomes. Transit has always been a challenging and dynamic business, and the pandemic has further cemented this, but a symbiotic agency-contractor relationship can improve operations and foster innovation. For example, Stockholm transit officials indicated that contractor employees were able to offer valuable insight into designing transit networks that would be as responsive as possible to meet ridership demand.<sup>53</sup> To address fare evasion challenges, the contractor for Nassau County, New York noted they are applying lessons learned across the country.<sup>54</sup>

One example of added innovation is working with private transit contractors who often have shared resources for their contracts specialized in scheduling, planning, route design, and overall service optimization. Smaller transit agencies often do not have this staff, technology, or expertise. If the contract allows the contracted operator the flexibility to share and implement these optimizations, riders, the public agency, and the contractor can all benefit. This flexibility also comes in the relationships between the private contractor and the public agency. If these relationships are positive, with frequent touchpoints, the operator can more easily come to the public agency with recommendations for how to improve the service.

Innovation can also come in the form of new technology. Private operators are often better situated to test new technologies than public agencies (especially smaller ones) because they can be nimbler when procuring and implementing these solutions. When a public agency goes through a procurement, whether that be for hardware or software, the agency is 'married' to it for that technology's useful life. Private operators can procure a technology with the intent to use it for a specific contract, but if they decide that it can be better used elsewhere, they can more easily reposition it for use for other contracts. Additionally, a private operator can take the knowledge gained from the procurement of a new technology to better inform future procurement decisions across all its contracts. In Las Vegas, RTC found that their private contractors were able to

introduce new technology quickly, keeping them at the cutting edge of transit innovation, which they would not have been able to deploy as quickly with directly operated service.

### *Contracts should foster and encourage positive working relationships between the private firms and the public transit agency*

In conversations with both transit agencies and private contractors, the benefits of positive working relationships are clear. Anecdotally, agencies that collaborate closely with their private contractors appear to be adept to quickly reacting to and addressing challenges, such as workforce shortages or severe ridership changes post-COVID — ultimately leading to better outcomes for transit riders.

There are both tangible contract elements and less-tangible working practices that can foster these positive relationships. RTC limits its use of LDs in its contracts and allows its relationships to take the lead in influencing the contractual relationship. RTC's relationships with its contractors allows them to best support the contractor's conversations with labor, ultimately preventing possible service disruptions and allowing for better outcomes for all parties. Good management of the contracts by the public agency fosters these relationships through better communication. While not typically spelled out in a contract, frequent meetings with contractors allow for increased synergy in service delivery, leading to better outcomes for riders.

### *Contract lengths should be right-sized to agency needs and contracting history*

While there is no consensus on the perfect time frame of a private transit contract, there are many factors that can help inform contract length to set up both the transit agency and the private contractor for success. Contract lengths should be considered in relation to what the agency is trying to accomplish. They should not be so long that they do not allow for natural competition between contractors that incentivizes better service and pricing or not account for changes to market conditions. Contracts should also not be too short that they do not act as a disincentive to a contractor from financially investing in the region with the contracting agency.

Past Eno research found that Vancouver, British Columbia's TransLink contract lacked flexibility due to the long length of its public private partnership.<sup>55</sup> In Denver, RTD feels similarly about its design-build-operate contracts used for its light rail services. GATRA

and Las Vegas RTC use shorter-term contracts and appreciate the flexibility that this gives them.

For transit agencies that are just beginning to contract transit service, shorter contracts between three and five years with option years that can be mutually negotiated may be best if they want to prioritize flexibility to explore different contractual agreements and avoid being ‘stuck’ with a contract that does not work for them. This also makes sense for the private operator to account for changing market conditions. The past five years are a clear example of a full upheaval of the assumed marketing conditions assumed prior to COVID.

For agencies looking for a longer-term relationship with incentives for contractors to invest and share risks and rewards, a longer-term contract may be more appropriate. Another time where longer contracts may make more sense are those where there are requirements for capital investments such as facility or vehicle purchases as part of the procurement process. The same goes for transit agencies that already have experience contracting service: agency goals and objectives need to be aligned with the appropriate contract length.

## **5. Conclusion**

Private contracting has been used in the United States and around the world for decades to deliver high-quality, innovative and cost-effective transit services on behalf of government agencies. Contracting can lead to desirable service outcomes for riders, but these outcomes are facilitated by intentional collaboration and contractual agreements between the private contractor and the public entity. In a post-COVID transit environment, private contracting continues to provide options for successful outcomes, especially if certain best practices are followed. While contracting is not the only means available to help address the transit challenges of today, it can be a powerful one.

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