

REGULATORY REFORM OF THE URBAN BUS SYSTEM IN RECIFE (BRAZIL): STAKEHOLDERS AND THE CONSTITUENCY-BUILDING PROCESS

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ABSTRACT

The integrated metropolitan administration of the bus system in Recife is almost thirty years old and has survived a number of different perils. Even the most recent municipal administration of the city of Recife has dropped its plan to bring back the management of the municipal lines under its roof and has accepted cooperating with the State Government of Pernambuco, provided that a new cooperation contract basis is adopted. This paper begins with an explanation of the administrative and operator structure of the Metropolitan Recife bus system, which has been run by the Metropolitan Urban Transportation Company of Recife (EMTU - Empresa Metropolitana de Transportes Urbanos do Recife), a public corporation owned by the state of Pernambuco, but actually an administrative autarchy. Despite its success in ensuring coordination on the entire metropolitan level, which is still a rare example in Brazil, the EMTU has not been able to ensure a competitive environment in the bus industry under its control and the sector has been following a continuous path in direction of area-based monopolies. This paper describes this process as well as the different attempts by the EMTU to introduce benchmark regulation and the reaction of the operators against such attempts. In spite of these efforts, the legal expiration of the contracts and the organization of the legally required tendering procedure have been subsequently postponed. Different tender studies have been prepared and have been subsequently dropped. When the current municipal administration of the City of Recife came to power, a tender procedure was promised and expected, but the city government only managed to regulate (actually repress and substantially quell) the local informal operators. Most recently, the state attorney has pressed the state and municipal authorities to organize the procedure, but response is still slow. This paper describes these studies and the reactions of different stakeholders (operators, public servants, politicians, consultants, attorneys, press and the population) throughout this long process towards the tender procedure and also outlines the recent negotiations for reforming the EMTU.

OBJECTIVES OF A NEW COMPETITIVE TENDERING MODEL

The objectives of the new model based on competitive tendering to be applied in Brazilian cities are defined as follows (Santos and Aragão, 2000):

- promotion of permanent striving for greater productivity in the production of services specified by the granting agencies through the establishment of a competitive environment favorable to the tendering process;
- improvement in entrepreneurial productivity and the social transference of gains stemming from such productivity as an essential condition for the permanence of a company in the system;
- allow those companies that make positive efforts toward an increase in productivity to enjoy these gains in both the increase in their margin of financial yield and the greater stability of their presence in the market or the broadening of their portion of the market.

Strategic elements for the drafting of the model

The following are strategic elements that a new regulatory model must take into account:

The preservation and empowerment of the government to regulate and manage services and develop an operational project

According to the World Bank (1994), regulation should pursue the objectives of: i) providing necessary resources, thereby ensuring the autonomy and credibility of the management agency; ii) choosing remuneration instruments that stimulate efficiency; and iii) organizing the interests of users. Thus, the management agency should prioritize the control of the effectiveness of services private enterprises render, as represented by the effective execution of the delegated services. A new regulatory model defined by the government should urge operators to pursue cost reductions in their own interest. However, the government should define a technical transportation model (lines, schedules, frequencies, desired vehicle size); it should define the product it wishes to see in action in the city.

The construction of market contestability, especially through competition for the right to operate the service

An analysis of the English (Banister and Pickup, 1990) and Chilean (Fernandez and De Cea, 1991) experiences demonstrates that it is not possible to construct a competitive (Chile) and contestable (England) market for urban public transportation based on the presupposition that the dispute takes place at the user level. These experiences teach us that it is not possible to construct competition from a conception that the product-object of the dispute is the displacement of users. The concept developed by the staff at the Transportation Network of Engineering and Socioeconomic Studies (RESET - Rede de Estudos de Engenharia e Sócio-Econômicos de Transportes) is that contestability should not be constructed in the direct setting of the production of services (dispute for users), but in the act of tendering (dispute for market access).

The opening of the market without privileges

A greater number of potential competitors leads to a greater possibility that the economic conditions stemming from competition are more advantageous to users. The potential entry of new operators in the market should introduce a stimulus to each company as well as to the sector as a whole in the pursuit of increased efficiency. The opening up of the market is achieved through the creation of opportunities so that a large number of operators come forward. This signifies the broadest possible opportunities for potential competitors to present themselves under equal conditions with the existing competitors. Therefore, the opening up of

the market is achieved with the reduction of entry barriers so that new companies can establish their presence in the market (Cox and Love 1991).

