

RESOLUTION NO. 2016-88

AMENDING CHAPTER 462, "POLICY FOR COMPETITIVE CONTRACTING OF TRANSPORTATION SERVICES" OF THE CODIFIED RULES AND REGULATIONS OF THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

WHEREAS, pursuant to Resolution No. 1989-176, the Board of Trustees of the Authority codified the resolutions establishing its policies and procedures; and

WHEREAS, over the years, many of the resolutions have been amended; and

WHEREAS, at the present time, the Authority deems it necessary to review, revise and update the codified rules and regulations; and

WHEREAS, the Authority has reviewed Chapter 462, "Policy for Competitive Contracting of Transportation Services" and determined that this chapter should be amended.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That Chapter 462, "Policy for Competitive Contracting of Transportation Services" is hereby amended to read as follows:

CHAPTER 462

Policy for Private Sector Participation in Provision of Transportation Services

462.01 PRIVATE SECTOR PARTICIPATION.

The CEO, General Manager/Secretary-Treasurer is authorized to coordinate and contract with the private sector to provide public transportation services. This authority is subject to the spending limitations set forth in Chapter 410.

Section 2. That this resolution shall become effective immediately upon its adoption.

Adopted: September 27, 2016



President

Attest: 

CEO, General Manager/Secretary-Treasurer



TITLE/DESCRIPTION: AMENDING CHAPTER 462, "POLICY FOR COMPETITIVE CONTRACTING OF TRANSPORTATION SERVICES" OF THE CODIFIED RULES AND REGULATIONS OF THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY	Resolution No.: 2015-88
	Date: September 22, 2016
	Initiator: Legal
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 PURPOSE/SCOPE: This resolution will amend Chapter 462 of the Codified Rules and Regulations ("Code") of the Greater Cleveland Regional Transit Authority.
- 2.0 DESCRIPTION/JUSTIFICATION: The Policies and Procedures of the Board of Trustees were codified in 1989, pursuant to Resolution 1989-176. The code book has been updated periodically. It is now time for a comprehensive review and update so that the updated Code will conform to the current structure and operations of the Authority.

The Urban Mass Transit Administration (predecessor to Federal Transit Administration) Circular that authorized the requirements set out in Chapter 462 has been superseded. Title 49, Section 5315 of the United States Code provides generally for private sector participation in public transportation services.
- 3.0 PROCUREMENT BACKGROUND: Does not apply.
- 4.0 AFFIRMATIVE ACTION/DBE BACKGROUND: Does not apply.
- 5.0 POLICY IMPACT: Adoption of the resolution will result in a clear, accurate and current policy.
- 6.0 ECONOMIC IMPACT: Does not apply.
- 7.0 ALTERNATIVES: Not adopting this resolution. Not adopting this resolution would result in Chapter 462 remaining a part of the Code and leaving the Code out of date.
- 8.0 RECOMMENDATION: It is recommended that this resolution be adopted.
- 9.0 ATTACHMENTS: Redline copy of Chapter 462.

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



 CEO, General Manager/Secretary-Treasurer

CHAPTER 462

Policy for Competitive Contracting of Transportation Services Private Sector Participation in Provision of Transportation Services

EDITOR'S NOTE: ~~This chapter sets forth the "Development of a Local Policy for the Competitive Contracting of Transportation Services in Northeast Ohio," adopted by the Northeast Ohio Areawide Coordinating Agency in November, 1990. This Policy was adopted by the Authority by Resolution 1990-207, passed November 27, 1990, as required by UMTA Circular 7005.1, issued in December, 1986.~~

~~INTRODUCTION TO COMPETITIVE CONTRACTING~~

- ~~462.01 Competition; a national overview. Private sector participation.
462.02 Competition in transit services.~~

~~PRIVATE SECTOR PARTICIPATION PROCESS~~

- ~~462.03 Legal framework for competitive private participation.
462.04 Major areas of opportunity for private involvement.
462.05 NOACA "forums".
462.06 Development of a local policy.

462.07 Policy issues.~~

~~THE LOCALLY DEVELOPED PRIVATE ENTERPRISE PARTICIPATION POLICY FOR THE NOACA REGION~~

- ~~462.08 Private sector participation in the planning process.
462.09 Bidding on new or restructured transit services.
462.10 Periodic examination of existing transit services.
462.11 TIP/AE documentation.
462.12 Dispute resolution process.~~

CROSS REFERENCES

Private sector participation – see 49 USC 5315

Contracts and procurement - see FIN. Ch. 410

Procurement Policy – see Resolution 2008-141

Debt policies – see FIN. Ch. 420

Privatization of new or restructured routes, sources,
subsystems – see SERV. 1022.05

Identification of major source proposals as candidates for
privatization – see SERV. 1024.02(b)

