

Mobilities : facts and figures

DIRECT AND DELEGATED MANAGEMENT IN PROVINCIAL URBAN PUBLIC TRANSPORT IN FRANCE

This leaflet inaugurates a serie devoted to the analysis of mobility

Delegated management, the procedure used in the majority of regions in France for managing urban public transport networks, raises several major fundamental issues, such as : what form of delegation is used ? What type of contract is involved ? What procedures are most appropriate for different types of project ? What public transport policy should be implemented ? Analysis of the legal data contained in the database on urban public transport in the French provinces for 2005, may throw light on these issues, helping us to assess the variety of solutions developed and get a clear picture of current trends.

THIS ANALYSIS COMES WITHIN THE GENERAL FRAMEWORK OF STUDIES CARRIED OUT BY CERTU ON TRANSPORT CONTRACTS

This analysis comes within the general framework of the studies carried out by Certu on urban public transport contracts. The aim is to use the Urban Public Transport (UPT) database to get a clear idea of delegated management of urban public transport networks in France and of the relations between this and direct management.

The work done by Certu on public transport contracts (both urban and non-urban) can be defined by three approaches : analysis, observation, methodology.

Analysis

The analysis of contracts focuses on their contents, by attempting to see how a certain number of topics are dealt with. These topics include, among others, the financial system, implementing investment, control and monitoring by the organising authority and the rights and obligations of the contracting parties.

This analysis can also focus on the procedures leading to the signature of the contract.

Observation

As with analysis, observation can focus on both the contracts themselves and the procedures of which they are the result.

The "Contract life" study therefore deals with the way in which the contract "works" on a daily basis, from signature to expiry.

The observatory of procedures permits seeing how procedures (delegation of public service or public contract) have functioned in networks that have had to renew their contracts during a given period.

Methodology

Lastly, the approaches of analysis and observation mentioned above permit the formulation of methodological elements aimed at local authorities responsible for organising public transport in order to help them draw up contracts adapted to delegated services.

Regarding contracting, the aim is to progress from "ready to wear" to "tailor-made" conditions.

The center for studies on urban planning, transportation and public facilities (Certu) is a french technical services agency under the Ministry of Ecology and Sustainable development. The main objective of Certu is to build and increase the general body of shared knowledge available on a broad variety of urban issues.

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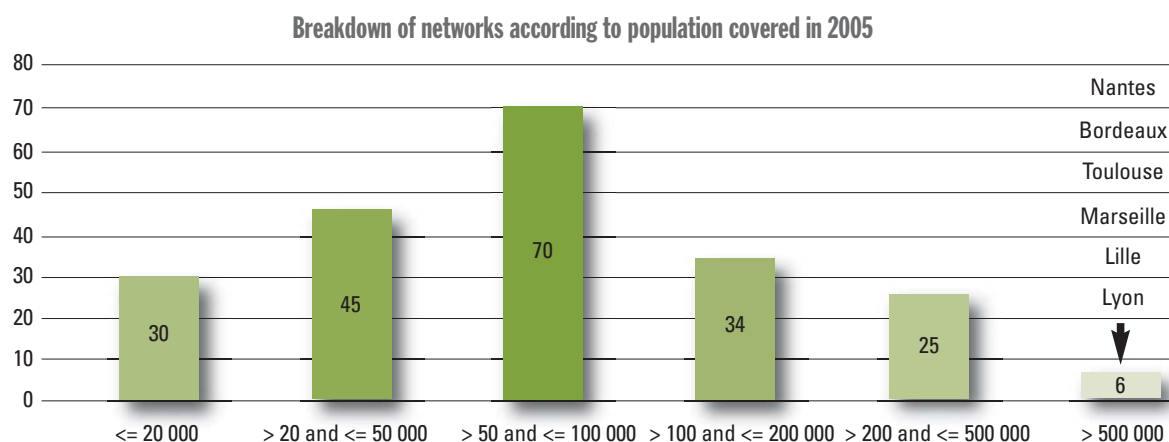


AN INVALUABLE DATABASE THAT CAN BE USED TO LOOK BACK AT THE PAST

A cooperative project

The urban public transport database used in this study results from collaboration between Certu, the Directorate of Land Transport, the Group of Transport Organising Authorities and the Union of Public Transport. It is supplied and updated every year by Certu which relies on the Cete (Technical Study Centres) network to obtain the data.

