



59th UITP World Congress

Boosting public transport: ACTION!

Dubai, 10-14 April 2011

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Horses for Courses: Pros and Cons of various service provision models

1. BIOGRAPHICAL NOTE

Chris Lowe is Executive Director of the Bus Association of Victoria, a position he has held since July 2008. Prior to joining BusVic, he was Chief Operating Officer of the Franchise Council of Australia. Chris has an M.B.A. in the Management of Change and is a Doctoral Candidate in Organisational Change in Member Based Organisations. BusVic is the industry representative body for Victoria's 600 bus and coach operators and its primary role is to negotiate contracts on behalf of Industry and provide legal, industrial, contractual and commercial assistance to its membership and provide them with products and services like bus inspections, spare parts, finance brokering, insurance, training and education solutions and consulting services to the State. Chris is a Director of MetLink, Victoria's public transport system's marketing entity and Victoria's Public Transport Ombudsman.

2. ABSTRACT

In his presentation, Chris will outline the nature of the Victorian bus and coach industry and the underpinning rationale of its approach to negotiating performance based contracts with the State in a trusting partnership setting and how it has delivered some enviable outcomes. After outlining the historical imperative pursuant to the Victorian bus industry, this presentation will outline the core tenets of some academic papers which saw Industry and State adhere to during the negotiation. This presentation will also detail the actual negotiation process taken for the State's procurement of some bus services in Victoria, and then present some benefits and some modelling.



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3. FULL TEXT OF PRESENTATION

SLIDE 1. Good morning Ladies and Gentlemen and thank you Mr Chair for the introduction.

SLIDE 2. In my presentation today I will outline the rationale that underpins how the State of Victoria has recently procured some of its bus services, that being by negotiation, not tendering. I'll outline the historical imperative which is critical to understanding this approach. I'll then outline the core tenets of two Papers, one by Prof John Stanley (who is also presenting at this conference) and the other by Professors Hensher and Stanley of Sydney University which provides a sound academic basis for negotiation as a credible alternative to competitive tendering. I'll then detail the actual process taken for negotiating performance based contract, which is what we are often asked about, and then I'll outline some of the benefits and some modelling.

SLIDE 3. But first to put this procurement process into some context, here is the scope of what will be an 8 year re-contracting project which will finish this June. The metropolitan route bus service negotiations took place between 2003 and 2008 with contracts commencing on 1st July 2008. The Victorian school bus contract negotiations were held between 2008 and 2009 and contracts commenced on 1st January 2010. The regional (or country) route bus service negotiations commenced in 2009 and are just about finished – and the new contracts should commence 1st July 2011. Finally, the special school bus contract negotiations (bus services to transport children with disabilities to and from school) also commenced in 2010 – these negotiations have been completed and the contracts will commence 1st July 2011. It is envisaged that all future contract negotiations won't take 8 years, rather a quarter of that, now we have a revered contract template.

SLIDE 4. Some historical context for you now. In Australia, the private sector has a strong presence in the provision of public transport services. New South Wales, South Australia, Western Australia and Queensland all have private bus operators contracted to the State; some States also have State owned bus operations.

In Victoria, the metropolitan train and tram operations are franchised to private operators. The Victorian bus industry with Government contracts is largely made up of two sectors: metropolitan and country route operators with asserted 'grandfather' rights – franchise like contracted exclusivity provisions; and school bus operators – mostly urban and country services that commenced at the end of WWII subsequently proliferated as urban sprawl and regional centres enlarge. Now, school bus services are being rationalised in some country centres due to demographic shift and because of the economic and social benefits associated with route bus services.

SLIDE 5 – It is important to note that most route bus services were initiated by private operators in Victoria long before the State starting regulating them. For many years, operators wore all the fare box and operational risk. After the State started regulating the Services for some time, the issue of ownership was tested in court in the 1990's. A way forward was an even handed one: that the State does not legally recognise 'grandfather' rights and the operators don't say they own the service. Continuation of this paradigm of mutual respect and working in a trusting partnership is the central theme of this Paper.