INTRODUCTION TO COMPETITIVE CONTRACTING

462.01 COMPETITION; A NATIONAL OVERVIEW PRIVATE SECTOR PARTICIPATION.

The CEO, General Manager/Secretary-Treasurer is authorized to coordinate and contract with the private sector to provide public transportation services. This authority is subject to the spending limitations set forth in Chapter 410.(a) ~~The use of private sector resources in service to the public sector has been gaining increased use and acceptance in recent years. Public and quasipublic jurisdictions and agencies have found it advantageous to involve private enterprise in the design, construction, ownership, financing and operation of public services and facilities for the following reasons:~~

- ~~(1) Reduction of direct public expenses through private sector efficiencies in costs, time, productivity and economies of scale;~~
- ~~(2) Extension of public general obligation (tax) fund resources;~~
- ~~(3) Limitation of public risk by sharing or shifting risks with private providers; or~~
- ~~(4) Maintenance of or increased service levels with no increase in taxes or user fees.~~

~~(b) This "public/private partnership" puts the business talent and drive of private enterprises to work for the good of the general public. The central theme is to have the private sector provide goods, facilities or services which have traditionally been provided by the public sector. Examples of competition include these public services commonly contracted out in the northeast Ohio region:~~

- ~~(1) Commercial solid waste collection;~~
 - ~~(2) Residential solid waste collection;~~
 - ~~(3) Street lighting;~~
 - ~~(4) Vehicle towing and storage;~~
 - ~~(5) Ambulance service;~~
 - ~~(6) Transit services;~~
 - ~~(7) RTA's C.R.T. and Flats flyer service;~~
 - ~~(8) LCTB's fixed route operation;~~
 - ~~(9) LAKETRAN'S commuter service;~~
 - ~~(10) RTA's fixed route operation;~~
 - ~~(11) Prison construction and operation.~~
- ~~(Res. 1990-207. Passed 11-22-90).~~

462.02 ——— COMPETITION IN TRANSIT SERVICES.

~~The Federal Government's role in mass transit can be likened to a pendulum. Until the early 1970's there was little involvement with or subsidy to local operators. Then, due to a number of factors, private transit providers began going out of business. Transit dependent segments of the population, the poor and elderly, were faced with hardship. The Federal Government, through the Urban Mass Transportation Administration (UMTA), stepped in to play an active role in transit for the benefit of its citizens. Government subsidies for the operating and capital expenditures of transit~~

~~systems led to the creation of public transit authorities. These authorities purchased private transit providers and assembled areawide operations into coordinated public transit systems.~~

~~Public transit systems soon had to deal with the same problems the private sector had dealt with unsuccessfully; decline in ridership, increased labor and operating costs, deferred capital expenditures and escalating maintenance costs. Thus, costs to the taxpayer increased annually while, in many cases, fewer people used the services. By the early and mid-1980's, public subsidies continued to grow at a rate which became difficult to sustain and more difficult to overlook. Therefore, new approaches to the transit industry had to be explored.~~

~~While the government viewed public transportation as a vital ingredient to the overall health and welfare of its citizens, it also recognized that costs were becoming burdensome. Therefore, UMTA devised and promoted the doctrine of increased private involvement in providing transit services.~~

~~Competition by private sector suppliers for providing goods and services to public and private transit operator is as important as providing basic transit service. Cost accounting and analysis practices have taken on new importance by providers to rationalize purchase of goods or services from private sector suppliers.
(Res. 1990-207. Passed 11-27-90.)~~

~~PRIVATE SECTOR PARTICIPATION PROCESS~~

~~462.03 LEGAL FRAMEWORK FOR COMPETITIVE PRIVATE PARTICIPATION.~~

~~(a) The Urban Mass Transit Administration (UMTA) published its private enterprise policy in the October 22, 1984, Federal Register (49 FR 4310), which policy stipulated that the private sector be assured of participation in the provision of goods and services for public transit.~~

~~(b) This is to be done by the establishment of a local process that sets forth mechanisms for such participation. On December 5, 1986, UMTA released a Circular (UMTA C-7005.1) providing procedural guidance for establishing the local process. This Circular sets forth the following elements that must be included in the local process:~~

- ~~(1) Early notice and consultation with private providers of plans involving new or restructured service and periodic re-examination of existing service;~~
- ~~(2) Periodic examination, at least every three years, of each route to determine if it could be more efficiently operated by private enterprise;~~
- ~~(3) Description of how new or restructured services will be evaluated to determine if they could be more efficiently provided by the private sector through a competitive bidding process;~~
- ~~(4) The use of fully allocated costs as a factor in the public/private decision; and~~
- ~~(5) A dispute resolution process which affords all interested parties an opportunity to object to an initial decision.~~

~~(c) This local process is to be submitted to UMTA where it will be reviewed for conformance with statutory requirements. When an accepted local process is in place, the MPO (NOACA, in this case) shall be responsible for certifying that each Annual Element of the Transportation Improvement Plan (TIP) submitted by recipients of UMTA funds fulfills these local process requirements. UMTA, however, may not:~~