In 2005, the UPT database listed 210 provincial networks, serving urban transport perimeters encompassing a population of between 5,000 and 1,200,000 people.



Technical, financial and legal data

The urban public transport database contains technical, financial and legal data on over 200 urban networks.

These data can be used to compare networks at a given moment or analyse changes to networks through time.

The main legal data available in the database are :

- legal status of the organising authority and the company
- type of management
- type of procedure used
- type of contract
- date of signature and term of the contract
- affiliation with a larger company
- etc.

Limits of the system

The rate of response of organising authorities to the annual survey performed to supply the database has increased considerably since its reorganisation and simplification, although this rate was quite poor during the first few years, thereby somewhat restricting its use for historic studies.

Furthermore, the questions of the annual survey were not all filled-in completely by the networks that answered. In particular, the legal data are not always supplied as fully as they could be.

Lastly, the urban public transport database is limited at present to provincial urban networks, consequently, the analysis cannot cover departmental or regional transport services, or the urban networks serving the Paris region.

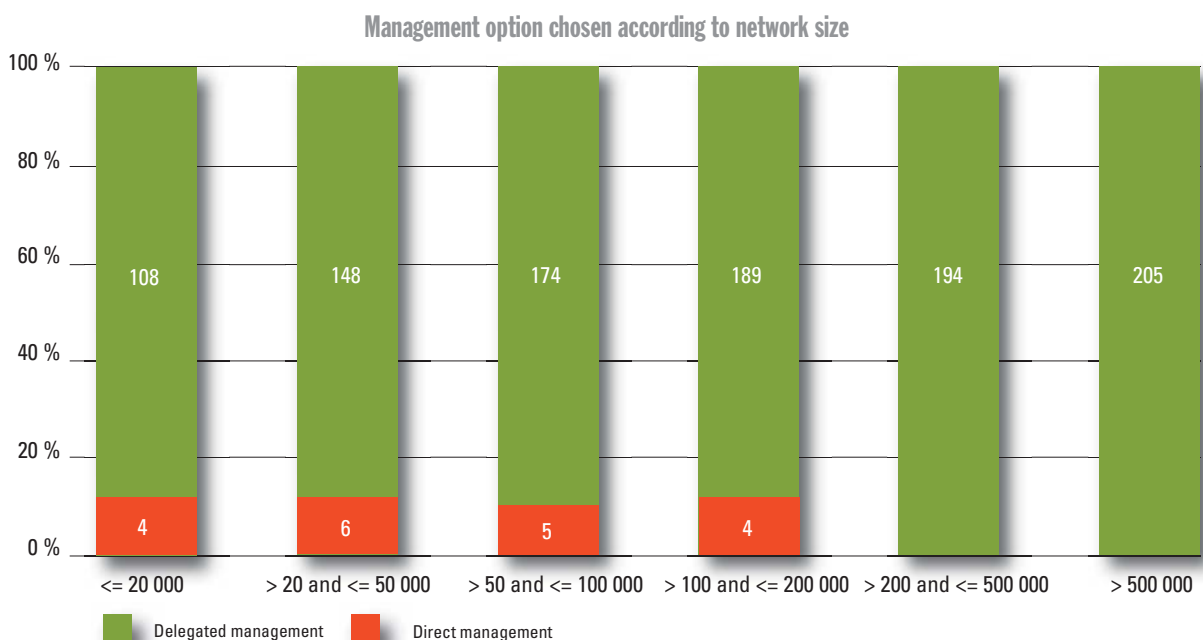
FROM 1997 TO 2005, THE PERCENTAGE OF DIRECT MANAGEMENT HAS STABILISED AT AROUND 10 %



As can be seen there was a substantial increase in the response rate from 1997 (124 replies) to 2000 (213 replies). There are about twenty networks under direct management, with fluctuations that should be considered with caution.