Ensure transparency and equal distribution of rights and privileges

In a market economy, competition is the best and perhaps only feasible manner to select the best among the diverse bidders. In the case of transportation, the multi-product characteristics of the sector imply that the concept of 'best' signifies the most suitable competitor to the type of service at stake – the competitor that best combines production factors in terms of technical-operational conditions as well as physical-environmental conditions. It is not merely the entry of more competitors, but also the possibility of new capitals with other cultures, experiences and technologies (including organization technologies) that can promote improvements in the sector. Transparency should be ensured in the different steps of the process as a basic condition for achieving the objective of equal distribution of rights and privileges. Along with the complete information of the elements necessary to the definition of the cost of the service and results of the proposal evaluation, the control of fairness of the process should be ensured by means of external auditing.

The responsibility of the government with the economic-financial equilibrium of the contract terminates with the signature

This is an important presupposition for the construction of contestability. The government should no longer be responsible for the economic-financial equilibrium of the contract, as has been the economic basis of contractual relationships between governments and operators. In participating in the competitive process, each company should propose an amount that is in its interests and feasible for performing the previously specified quantity and quality of services throughout the term of the contract. It falls to the company to decide the amount and submit the proposal within the tendering process. All possibilities of readjusting the contract value must be previously established. The causes of unpredictability should be reduced as much as possible. In limited situations, even the raising of fares can be previously established.

The incorporation of productivity gains through tendering

Tendering is a process by which, in the presence of a large number of competitors, companies are urged to present proposals that reveal their suitability. Knowing that a new dispute will obligatorily be established at the termination of the contract, a company will be permanently urged to strive for greater productivity in order to place itself in the best position to continue operating in the market. The practice of successive selections via pecuniary disputes will result in a company's choice for greater productivity and should also create a dynamic effect that leads to successive incorporations of gains in productivity.

Entrepreneurial autonomy for the optimization of the blend of production factors

It is only with the freedom to organize the blend of its production factors that a company can be responsible for its own level of productivity and profitability in the tendering process. A failure to allow entrepreneurial autonomy in assembling alternative mixes of productive factors would be imposing all companies to be equal and, thus, all qualified for equal remuneration. It would therefore be impossible to know which among them will exhibit the best performance.

The selection of the most suitable company through a tendering process with pecuniary criteria

Tendering through technical criteria does not ensure the choice of the most suitable company. Pecuniary criteria establish the minimum level of profitability for each company in the performance of the constant services of the tendering object in the quantity and quality desired the government desires. Pecuniary criteria as a deciding element presuppose that qualification criteria are in fact previously fulfilled by the participants.

Trust in the capacity and maturity of the company to operate in a new environment

An analysis of the transportation market in Brazilian cities reveals that there currently is entrepreneurial capacity in the sector to operate in a new environment that has competition as a core element (Brasileiro et al, 1999). The closing of the market for over 40 years has facilitated the growth of companies (Brasileiro and Santos 1996). There is no reason to fear that the current companies will be decimated by external capital flooding into the sector. Quite the contrary, the current operators are in a position to use technological advances and accumulated experience in their favor. The new capitals, however, may have in their favor the fact that they have long been operating in a highly competitive environment and are therefore also suitable for entering this new market.

Components of a new regulatory model

The model characterized by the use of competitive forces in a regulated market should be defined by the following tenets:

- pecuniary dispute for the right to operate as a core competition object;
- maximum elimination of barriers to entry in the market;
- transference of responsibility to the competitor for the formation of bidding and operation prices;
- transference of responsibility to bid winner for maintaining the economic-financial equilibrium of the price;
- maintaining the definition of fares in the hands of the government;
- maintaining the planning and technical regulations in the hands of the government, with specifications regarding the quantity and quality of the products offered.

This model should be sufficiently broad-scoped and robust to address the gamut of specificities that characterize the Brazilian experience (Aragão et al, 2001). Therefore, its conceptual framework should be tested and applied at the operational levels in cities that are representative of the diversity of the Brazilian regulatory experience.

A legal framework favorable to tendering and model application

Articles 173 to 175 of the Brazilian Constitution regulate the intervention of the state in the economy. According to Article 173, the direct exploitation of economic activity by the state will only be permitted when necessary to the imperatives of national security or relevant collective interest. Article 174 declares that, in the form of law, the state shall exercise the functions of inspection, supervision, incentive and planning, being determinant for the public sector and indicative for the private sector. Article 175 states the offering of public services is

entrusted to the public power in the form of law either directly or under a process of concession or permission.

