

**Statement of
Jim Seal
Consultant to FTA
Before the
Senate Banking Committee
Hearing on the Reauthorization of
Federal Transit Administration Programs
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Achieving Better Outcomes – Incentive-Based Performance

There should be broad support for SAFETEA’s explicit recognition that the mission of government should be congestion mitigation and relief i.e. maximizing mobility with available funds. The proposed new performance-based incentive program, which could be greatly expanded by Congress, is an initial first step in realizing the President’s call for a more customer-oriented and outcome based government.

Congress has understood the importance of maximizing mobility (§5301) over several decades by embedding “efficiency” as one of its guiding principles. In fact, Congress found that the welfare of an urbanized society depended on an “efficient” and “economical” transportation systems in and between urban areas [§5301 (3)].

Regrettably, local agencies do not pay enough attention to improving efficiency. This has resulted in decreased mobility. For example, in Santa Clara County 29% of bus service will be cut by next January in comparison to service levels two years ago.

When competition is injected into the delivery of public transit as it has in some urban areas across the country, but more extensively throughout the world, private transportation providers have assisted transit agencies to achieve efficient customer-oriented service as called for by the President. All of these initiatives are consistent with several federal statutes designed to ensure that private enterprise is involved “to the

maximum extent feasible” (§5306).

Consistent with this goal, SAFETEA preserves and reinforces existing private enterprise provisions in one important way; SAFETEA does not discriminate against private transportation providers when ensuring that MPOs are in compliance with federal laws. Specifically, SAFETEA does not preempt the Secretary from making a finding of MPO compliance with private enterprise participation requirements during the Secretary’s certification process (§5203 Metropolitan transportation planning).

Additionally, including private sector entities in §5305 as a grant recipient in a new planning program for the development of transportation plans and programs to plan, engineer, design, and evaluate a public transportation project will result in the creation of more cost-effective solutions that increase mobility and reduce air pollution.

The new Planning Capacity Building Program in §5305, allowing the private sector to be involved in innovative practices and enhancements in transportation planning, has the potential to facilitate more public/private cooperative ventures at the early planning stage of project development.

Reinforcing these private enterprise involvement requirements in SAFETEA and expanding private sector involvement in the planning process as stated above are consistent with the President’s recent federal procurement announcement expanding competition in delivering federal services by, in part, broadening the definition of what is inherently the work of the private sector.

Pursuant to this new federal policy and to fully achieve the high performance goals of SAFETEA local barriers to the provision of new service by the private sector should be

eliminated as a condition of federal funding.

Private transportation carriers provide fixed route, handicapped-accessible and charter services nationwide in urban and rural areas and therefore private sector participation in federally funded activities should be greatly expanded.

To allow federally funded agencies to provide new service presently operated by the private sector or potentially operated by private enterprise in the future whether these services are subsidized or not or whether these services are public transit or not would be inconsistent with existing federal statutes, regulation and Administration policy.

Competition vs. Monopoly – A Case for Enforcing Private Sector Participation

California provides an excellent example of two different models of transit delivery. In Santa Clara County (Silicon Valley) the VTA has a monopoly of over 95% of fixed route transit service while in San Diego County a substantial portion of transit service is subjected to competition. It should be noted that while the Silicon Valley is in the forefront of competition in high-tech and software development, its transit system embraces an anti-competitive model. The advantages of transit competition were highlighted in a recent San Jose Mercury News Op-Ed article authored by the San Jose Chamber of Commerce (attached below).

San Diego County in comparison to Santa Clara County

In San Diego County over 36% of bus service is subjected to competition totaling \$44 million annually and from 1979 to 2001 San Diego's inflation adjusted costs to produce an hour of service have decreased by 34% while over the same period inflation adjusted costs at VTA have increased 18%.