What is important here is the ratio between direct management and delegated management. It should be borne in mind that about 10 % of provincial urban networks were operated under direct management (management companies) in 2005.

THE LARGER THE NETWORK, THE LESS LIKELY IT IS TO COME UNDER DIRECT MANAGEMENT



It is usually the smaller networks that are run under direct management.

Of the 19 “public corporations” registered in the database in 2005, 15 involved urban transport perimeters encompassing less than 100,000 inhabitants (15 out of 19 in 2004, 19 out of 22 in 2003).

Public corporations ran nearly 20 % of networks covering less than 20,000 inhabitants in 2003. This percentage had fallen closer to 10 % by 2005.

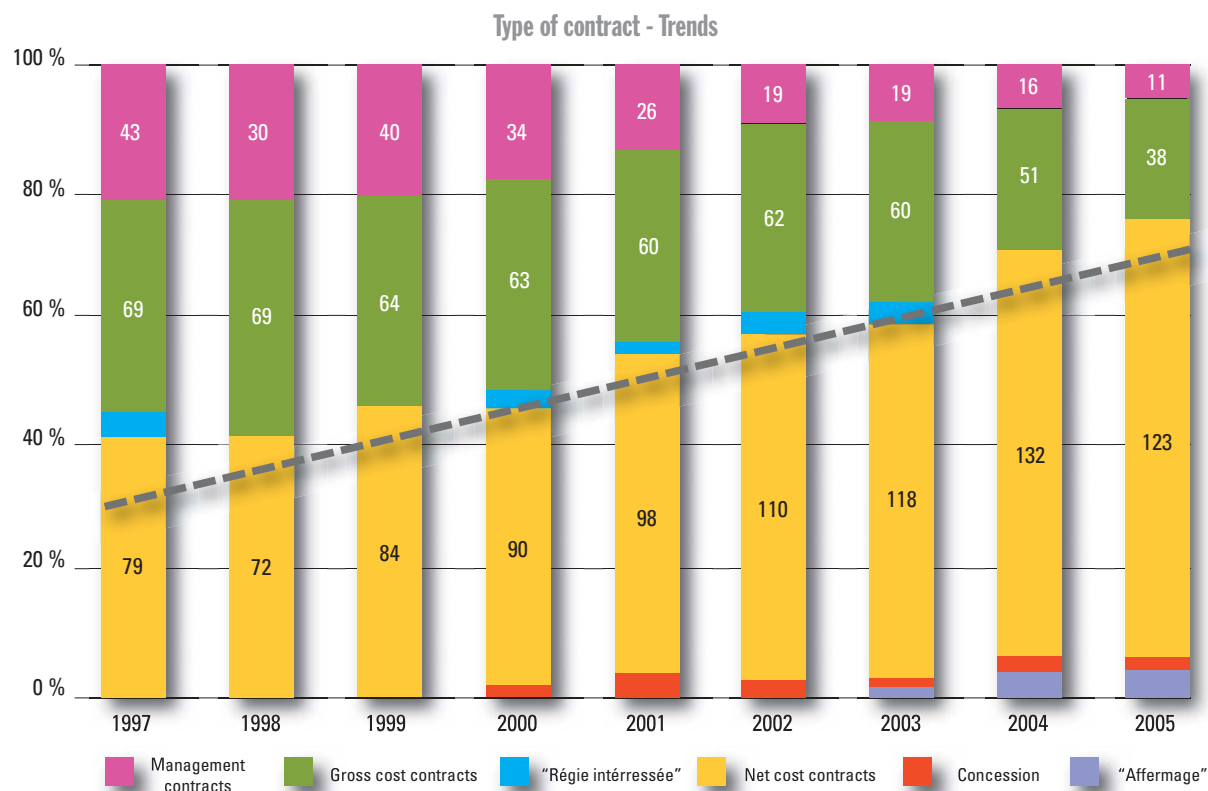
It may be supposed that, in the case of the most extensive networks, it is the complexity and technical expertise needed to run a transport network that has led organising

authorities to contract out to specialised private service providers.