Law No. 8987/95 establishes the following basic guidelines to govern public services:

- suitability to the full service of users, complying with the conditions of regularity, efficiency, security, current standards, courtesy and reasonable fares (Article 6);
- as users' rights and obligations, receive adequate service, receive information of individual or collective interest from the grantor and operator (Article 7);
- principle of maintaining economic-financial equilibrium (Article 9);
- as functions of the grantor, regulate the service and oversee its operation; stimulate an increase in quality, productivity, preservation of the environment; urge competitiveness (Article 29).

The notion of public service as a constitutional mark for the regulation of public passenger transportation services in the country implies that performance of the government has a fundamental orientation of an economic nature. As the services rendered take place under conditions of exclusivity, regulatory action should strive to ensure that the social advantages and benefits that result from regulated economic activity are equivalent to those that would be obtained if the services were produced under the conditions of a perfect market. The regulatory framework should urge companies to develop mechanisms of production optimization and strategies of competitiveness as they would in a competitive setting. This signifies conferring characteristics of a perfect market to regulated economic activity through adequate regulatory mechanisms.

The model described here, drawn up in conjunction with the technical teams of the municipal, state and federal governments, presents the staff at RESET with the considerable difficulty of its concrete implantation. The difficulties emerge in the holding of very few tendering events, even when all, including the entrepreneurs, are favorable to this process. Why, therefore, does the tendering process occur in such a sluggish manner? Only the cities of Belo Horizonte (ten years ago) and Sao Paulo (three years ago) held tendering events, which is nearly nothing in comparison to the needs for improving public transportation. In the other cities, contracts between the municipal government and private enterprise are simply renewed at the end of each term. If there are so many favorable elements for putting the tendering process into practice, what barriers remain?

Deficiencies of Competition as an Idea-Force of the Model

The basic theory of the model presented here consists of the introduction of competition in tendering processes. This is the application of the notion of benchmarking, which is a form of periodic competition for the lowest cost that each company will have to realize with itself in striving for greater managerial and operational productivity. At previously defined moments, each company will have to present a concrete proposal of unitary costs for the execution of services on each of the lines under its operation that will govern the subsequent period of the contract.

It is the responsibility of the managing agency to prescribe the services regarding quantity and quality; establish the minimum standard of cost reduction to be obtained in each of the competition moments; and continue delegating services to companies that achieve or surpass this standard. It befits the company to accept the standard of reduction if it wishes to continue operating and hopes to avoid a situation in which another company can try to obtain its line; and develop continued efforts to obtain gains in productivity that translate into cost reductions.

The challenge is for the companies to develop a managerial process based on increased productivity as a means to ensure greater profitability and maintain their presence in the market. The bastion of competition is maintained and periodically raised. At the end of a given period, the company will find itself faced with a decision: it either demonstrates improvements in productivity in order to have the right to continue executing the services – and this signifies lower costs – or its line is offered up for a dispute among other operators. This is a conditioned competition in which the company can maintain itself in the market and avoid a situation in which another company can try to obtain its line. Thus, competition will take place for each line individually. A company will not be eliminated from the market if it manages to obtain the minimum cost reduction required on its lines.

The foundation of the model comes from the microeconomic theory based on the concept of Total Utility (U), defined as that which a consumer obtains from a product or service. U is therefore the sum of satisfaction obtained from a given quantity of this product or service over a period of time. The Function of Total Utility is the quantitative relation between the satisfaction provided by a product or service and its standard of consumption. Maximization of utility occurs when consumers organize their purchasing in such a way that the marginal utilities per dollar of the last unit of each item are equal to one another as well as equal to the marginal utility of saving one dollar more. These concepts seek to comprehend consumer behavior and the prediction of how markets function, striving to give them perfectly competitive market characteristics, with price as the key element in the maximization of both consumer and company behavior.

We well know that such conceptual elements exhibit flaws, such as the lack of information on the prices fixed by companies and on the quality of products. Furthermore, factors such as habits, loyalty, inertia and reluctance to change are normal attributes of both consumer and company behavior, which make the notion of “rational economic agent” invalid.

Perceiving these flaws in the theoretical construction of the model, the staff at RESET has been constructing the idea that centering the entire analysis on competition as the key element is insufficient; companies actually demonstrate more solidarity and cooperation between one another when seeking to maintain the status quo and avoid the holding of tendering events. We have, therefore, evolved toward the introduction of cooperation and negotiation as concepts that are also important, if not decisive, to our understanding of the barriers to tendering processes in Brazil. In conceptual terms, the idea is to go from the analysis of marginal economics to that of economic sociology.