Other performance indicators under a competitive vs. monopoly environment have produced the following results from 1979 to 2001:

- Bus and light rail cost per passenger mile have decreased an inflation adjusted 32% in San Diego while bus and light rail cost per passenger mile at VTA increased 13%.
- From 1979 when gross budget levels were roughly similar, total inflation adjusted bus expenditures increased 36% at San Diego in comparison to total inflation adjusted bus expenditures increasing 150% at VTA.
- In 2001 San Diego's total bus budget was just under \$100 million while VTA's bus budget was slightly under \$200 million – a \$100 million difference in favor of competition.
- In 2001 total bus boardings in San Diego were approximately 10 million higher than VTA.
- In 2001 bus operating ratio in San Diego was 42% in comparison to 13% at VTA.
- In 2001 light rail operating ratio in San Diego was 58% in comparison to 12% at VTA. Both systems operating budgets are of similar size.

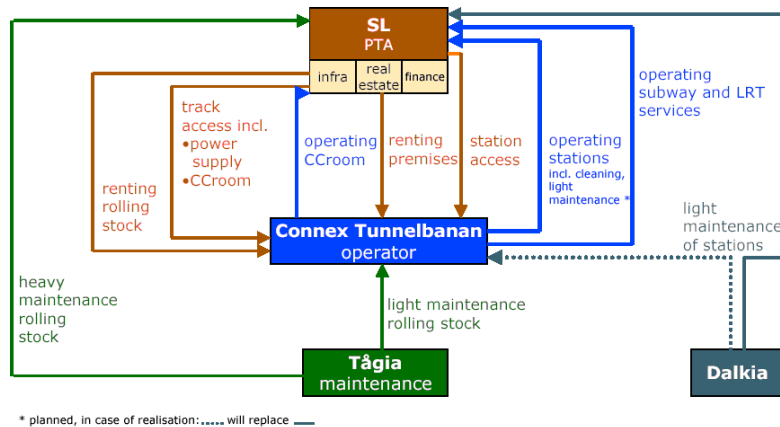
In 2001 San Diego's contract services cost per revenue mile (\$3.76) was 42% of VTA's in-house cost per revenue mile (\$8.89). Labor costs as a percent of total operating budgets represent approximately 70% for both entities. Even when adjusting for differences in "mean hourly" wage estimates between San Diego and San Jose (US

Department of Labor Bureau of Labor Statistics 2001 State Occupational Employment and Wage Estimates – California), San Diego's unit cost of \$4.12 per revenue hour is still less than 50% of VTA's unit cost per revenue mile.

There are several other successful competitive models in California notably Foothill Transit in the San Gabriel Valley of Los Angeles County. From 1986 to 2001 Foothill Transit increased service hours over 100% and boarding over 120% over what would have been provided under in-house operation of the dominate regional operator, LACMTA.

Internationally, center-left and center right countries in Europe have embraced competition much more extensively then in the USA. For example:

- In London, 6,500 buses – almost three times LACMTA and double NYCMTA are competitively tendered.
- Five LRT systems in greater London are competitively tendered.
- The Stockholm, Sweden transit system comprising metro rail, light rail, bus and commuter rail is under a competitive tender.



There are no consequences if a non-competitive transit system fails to control costs or fails to meet the highest standards of service. Services that are competitively procured

must meet numerous service quality standards and performance failures can lead to liquidated damages including cancellation of a contract.

Unnecessary Expansion of Special Labor Protection Provisions §5333(b)

The Job Access and Reverse Commute (JARC), through a more predictable funding source, and the President's New Freedom Initiative have the potential to provide more mobility for those that need access to jobs and serve those that go beyond ADA service requirements.

However, these programs should not be subjected to outdated labor protection provisions ostensibly to protect collective bargaining rights. State laws and the National Labor Relations Act now provide full collective bargaining rights for employees. The original intent of "13(c)" in the 1960's was to provide employees collective bargaining rights in the absence of state laws protecting such activities. This is no longer the case.