One exception should be apparent in the category of networks for more than 200,000 inhabitants, but, in 2005, Marseille did not reply to the survey questions relative to the section of the network managed by the RTM.

Without wishing to jump ahead to future versions of this analysis, it would be impossible not to mention the case of Toulouse, with its spectacular return to direct management in 2006, after many dramatic ups and downs.

BETWEEN 1997 AND 2005, THE NUMBER OF “HIGH DELEGATION” CONTRACTS INCREASED SIGNIFICANTLY



Here we have used an approach based on the type of contract and on the way in which financial risks are shared between the contracting parties, as defined in the content of the contracts.

This typological approach does not exactly cover the older typology based on the legal qualification of contracts, which we believe had the disadvantage of “naming” contracts without necessarily ensuring that the content matched the name.

In principle the contracts set out the rights and obligations of the parties, their roles and prerogatives, and the distribution of responsibilities between the organising authority and the operator. In particular, the contract must stipulate the party that takes the commercial risk (related to the revenue) and the party that takes the industrial risk (related to the expenses).

- If the organising authority takes the commercial risk and the industrial risk then the contract is called a “manage-

ment contract”. The contract of “régie intéressée” obeys the same rationale; it is represented in the public urban transport database in a only marginal way.

- If the organising authority takes the commercial risk while the operator takes the industrial risk, the contract is called a “gross cost contract”.
- If the operator takes the commercial risk and the industrial risk, the contract is called a “net cost contract”. The concession and “affermage” contracts obey the same rationale; their presence in the public urban transport database is marginal.

We see from the graph above:

- a consistent reduction in the number of management contracts (in blue) and gross cost contracts (in green),
- an increase in the number of net cost contracts (in red and orange)

Before studying these trends in more detail, we shall take a look at the procedure used to finalise and sign these contracts: delegation of public service or public contract.

THE CHOICE OF THE PROCEDURE REMAINS AMBIGUOUS IN THE CASE OF GROSS COST CONTRACTS

The definition of delegation of public service is given in article L.1411-1 of the General Code of Territorial Authorities: *“The delegation of a public service entails a contract by which a legal entity subject to public law entrusts the management of a public service for which it is responsible to a public or private delegate, whose remuneration is to a great extent related to the results generated from operating said service. The delegate can be responsible for building structures and procuring goods necessary for the service”.*

According to this definition, net cost contracts can obviously be assimilated with public service delegation contracts while management contracts cannot. The latter are therefore public contracts.

This question is more difficult to answer in the case of gross cost contracts which, a priori, are public contracts, since the

operator’s remuneration is not substantially linked to the results generated by operating the service (the commercial risk is taken by the organising authority). However, if the contract includes incentives, these may result in pegging the operator’s remuneration more or less substantially to the operating results. In 2005, one third of the gross cost contracts listed in the data (13 out of 40) were awarded as public service delegation contracts.