MODELLING COOPERATION AND NEGOTIATION BETWEEN STAKEHOLDERS FOR THE HOLDING OF COMPETITIVE TENDERING

It has been demonstrated that, if on the one hand, competition relations are universal and occur between different types of stakeholders in different decisions and action plans, such relations also share the stage with the opposite of cooperation and negotiation, without which no competition is possible, especially in projects with a broad scope that involve the many interests of diverse stakeholders. It can be said that one is the negative copy of the other. A scientific approach to the study of the relations between stakeholders regarding the formulation and implantation of projects should analyze both competitive and cooperative relations. What are the conceptual foundations that sustain the concepts of cooperation and negotiation?

Trust as a core element of cooperation (Fukuyama, 1996)

Fukuyama (1996) states that neoclassical economics explain 80 percent of rational human behavior, but fail to cover the remaining 20 percent. He then goes on to develop the idea of the “20 percent solution”. In defense of this idea, the author states that Adam Smith himself knew of this, as “economic life is directly linked to social life”. The foundations of rational classical economics therefore rest on the fact that people are impelled by a “selfish desire to ‘improve their condition’”. Human beings are “maximizing individuals of rational utility”. However, Fukuyama reminds us that “people are inserted into social groups – families, neighborhood, networks, churches, companies, nations”. Hence, “greater economic efficiency is not necessarily obtained by rational, self-interested individuals, but rather by groups of individuals who are capable of working together.....; more efficient organizations are based on communities with shared ethical values”.

The author presents the concept of ‘trust’, defined as the “expectation that arises in the bosom of a community with a stable, honest, cooperative behavior based on norms shared by the members of this community”. In this concept, trust is associated to the existence of a culture of sharing and collaboration between stakeholders, whose interaction is based on ethical rules and inherited ethical habits “passed down from one generation to the next with non-rational social habits”; “a prosperous civil society depends upon the habits, costumes and ethical principles of its people....who depend upon an awareness of and respect for culture.” Hence, trust and culture walk hand-in-hand, and their greater or lesser degree depends upon the history of the contexts in which they are inserted.

It would therefore be a mistake to consider the economy as a facet of life with its own laws separated from the rest of society, as marginal economics strictly defines. For Fukuyama, laws, contracts and economic rationality provide a necessary but insufficient foundation for both the establishment and prosperity of post-industrial societies. The author states that in any modern society, “the economy constitutes one of the most important and dynamic fields of human sociability”.....; it stems from the need for collaboration and solidarity between human beings. Therefore, the degree of trust between individuals and social agents is linked to another concept – a greater or lesser (deficit) degree of social capital.

Social capital as an essential value of cooperation between stakeholders

Trust in sharing values stems from the capacity of people, groups or organizations to associate in order to work together toward common objectives. For Fukuyama, trust is an important economic value expressed by another concept known as ‘social capital’, which is a part of human capital that is more important than land, machines, factories...; it depends upon the knowledge and skills of human beings (Fukuyama, 2000). Hence, greater or lesser social capital is associated to the culture, tradition or historical habits of groups and stakeholders. Social capital cannot be acquired simply by individuals working on their own. It is based on the predomination of social virtues and not just individuals.

Other authors, such as D’Araújo (2003), state the importance of social capital – defined by the author as a public asset that is not appropriated privately – as possessing three values:

- Trust – expressed by the idea of shared norms, the existence of “spontaneous sociability” stemming from culture, history and tradition;
- Norms and chains of reciprocity – the norms are internalized by individuals, give meaning to society, guide actions and make behavior predictable;

- Systems of civic participation – these consist of the performance of voluntary or non-voluntary associations (neighborhood communities, sports clubs, leisure groups, art groups, political parties, unions, film clubs, cooperatives, musical clubs) that create possibilities for cooperation through social networks.

Thus, there is a strict relationship between the concepts of trust, culture, social capital and the form by which the economy functions. If people in the companies work together, developing ties of trust and cooperation, the possibilities of success in business and in undertaking successful projects are greater. Therefore, the socio-cultural setting in which the projects are developed is relevant. The idea put forth by Fukuyama, which we adopt in the present paper, is that stronger organizations of society and more networks of association lead to greater social capital, trust and the spirit of collaboration. These contexts increase the possibility of cooperation and negotiations between stakeholders in the implantation of successful projects.