First, there is a great need to reform this section to correct past abuses. Historically, the certification process under 13 (c) has been misused to favor one side in management employee relations. Local transit managers were forced to accept certain provisions favorable to national union interests that would not have been agreed to if critical federal funding had not been unacceptably delayed. These actions violated not only NLRA but the private sector participation statutes in Title 49 CHAPTER 53. Although some minor reforms have been instituted like time constraints, there are ways to frustrate the process. Further, the number of years of protections should be reduced in line with labor protect reforms achieved by small railroad carriers.

JARC and the New Freedom Initiative program, by definition, are new service initiatives that should not require a special labor protection certification process when these services

different markets

Posted on Wed, May. 14, 2003

 **The Mercury News**

Competitive contracts could help avoid big VTA service cuts

By Jim Cunneen and Dave Fadness

Service cuts proposed by the Valley Transportation Authority would unfairly punish those who desperately rely on public transit the most: working families. VTA's budget predicament is not their fault.

Falling sales tax receipts are blamed. But VTA's costs are equally at fault; they're spiraling out of control.

From 2001 through 2004, 29 percent of transit service will be cut but the cost per hour of service over the same period will increase 47 percent. Meanwhile, VTA's farebox revenue, in part due to heavily subsidized fares, compares poorly to similar operators in other metropolitan areas.

To solve the problem, however, decision-makers are focusing too narrowly on the revenue side, proposing new taxes and higher fares as the first order of business.

Instead, they should place first emphasis on cutting any and all costs that do not directly produce transit service. Why? Because VTA can control costs to a far greater degree than it can revenue.

Before going to the voters to ask for more revenue, VTA must do everything possible to assure the community that it has done all it can to improve efficiency and control spending.

Is there a way to stem the red ink in VTA's budget while retaining (or improving) services, before raising fares or taxes?

Competition, may provide an important part of the answer. Experience in the Bay Area and throughout California proves that public/private transit partnerships work in the public's best interest, delivering more transit service at less cost. It's time for VTA to give it a try. Here are a few examples:

- The City Los Angeles and 21 San Gabriel Valley cities operate more than 475 buses under competitive contracts. The San Gabriel cities' joint powers agency, Foothill Transit, cut operating costs 30 percent while increasing bus service hours 100 percent.
- San Diego competitively contracts more than 36 percent of its bus service -- totaling \$44 million annually. Since 1979, its inflation-adjusted cost per hour of service has decreased 34 percent. VTA's has increased more than 18 percent.
- In the San Francisco Bay Area, five major transit agencies contract out all of their transit systems; SamTrans contracts out part. Even Caltrain is a competitively contracted system.

VTA is cutting service 29 percent. If VTA reduced its per-hour bus costs by the same percentage, its costs would still be high, but its projected 2006 deficit of \$50 million would evaporate.

How would competitive contracting work? California transit agencies that outsource typically provide some or all of the equipment. They require contractors to provide the labor force, to pay local competitive wages and benefits and to maintain high standards already demanded by VTA.

Although contractors use a smaller workforce to perform the same amount of service, they usually use organized labor and are subject to damage payments for poor or missed service.

In most cases, the public agency also bids for the service contracts, encouraging cost efficiencies and improved service by both public and private sectors.

VTA's goal should be to minimize proposed service cuts and job losses. We suggest that it start now, boldly taking advantage of this opportunity to competitively contract high-subsidy bus routes, requiring contractors to give preference in hiring to VTA employees. We believe the resulting savings would protect jobs and diminish service cuts.

Competitive contracting should also be considered for the management of VTA. The 1984 Measure A Traffic Authority is a local example of how effective this approach can be: a \$1.2 billion multi-year project was successfully managed by only five people. Huge savings could result from improvements in management efficiency, effectively making more of existing revenue available to serve transit riders.

That should be VTA's goal. We can avoid dramatic tax increases and fare increases by embracing new approaches. Other California transit operators are doing it with great success, relying on the same powerful model that makes our economy the world's strongest: competition.

Jim Cunneen is president and CEO of the San Jose Silicon Valley Chamber of Commerce and a member of the VTA's Ad-Hoc Financial Stability Committee; Dave Fadness is the former vice chair of the Measure B Citizen's Watchdog Committee.