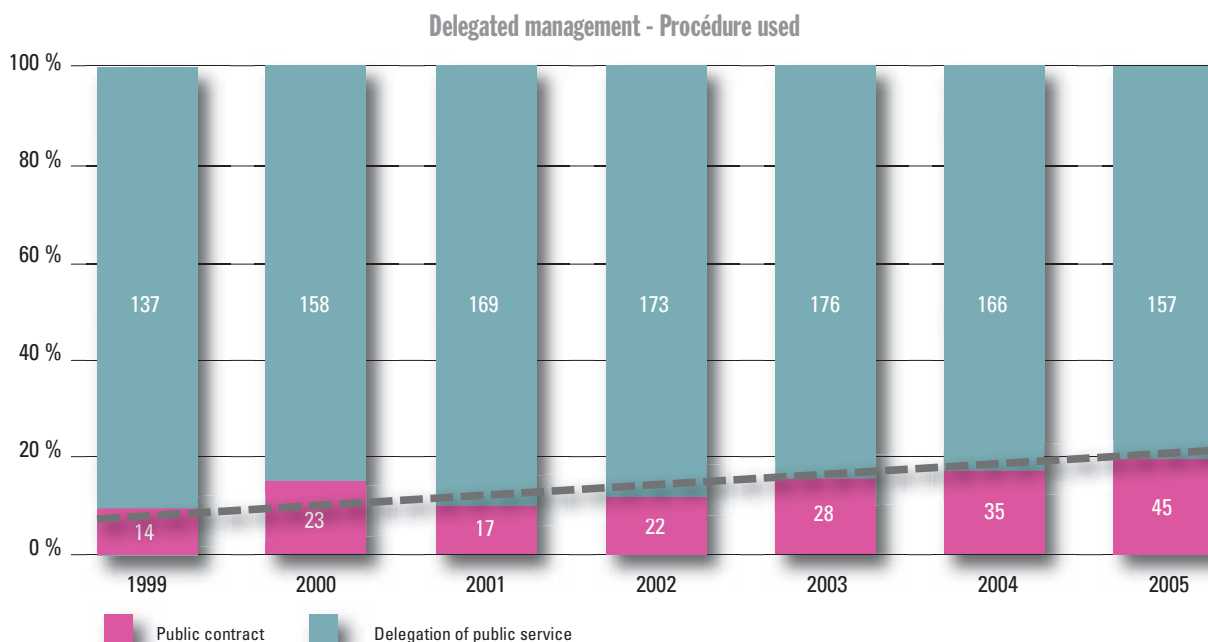
Inversely, management contracts, by which the local authority manages and is responsible for the service that it controls, are not public service delegation contracts. However, 3 of the 13 management contracts listed in 2005 were awarded as public service delegation contracts.

BETWEEN 1997 AND 2005, PUBLIC CONTRACT PROCEDURES HAVE BECOME MORE WIDESPREAD

A trend that is still limited, but is consistently growing, is to use the public contract procedure: a rise of 14 % in 2003, 17 % in 2004 and 22 % in 2005.

This rise can partly be explained by recent changes to the structure of the database. Up until 2004, an entry in the database was related to a “Urban transport perimeter/Organising authority” pair.

This presupposed that there was only one operator in charge of each network. Of course, this is not always the case. Without going as far as dividing the services into lots, whereby network operation is divided up between several operators at comparable levels, many OAs use “secondary” operators for specific services (transport-on-demand, people with reduced mobility and school transport, etc.).



Since 2004, it has been possible to include such operators in the database. An entry in the database now represents a contract signed between an OA and an operator.

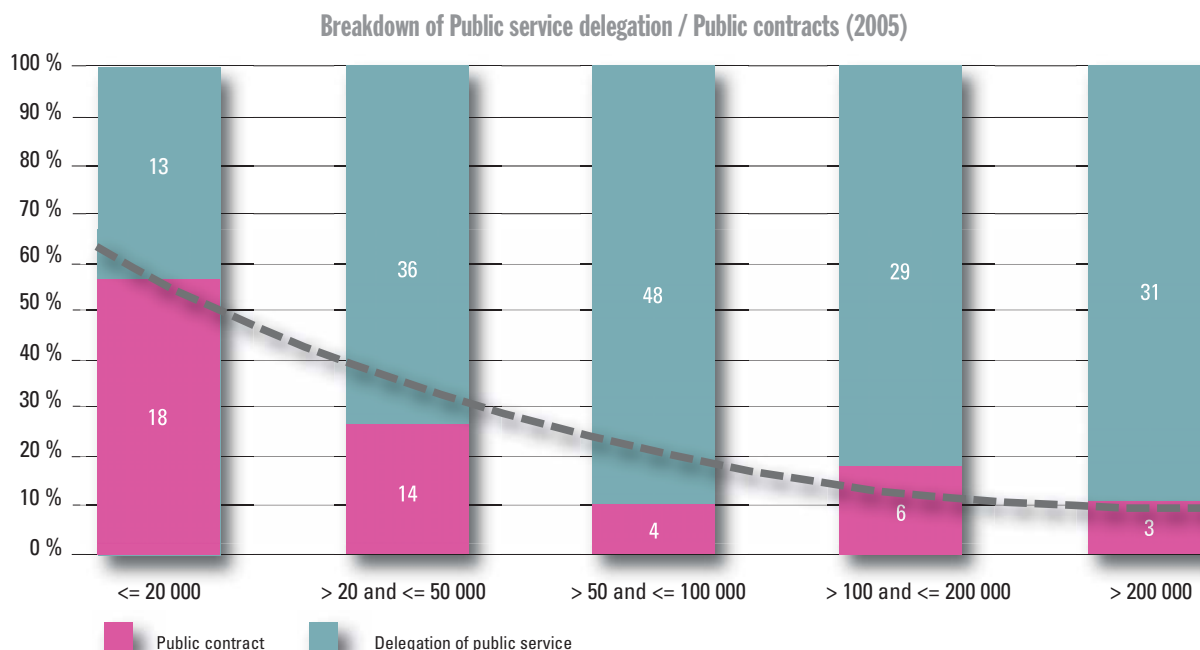
Let us take Besançon as an example. The same OA (“Communauté d’agglomération du Grand Besançon”) uses three operators:

- the main operator, “Compagnie des Transports de Besançon”
- the secondary operator, “Régie Départementale des Transports du Doubs”
- and another secondary operator, “Monts-Jura Autocars”.

Moreover, while the contract signed with the main operator is a public service delegation contract, the contracts awarded to the secondary operators are public contracts. Besançon thus has 1 listing for a public service delegation contract and 2 under public contracts, but the number of kilometres covered by the former is much, much higher than the number covered within the framework of the two public contracts.

This situation should be seen in perspective, given that the number of networks that “declared” using more than one operator is still low.

SMALLER NETWORKS MAINLY USE THE PUBLIC CONTRACT PROCEDURE



The graph above clearly shows that the public contract procedure is mainly used by small and medium-sized networks. In 2005, nearly 60 % of currently valid contracts used in networks covering areas of under 20,000 inhabitants were awarded by means of a public contract procedure. This figure is closer to 30 % for networks with 20,000 to 50,000 inhabitants. Over 50,000 inhabitants, less than 20 % of contracts are public contracts.

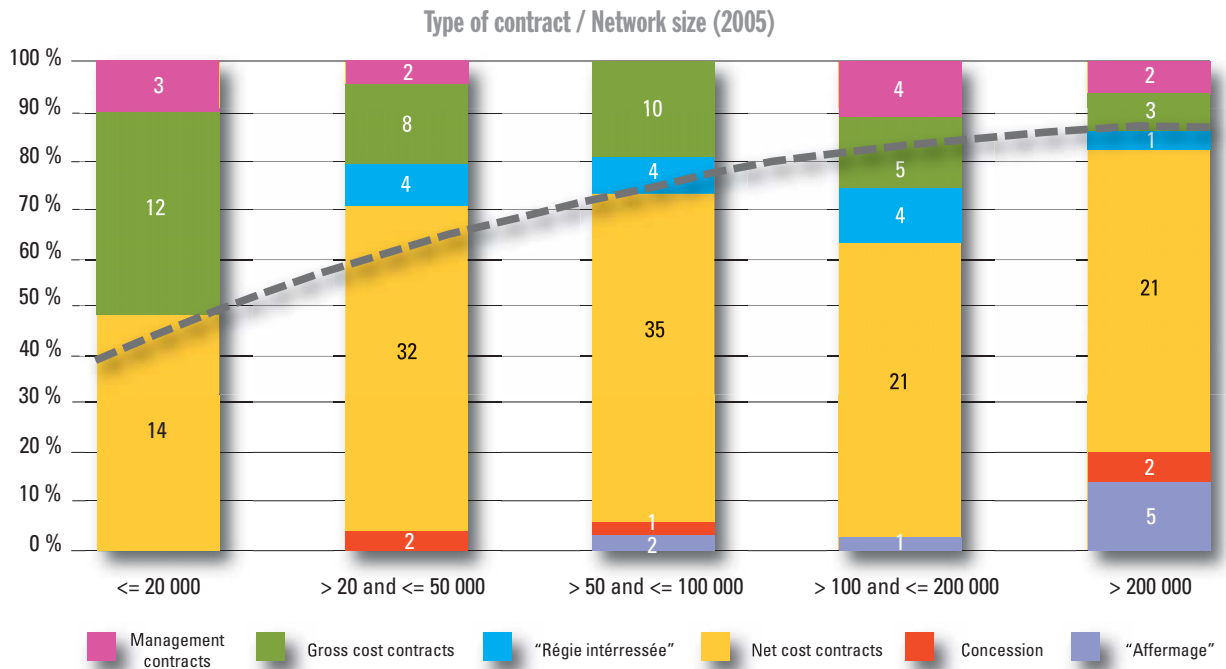
Of course, there are exceptions: for example, the network in Clermont-Ferrand, operated under public contract.