Institutions matter (Putnam, 2005)

The approach of relationships of cooperation and competition between stakeholders, which depends on a greater or lesser degree of trust and social capital in the socioeconomic setting, must consider the importance of institutions. Putnam (2005) analyzes this importance in his famous study on social capital in Italy, stating that institutions represent the “rules of the game”: norms that govern collective decision making; the stage on which conflicts emerge and (at times) are settled. Achieving “success” signifies giving stakeholders the skills to resolve their divergences in the most efficient possible manner, considering their different preferences.

Therefore, the construction of a point of reference that lends theoretical sustenance to the idea of cooperation and negotiation between stakeholders for the undertaking of successful projects implies considering another approach – no longer based solely on an analysis of rational economics (although competition continues to be fundamental, especially in Brazil) – related to economic sociology. This new approach considers the economy as a social fact (Steiner, 2005). Economic sociology also confers considerable importance to the analysis of the history of the institutions and organizations involved in the communication between stakeholders. Furthermore, economic sociology places emphasis on the social relations between stakeholders, which implies studying how social networks are structured and how they function. These relations are conditioned by the degree of trust and social capital in the socio-economic setting in which the projects are implemented.

These are concepts that mold the theoretical framework developed herein for the analysis of competition and negotiation processes between stakeholders. The challenge now consists of developing a methodology that can learn in practice how to make these concepts operational through concrete cases. For such, we shall present a method based on stakeholder analysis in order to understand the actions of the interest groups in infrastructure projects, especially public transportation.

INTEREST GROUPS AND THE STAKEHOLDER ANALYSIS

The method adopted to understand the competitive and cooperative behavior of stakeholders regarding the formulation and implantation of an infrastructure project is based on two essential concepts: Interest Groups (IG) and Stakeholder Analysis (SA). According to

Grossman and Saurugger (2006), an interest group or pressure group is an entity that seeks to represent the interests of a specific segment of society in the public realm. It is an organization or stakeholder that seeks to influence the government as well as other groups and public opinion in a direction that is favorable to its interests.

An analysis of interest groups, their emergence and forms of functioning allows us to understand the role of the state in society, particularly in the formulation and implantation of public policies. In previous studies, the staff at RESET developed the idea of the need to return the role of the government to the provision of network infrastructures. Thus, the “provision of collective needs” (Aragão et al, 2004) is not the task of the state, nor of large companies and financial groups, which have taken for themselves the designation of ‘private initiative’. It is rather the task of society as a whole and this society has a number of instruments for such a task (government, universities, companies, NGOs, unions, political parties, churches, associations, etc.).

The notion RESET defends is that the state currently has come to play more of a role of an inducer of processes, thereby mediating conflicts and seeking cooperation and negotiation between stakeholders for the formulation and implementation of public policy. In this view, in order for a project to be successful, it is necessary to take into account the interests of the entire set of stakeholders involved. The state no longer has the role of imposing policy; it is no longer the central agent (although it plays a crucial role as formulator and inducer of policies in Brazil). It has more of a role of promoting, communicating and creating conditions so that cooperative and negotiated processes predominate over purely competitive interests. These competitive interests, when dominant, paralyze the putting into practice of policies and projects, as has been the case with tendering processes in Brazil.

The idea is to place into practice the concept of network governance (Grossman and Saurugger 2006): a set of institutions operating in a network, with regulatory norms that precisely define the role of public and private stakeholders in society. This network governance allows cooperation between all the stakeholders involved to be accomplished through processes that are more based on negotiation than competition. In place of an approach founded on hierarchical and subordination relations between stakeholders, space is opened up for an exchange system between equal stakeholders seeking common solutions to their problems.

However, to understand the interests of the stakeholders involved in infrastructure projects and regulatory policies, stakeholder analysis (SA) is necessary. Stakeholders are individuals, organizations and groups (positively or negatively) interested in a given public action. Stakeholder analysis consists of a systematic method of mapping, weighing, analyzing and determining measures to gain stakeholders (and compensate or neutralize stakeholders who remain adverse to the action in question).

According to the manual *El compromiso com los stakeholders* (2006) the different implantation steps in this methodology are described as follows: 1) planning of the process; 2) definition of the public policy to be studied; 3) definition of key stakeholders; 4) description of selected stakeholders; 5) draft of issues and schedule of interviews; 6) draft and analysis of the stakeholder table, identifying the degree of force stakeholders have: strong (Grade 3), medium (Grade 2), weak (Grade 1); 7) draft of performance strategies addressing each stakeholder; 8) program of action, with definition of staff and chronogram of activities as well as the permanent analysis of opportunities and threats.

