



Setting Standards for Transit Contracting

As transit systems nationwide continue to suffer from funding shortfalls, many are pushed to privatization as a solution to their financial problems. Although private companies claim that they will be able to provide better service at a lower cost, their promises are almost always proven false. Instead, contracted-out transit service increases costs over time, provides worse service, and produces lower quality jobs.

Privatization advocates portray contracting as a cost-saving measure, but unseen and indirect costs can increase a contract's price by 25%, according to the Government Finance Officers Association.¹ Academic studies also show that contracting out does not reduce long-term costs. Analysis of the National Transit Database showed that, from 1993 to 2004, there was no difference in cost between in-house and fully contracted out fixed-route services.² A handful of private transit providers have effectively monopolized the market, and while they may offer compelling deals on first contracts, companies hike up their prices substantially after

transit agencies have sold off their buses and become reliant on the contractor to provide service.³

Private companies have higher employee turnover, more maintenance concerns, and decreased safety and security compared to in-house transit services. When bus service is contracted out, vehicle miles driven decrease by 16% on average, and communities have to live with those service cuts. Road calls (breakdowns and other matters requiring assistance while on route) increase by 36%, likely because private companies do not keep up with the maintenance needs of their fleet. Worst of all, collisions increase by a staggering 70%.⁴ Once cities have made the leap to contracting out, they can do little to address residents' real concerns about service and safety. At the end of the day, private contractors are accountable to shareholders, while public transit systems are accountable to the communities they serve.

Beyond rising costs and declining service quality, transit contractors pay drivers less and offer substantially inferior benefits. One study found that contracted-out drivers are paid 34% less than their directly employed peers. Private contractors also slash pensions, health care coverage, and paid leave.⁵ The outcome is clear: to the extent that there are any savings from privatization after corporations take their cut, "cost savings are achieved at the expense of the welfare of transit workers, mainly due to lower wages and inferior benefit packages, rather than because they utilize their workforce more efficiently than public operators."⁶ Contracting out costs agencies middle-class jobs and leaves localities with new needs to meet and fewer tax revenues to meet them.



1 In the Public Interest, *Responsible Contracting Policies and Practices* (May 2022), 2, https://inthepublicinterest.org/wp-content/uploads/2022/04/ITPI_ResponsibleContracting_May2022.pdf.

2 Roland Zullo, "Transit Contracting Reexamined: Determinants of Cost Efficiency and Resource Allocation," *Journal of Public Administration Research and Theory* 18, no. 3. (July 2008): 495-515, <https://www.jstor.org/stable/25096379>.

3 Olga V. Smirnova and Suzanne M. Leland, "Public Transportation and Contracting Out," *Public Works Management & Policy* 19, no. 4 (2014): 358-364; Olga V. Smirnova and Suzanne Marie Leland, "The Role of Power and Competition in Contracting Out: An Analysis of Public Transportation Markets," *Administration & Society* 48, no. 4 (2016): 421-443.

4 Nancy Nicosia, "Essays on Competitive Contracting: An Application to the Mass Transit Industry," PhD diss. (University of California, Berkeley, 2002), 90.

5 Songju Kim, "The Effects of Fixed-Route Transit Service Contracting on Labor," PhD. diss. (University of California, Berkeley, 2005), 162-169.

6 Kim, "The Effects of Fixed-Route Transit Service Contracting on Labor," 164.

All too often, private transit contractors misclassify their drivers and other employees as independent contractors to pad their bottom line. Misclassification is especially rampant in app-dispatched jobs, which includes microtransit and paratransit drivers.⁷ Private companies misclassify their employees as independent contractors to avoid paying payroll taxes, workers' compensation, and unemployment insurance. Misclassified independent contractors are also robbed of the right to a minimum wage, overtime pay, employment benefits, and union representation. The in-house model provides the highest quality transit service, but if an agency chooses to contract out anyway, they must require contractors to classify their workers as employees.