The important point to remember here is that use of public contracts seems to suit situations where the commercial risks are difficult to define and, therefore, not so easy to delegate:

- setting up a network (this is currently the situation in small and medium-sized agglomerations)
- setting up a new service required to have a strong impact on the overall balance of the network (for example, opening a public transport service on reserved lanes – see Clermont-Ferrand)

In any case, apart from the use (somewhat ambiguous) of one or other of these possible procedures, we wish to focus on the concept of delegation and the “scope” of the delegation, as (generally) defined in the type of contract awarded.

“LOW DELEGATION” CONTRACTS FOR THE SMALLER NETWORKS



Management contracts are more or less widespread in both small and large networks. It is the share of fixed-price management contracts that can be used to describe the scope of delegation within small networks as “narrow”, compared with delegation within large networks.

The share of gross cost contracts varies between 15 and 20 % for networks serving more than 20,000 inhabitants, rising to 40 % for networks serving less than 20,000 inhabitants (with the notable exception of Bordeaux).

This is totally consistent with the fact mentioned above regarding the more widespread use of public contract procedures for small networks.

That said, net cost contracts are used in over than 50 % for networks serving more than 20,000 inhabitants.

In the case of medium-sized networks (20,000 to 100,000 inhabitants), where approximately 70 % of contracts are net cost contracts, it may be that the OAs delegate a great deal of service management authority to the operator, in light of a lack of internal resources: transport is one of many budget items and only limited resources can be dedicated to it.

In the case of large networks (over 100,000 inhabitants), it may be that the OAs delegate a great deal of service management authority to the operator, given the complexity of managing such services: large public transport networks (possibly including reserved-lane public transport systems) is complicated – professionals specialised in managing networks on this scale are better equipped for the task.

Marseille and, more recently, Toulouse are two noteworthy exceptions to this rule. In addition to these possible explanations, the influence of the past on how networks are managed should also, of course, be taken into account.

The case of networks serving less than 20,000 inhabitants is worth analysing and monitoring in more detail. In fact, in this category of network, a more or less equal balance between the two main options available to organising authorities for managing their public passenger transport services can be observed. Around 40 % use the public contract procedure mainly to award gross cost contracts. Around 60 % use the public service delegation contract procedure to award net cost contracts.

In all other categories of network size, public service delegation is clearly the most widespread. This relative resistance on the part of small networks to a widespread trend to delegate a substantial share of the responsibility for risks to the operator is perhaps comparable to a tradition of direct management that is still current among small urban networks in France, but such a hypothesis needs to be verified.

CONCLUSION

The previous analyses show that delegated management, used in the majority of provincial urban networks in France in 2005, comprises a wide range of situations and is undergoing changes that are still in progress.

These changes should be analysed more thoroughly and monitored: what option of delegation, what type of contract, what type of procedure for what project, for what public transport policy?

This analysis also shows that, although it would be hasty to speak of the return of "publicly owned companies", the sphere of direct management in provincial urban networks in France is active and diversified.

For more information :

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