For the objectives of the present paper, the following are the most relevant stakeholders that influence to a greater or lesser degree the formulation and implantation (or lack thereof) of public policies based on tendering processes in public passenger transportation in urban areas:

- Municipal (city hall), state (state government) and federal (Transportation Ministry and Ministry of Cities) grantors, with their respective technical agencies that are skilled with regard to the issue;
- Private bus operators represented by their unions and entrepreneurs of greater leadership; and national organizations in the sector (in Brazil: the National Urban Transportation Association.....)
- Small vehicle operators (organized in diverse associations)
- Metropolitan train operator
- Users, through their organizations (neighborhood associations, movements for better public transportation, etc.)
- Politicians, represented in the Chambers of City Council Members and Representatives (especially those linked to transportation commissions and transportation enterprises), mayors and governors
- Public Ministry (responsible for ensuring the rights of citizens and constitutional rules;
- State and Federal Accounts Courts (responsible for compliance of the federal and state constitutions, in the part related to tendering procedures and the use of public resources)
- Technical community (presidents, directors and those responsible for the regulation of transportation, consultants)
- Universities (analysis of technical production – dissertations and theses – researchers)
- Professional associations (engineers, architects, lawyers, economists)
- Organizations linked to the productive sector (industry federations, commerce federations)
- Press (how transportation issues appear in the media)

Next, we present an initial application of stakeholder analysis in the case of metropolitan Recife (Brazil). In this analysis, we interviewed a number of stakeholders in order to understand what barriers and opportunities exist with regard to tendering events.

RECIFE: A PROPITIOUS SETTING FOR COMPETITIVE TENDERING

Recife stands out due to the pioneering spirit that has marked both public intervention in regulating bus transportation services (together with an important contribution from the private operator sector) and the relations between urban planning and transportation. These relations have created an expressive technical-scientific environment in the industry. Three dimensions historically mould the transportation market in the city and its metropolitan area, namely, its physical-spatial, urban and socioeconomic elements. This environment, therefore, constitutes a privileged place of concentration and territorial expansion of private enterprise, driven by the strong tutelage of the state government agency known as the Metropolitan Company of Urban Transportation – EMTU (Empresa Metropolitana dos Transportes Urbanos) (Brasileiro, 1998).

Metropolitan Recife has 2200 km², uniting 14 municipalities and encompassing a population of 3,340,000 inhabitants (IBGE, 2000). The city of Recife itself has over 1.5 million inhabitants in an area of 210 km². In the same manner as the demographic and social

dimensions, the economic dimension determines the constitution of the metropolitan job market divided between the segment from the capital and that located in important municipalities (Olinda, Jaboatão, Paulista). Both the capital city (74%) and its metropolitan region (70%) present an expressive concentration of service sector jobs (commerce, services and public administration), contributing with nearly 70 percent of all existing jobs.

Coexistence of public and private modes

With the aim of meeting demands diversified by the nature of a economy in crisis, there is the coexistence of a broad gamut of transportation technologies in Metropolitan Recife: diesel-powered buses – conventional, articulated, double-deck – trolleybus until the early part of the first decade of the twenty-first century; suburban train; metropolitan train; sprinters, vans and alike vehicles. There is also a significant fleet of private automobiles disputing the narrow road space. In 2005, the Public Passenger Transportation System – STPP (Sistema de Transporte Público de Passageiros) – was operated by 18 companies, 17 of which were private and one was public (metropolitan train). The 306 lines, except the nocturnal lines, performed an average of 24,000 runs with 2465 busses travelling around 730,000 km and transporting 1.6 million passengers per day (Ferreira, 2006).

Municipal and inter-municipal markets

In the metropolitan area, along with the bus service regulated by the EMTU (intra-municipal lines in Recife and inter-municipal lines in the metropolitan area), there are also small local networks corresponding to the internal demands of the other cities in the region. The information obtained from eight of these cities – of the twelve that have some types of regular service – reveal that bus transportation is performed by 26 private enterprises (Brasileiro and Santos, 1998).