The terrible compromises that a transit agency makes when it contracts out service are most stark in the case of outsourcing paratransit rides to rideshare companies like Uber and Lyft. These transportation network companies bring with them the twin problems of service degradation and worker immiseration. Transit agencies surrender control of paratransit services. The result is that transit agencies' commitment to serving all paratransit passengers on an equal basis is sacrificed to Uber's and Lyft's profit motives. Most rideshare sedans lack vital accessibility features such as wheelchair lifts, slip-resistant surfaces, accessible rider information, and drivers trained to assist people with disabilities.⁸ At the same time that Uber and Lyft cut corners and offer an inaccessible service, they ignore labor laws. To further drive profits, they misclassify drivers as independent contractors and condemn them to poverty.

To ensure that transit systems adhere to high standards when considering the privatization of public transit services, states should require that any potential cost savings are properly measured and weighed against potential adverse effects on safety, accessibility, and service. The Massachusetts Taxpayer Protection Act (also known as the Pacheco Law) provides an effective model for how states can ensure that privatization does not become a race to the bottom that degrades the quality of transit service. Under the Pacheco Law, the Massachusetts State Auditor must certify that privatized services are less costly than having the work done by state employees, and that the quality of the service will be equal or better.⁹ The Pacheco Law doesn't just protect workers; it also ensures that citizens get quality public services and that state tax dollars are spent wisely.

When transit services are privatized or agencies switch contractors, training costs increase and service declines because experienced drivers who are familiar with the community are

pushed out. To prevent this, agencies that already contract out their service need to hold contractors accountable by adopting responsible contracting policies.¹⁰ ATU supports best value procurement in which agencies weigh quality and price when choosing contractors, so that contracting does not become a race to the bottom. During the bidding process, agencies should score contractors on their ability to attract and retain talent to ensure smooth and reliable transit service. To accomplish this, agencies should require bidders to share information on the wages and benefits offered to transit workers. Agencies should also require their contractors to provide workforce development programs to aid with recruitment and retention, thus improving safety and service.

Finally, ATU supports the passage of displaced worker protections, which require new contractors to hire prior contractors' employees and respect seniority in all hiring decisions. Displaced worker protections protect employee rights, and they ensure that new contractors hire experienced workers who can provide high-quality service to the public. While these protections are no replacement for in-house service, they do reduce the service and safety costs incurred by contracting out.

ATU SUPPORTS:

- 1) **Maintaining in-house transit systems and bringing contracted-out transit operations back in house;**
- 2) **Requiring public transit agencies to ensure that all relevant factors are taken into consideration before they contract out transit services and requiring a cost analysis of the work to be done to assess whether contracting out is more efficient than in-house operation;**
- 3) **Requiring potential bidders to have a demonstrated ability of providing high-quality transit services, which equal or exceed the quality of services which could be provided by the public transit agency using its own employees;**
- 4) **Requiring potential bidders to have a demonstrated ability to attract and retain talent by sharing information on the wages and benefits offered to transit workers, as well as workforce development programs;**
- 5) **Requiring transit agencies to retain employees at existing wages, benefits, and other terms and conditions of employment when agencies switch contractors; and**
- 6) **Requiring transit agencies to employ best value procurement methods.**

7 National Employment Law Project, *Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries* (Oct. 2020), <https://www.nelp.org/insights-research/independent-contractor-misclassification-imposes-huge-costs-workers-federal-state-treasuries-update-october-2020/>.

8 U.S. Department of Transportation, Federal Transit Administration, *Americans with Disabilities Act (ADA): Guidance*, FTA C 4710.1 (Nov. 4, 2015), <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/americans-disabilities-act-guidance-pdf>.

9 Massachusetts Office of the State Auditor, "Learn more about the Taxpayer Protection Act," Mass.gov, Updated Feb. 2025, <https://www.mass.gov/info-details/learn-more-about-the-taxpayer-protection-act>.

10 In the Public Interest, *Responsible Contracting Policies and Practices* (May 2022), https://inthepublicinterest.org/wp-content/uploads/2022/04/ITPI_ResponsibleContracting_May2022.pdf.