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SLIDE 6. In 2008, Professors Stanley and Hensher from Sydney University penned 'Contracting Regimes for Bus Services: What have we learnt after 20 years'. This paper draws on the learning's from the Thredbo Conference Series, a biennial conference established to review progress, problems, and achievements and suggest directions for improvement. This Paper has three main tenets: the first entitled The Case for Negotiation. This outlines several authorities' disappointment with competitive tendering and these authorities are now seeking more relationship based approaches with operators. It discusses several cases where the savings from competitive tendering diminish beyond first round tenders and the Paper suggests moving to Negotiated Performance Based Contracts reduces transaction costs and facilitates trust between regulator and operator and, builds patronage. In contrast to competitive tendering, which is framed to determine the value of a product or service, negotiation is designed to create the value of product or service.

The second tenet of Hensher and Stanley's Papers show how trust is fundamental, it reflects on the shortage of skilled personnel, how the State & operators should be focused on achieving common goals (rather than being focused on each other), have agreed & shared governance principles and most importantly, it asserts performance benchmarking will ensure operator performance is efficient and effective, that there must be an independent open book approach to costs, that a probity auditor be appointed and that the contracts be disclosed publicly.

The third tenet of Hensher and Stanley's Papers suggest trusting partnerships provide an opportunity for State and Operator to draw on their expertise to co-operatively design PT system that will maximise value for money for the community. Whilst ultimate responsibility is with the State, operators can add significant local value.

SLIDE 7. So how is the negotiation done? First of all, the State seeks multiple inter-governmental approvals to procure such a significant scope of services without going to public tender. This is a fundamental hurdle for both parties. Being able to demonstrate, at the front end of this transaction, the virtues of negotiating with the local industry via an industry representative is approved both by bureaucrats and political office bearers.

The Industry Representative body which I lead does a lot of research and education of bureaucrat and political office bearers on the strengths of negotiation and shortcomings of tendering. There is a lot of utility, in the economic sense, for a Government to negotiate with one party representing the collective, rather than each of the 600 operators. Once these approvals are obtained, we then agree on the rules of engagement: who pays for whose costs, the frequency of the negotiation meetings, which resource on each team is responsible for the different types of issues. For instance, on our negotiation team, I have one commercial advisor, an operator advocate, an academic, and a legal adviser, and myself as the generalist overseer. We find having specialists on board to deal with each issue through a commercial, academic, operational and legal perspective sees us well placed.



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SLIDE 8. We then agree on the modelling. Fortunately, bus costs aren't rocket science so we break them down into operating expenses, capital expenses and margin. We also agree upon KPI's (or key performance indicators) that are threefold: a quality performance regime; an operating performance regime and a patronage incentive. It's important to note a marginal cost is also agreed upon and all new services are contracted at this marginal cost.

SLIDE 9. By far the largest part of the exercise is the cost validation and aggregation process. An independent firm goes into every operator's depots or offices and quantifies the value of each cost incurred by the operator to deliver the service. This is a rigorous process that involves open book accounting, it assures the State of transparency, accountability and importantly, demonstrates efficiency. All the costs are benchmarked, aggregated and consolidated into an 'industry bid'. Once the bid is presented to the State, there are 3 possibilities: the offer is accepted and new contract offered; or the State requests justification for increase; or the offer rejected and negotiation continues.

SLIDE 10. Whilst all the commercialities are being scrutinised, all the drafting that is done for the service contracts, deeds and associated correspondence, such as communiqués to operators (the industry representative body will assist the State out of courtesy and check the letter so all operators can understand it). The Government will then send out all the contract offers about 3 months prior to their commencement. The industry representative body then holds a series of education sessions so operators can become aware of their contractual obligations. Then the contracts commence. As the industry representative body, operators will typically ring us before they ring the government if they have a query.

SLIDE 11. It's important to note that since this trusting partnership was pursued, there have been some significant outcomes. Firstly, there are shared and agreed goals. Further, patronage has grown 28% over 4 years and service kilometres have grown 26%, also over four years. Public transport in Victoria appears to be enjoying a renaissance, mainly due to the rising price of fuel, urban congestion and patrons wanting to do their bit for the environment.

SLIDE 12. In conclusion Ladies and Gentlemen, the process taken in Victoria over the past 8 years clearly show that negotiating performance based contracts equals value for money and is a method of procurement that is gaining momentum worldwide. Knowing our historical imperative and the local operating environment, it's a method of procurement that has proven to be a win for the operator and a win for the State. We suggest that in a setting of a trusting partnership, an even handed contract is likely to eventuate, as are improved service outcomes. Lastly, the 2 papers I have referenced in the underpinning rationale section of my presentation, are available from our website or I can send them to anyone who may want them.

Thank you very much.