Services rendered by small (“informal”) vehicles

In Brazil during the 1980s and 1990s, the phenomenon of artisanal transportation service providers grew, generally operating outside the regulatory scheme. These are denominated informal, alternative, clandestine, pirate, unregulated, illegal or artisanal public transportation vehicles (Brasileiro, 1995). A multiplication of vans, mini-vans and motor-taxis (technologies heretofore denominated Small Public Transportation Vehicles (SPTV) has been occurring in a context of urban and social crisis, but above all, a crisis in formal, regulated public transportation based on urban bus operators. This speaks to the importance of holding tendering processes in order to organise both the bus transportation network and the SPTV network, which should operate in a complementary fashion.

In 2003, there were more than 6000 SPTVs circulating in Metropolitan Recife. With the worsening of the flow of traffic, a joint effort was made by the City of Recife and the State Government to implant a new regulatory scheme for the SPTVs, with the definition of rules and criteria for the entrance of operators of this type by way of tendering processes. This regulation has been effective since 2003 and was recently the object of assessment through a master’s dissertation defended at the Federal University of Pernambuco (Ferreira, 2006).

An innovative regulatory scheme

In 1979, the Public Passenger Transportation System of Metropolitan Recife was established. The metropolitan regulation confirmed the role of the EMTU (also created in 1979) with the

skills to plan, organise, monitor, evaluate and control transportation services. The regulatory system managed by the EMTU has introduced a number of innovative instruments in Brazil over the years, such as the evaluation of operators as well as the linking of remuneration and the extension of contracts to the concepts obtained in the evaluation. The EMTU currently needs to make a qualitative leap by holding the tendering events prescribed by law. However, this is more of a political than technical issue. The tendering process depends upon the relations and interests of the stakeholders. Thus, the present article will next examine – through Stakeholder Analysis – the competitive and collaborative interests between stakeholders.

FIRST LESSONS OF THE STAKEHOLDER ANALYSES

Interviews with some stakeholders (consultants, public administrators) were held in the month of June 2007. The following questions served as a guide for the interviews:

- What is the importance of public transportation to the development of the country?
- What are the most relevant current problems in Brazilian cities?
- What is the importance of the “regulatory problem”?
- What is the importance of the tendering process?
- What are the barriers or difficulties facing the tendering process?
- What factors facilitate the tendering process?

The lessons from the interviews led us to construct the following reference guide for the tendering process.

Priority for public transportation policies in macro-economic, social and urban policies of the country

Transportation policies inserted into the economic policies of the country

The core of the analysis regards the need for a transportation policy that has priority in the economic and social policies of the country. In order to achieve success in transportation, all actions should be integrated to this broader view of priority for the industry in the macro-economic policies of the country. Tendering should, therefore, contribute toward an increase in competition in the transportation industry, cost reduction in transporting people and fare reduction.

Transportation policies inserted into social inclusion policies

All transportation actions should be integrated to a broader policy of mobility for everyone. Even in more developed societies, there are segments of the population (the elderly, young people, handicapped, unemployed) that rely on public transportation. The goal is to seek social inclusion through the planning of a public transportation network that allows modal integration – subway, train, bus, small public transportation vehicles, bicycles. As one of the interviewees stated, through the understanding that the issue of social inclusion is the central problem, all other problems are settled.

Transportation policies inserted into urban development policies

Vehicles are an essential element to the movement of people and merchandise. Similarly, urbanism and city models influence the configurations of transportation systems. Hence, transportation policies should be connected to an urban development model that is inclusive, permitting the insertion of the population in development progress.

Importance of regulatory and institutional markers to clarify the contractual relations between public and private stakeholders

Clarify the functions of each stakeholder in the definition of the rules of the game

A well-defined regulatory marker allows for greater clarity regarding the roles and functions of governments (tutelage authorities), entrepreneurs (operators) and users. For entrepreneurs, the advantages of the regulatory marker appear in the existence of clear rules of functioning in the sector, the definition terms of contract, investments that can be made and the conditions for capital returns. For the government – municipalities and management agencies –, the regulatory marker defines the rules of the relationship with entrepreneurs. A lack of clarity in contractual relations leads to the exchange of favours and the favouring of private interests in detriment to public interests. For users, the regulatory marker is an important aspect of social control. It also contributes toward making the action of other important stakeholders more efficient, such as the Public Ministry and Accounts Court, which can demand the each party comply with the attributes defined in the contracts. Similarly, the existence of clear contractual rules in a globalised world favours the entrance of new companies in national markets, for the political risks diminish, thereby favouring competition for the right to render services through competitive tendering.

Consortiums to guide the multimodal network of public transportation on the metropolitan scale

The interviews stressed the institutional dimension, confirming the idea put forth by Putnam (2005) of the importance of institutions. The establishment of institutional public transportation management structures, such as consortiums between cities, associated to both public and private organisations, should meet four objectives: i) integrate the diverse modes on physical-operational and tariff scales; ii) operate on a metropolitan scale such that the transportation network covers the entire metropolitan area; iii) ensure adequate institutional coordination between public and private organisations; iv) ensure adequate regulation through contracts with companies based on tendering processes. These contracts should take into consideration the specificities of the urban, inter-municipal and inter-state markets as well as those related to Small Public Transportation Vehicles.

Tendering as an productivity-seeking instrument

Tendering is the main instrument for the establishment of an efficient regulatory marker that clarifies the contractual relations between stakeholders. The characteristics of this tendering process have already been described in the present article (competitive tendering model developed by RESET). Tendering is important because it allows:

- designing the metropolitan network and discussing it with the population (which should participate in policy-decision venues, such as metropolitan consortiums);
- defining the types of services and fares that are accessible to the population as a whole;

- designing new remuneration models with productivity goals for companies to reach, with a passing of gains on to the population;
- constructing the reference guide – key factor of a new regulatory model – to define the guidelines for the evaluation of services rendered by the companies (how to take into account the opinion of users), the terms of the contract (not very long), control and monitoring technologies (electronic ticketing); the economic-financial equilibrium of the contract.

Importance of negotiation processes between stakeholders

The interviews confirmed the importance of negotiations between stakeholders to the success of the tendering process. The problem in Recife is not of a technical nature. The technicians from the government (City Hall and EMTU) as well as those from the companies have considerable skill and knowledge on the local markets to put together and hold tendering events. Reinforcing this expertise, the University – through the staff at RESET – has drawn up the model of competitive tendering described in this article.

The interview demonstrated that the barriers to the tendering process are of a political nature. Over the years, it has actually not been possible to develop a political environment that is favourable to tendering. The distrust between stakeholders – government and companies – has been stronger than the trust between them. The other stakeholders – Accounts Court, Public Ministry – have only just awakened to the importance of tendering and are beginning to pressure the government to hold tendering events. The political stakeholders – city council members, state representatives – have never placed the issue of improving public transportation through tendering on the agenda as a public policy priority. Users' associations do not have sufficient political clout to impose changes. The federal government – through the Ministry of Cities – has promoted courses for the training of human resources, but more directed toward the idea of mobility for everyone. Actually, little has been to construct pro-competition policies through changes in the regulatory markers.

Importance of local specificities (Recife case)

Over the years, however, Recife has developed a tradition of urban and transportation planning. Thus, the political-institutional environment, together with technical skills, is certainly favourable, but it is necessary to overcome the distrust. A communications/marketing plan seems indispensable for trust and collaboration between stakeholders to prevail.

CONCLUSIONS

The aim of the present article was to demonstrate that competitive tendering in Brazil depends upon the establishment of negotiated processes between stakeholders. It is necessary to overcome the barriers to implantation that stem from the lack of trust in the process on the part of operators. These barriers stem from: i) the possibility of the companies — in a joint decision — not presenting a cost proposal for any of the lines, thereby creating a vacuum of services or a political impasse; ii) the difficulties companies have in adequately ascertaining the costs of each line and not being able to present acceptable proposals; iii) the possibility of companies only presenting proposals for the more profitable lines, leaving a number of lines that will not be attractive to anyone else; iv) the difficulty companies have in adequately ascertaining the costs of each line, and proposals, once accepted, prove to be non-executable, leading to problems in the continuity of the service; v) the difficulty the EMTU has in

establishing specific unit costs and overall costs for each line given that the costs are currently aggregated per company; vi) the difficulty the EMTU has in establishing an adequate reduction standard for each line.

As factors that can facilitate the implantation of competitive tendering, we can site the following: i) the existence of internal rivalry in the sector, with more modern and more competitive companies seeking to broaden their share of the market; ii) the threat of the entrance of new companies in the urban-metropolitan markets coming from other markets or other economic activities; iii) the existence of a favourable current economic environment in the country, with a pro-competitive national stance; iv) the clear leadership and determination of the administrative agency (EMTU-Recife). In conclusion, two aspects should be stressed: 1) the political decision of the public management agencies; and 2) a communications/marketing plan to demonstrate that everyone gains with tendering through negotiation and collaboration processes between stakeholders.

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