- ~~(1) Condition a Section 9 grant on a specific level of private sector involvement;~~
- ~~(2) Establish quotas for private sector involvement; or~~
- ~~(3) Mandate the local decision regarding private sector involvement.~~

~~(d) This process relies on the MPO to:~~

~~(1) Certify the use of the local process to guarantee private sector access; and~~

~~(2) Document the results of the process. This places greater emphasis on the MPO as a monitor of policy conformance and provides UMTA the role as an appeal mechanism for the private sector.~~

~~(Res. 1991-207. Passed 11-27-90.)~~

~~462.04 MAJOR AREAS OF OPPORTUNITY FOR PRIVATE INVOLVEMENT.~~

~~(a) It is in the following three areas of service provision that current private sector efforts are concentrated:~~

~~(1) Direct provision of transit services, where a private entity contracts competitively with a public operator to deliver a specific service. These can be route operation, maintenance, management, planning or a whole range of consulting services such as engineering, accounting, billing and ordering;~~

~~(2) Provision of new, start-up services that have not heretofore been provided. These "turn key" operations can include specialized services such as elderly, handicapped, lightrail or other elements provided to the public sector's needs and specifications; and~~

~~(3) The opportunity for the public sector to grant to the private sector certain concessions the government has that are worth money to the private sector. These concessions might include zoning for a building project, air rights development options, or other building variances in return for the developer providing a service, constructing a transit station, or the like. This area is the least explored of all the options.~~

~~(b) Major opportunities for competitive contracting activities include purchase of vehicles, spaces, fuel and lube items, tools, maintenance items and other supplies, and specialized business services such as consulting, planning and engineering, advertising and public relations, or temporary personnel. Competitively contracted service provides a measure by which to compare the performance of in-house service. Deciding on whether or not to privatize service is comparable to any other buying decision and should utilize the latest in cost analysis procedures and software.~~

~~(Res. 1990-207. Passed 11-27-90.)~~

462.05 ~~NOACA "FORUMS":~~

~~(a) Six special meetings of private providers were held by NOACA during the development of these competitive contracting policies. Called "Forums" to indicate a free exchange of information and ideas, each has a specific topic or focus. These Forums included:~~

- ~~(1) Forum One, March 17, 1989, Introduction to the Competitive contracting process;~~
- ~~(2) Forum Two, June 16, 1989, Entrepreneurism;~~
- ~~(3) Forum Three, October 10, 1989, Competitive Contracting~~

~~Workshop;~~

- ~~(4) Forum Four, December 14, 1990, Labor Issues;~~
- ~~(5) Forum Five, June 7, 1990, Draft Policy Statement; and~~
- ~~(6) Forum Six, September 11, 1990, Final Policy Statement.~~

~~14E Policy for Competitive Contracting of Transportation Services~~

~~(b) Goals for these interactive meetings included:~~

- ~~(1) To get private transit providers involved in public transit because of their knowledge, skill, spirit and productivity;~~
- ~~(2) To establish effective communications between public and private transit providers;~~
- ~~(3) To continue and enhance provision of transportation services to the community, particularly the transit dependent;~~
- ~~(4) To inventory all public and private transit suppliers of services and materials;~~

~~(5) To create an organization of private transit providers and establish a regular meeting schedule;~~

~~(6) To develop a methodology for the writing of technical proposals (RFP's) and a consistent process of analysis and evaluation of responses;~~

~~(7) To provide education on contract preparation, Federal and State legal requirements for the contracting process, and 13c labor provision guidelines;~~

~~(8) To develop parameters for measuring service and financial performance (productivity) during a contract; and~~

~~(9) To provide education in management and public relations techniques.~~

~~(c) A mailing list for Forum participants was developed through a combination of existing NOACA lists, ODOT's Public Transportation Division, the Ohio School and Transit Association, responses to public meeting advertising, and word of mouth. (Res. 1990-207. Passed 11-27-90.)~~

~~462.06 ——— DEVELOPMENT OF A LOCAL POLICY.~~

~~(a) On April 22, 1986, NOACA provided approximately sixty private transit providers and those public operators in the five-county area with copies of its draft Interim Policies and Procedures concerning Private Sector/Competitive Participation in Mass Transportation Programs within northeast Ohio. These transit providers were invited to submit their comments to NOACA on the interim policies and procedures. The Lorain County Transit Board, the City of Maple Heights Transit System, the City of North Olmsted Municipal Bus Line, the Greater Cleveland Regional Transit Authority, LAKETRAN and Greyhound Bus Lines provided feedback. The Ohio Department of Transportation has also supplied NOACA with its input.~~

~~(b) The local policy (Sections 462.08 through 462.12 of this chapter) was developed as a result of the cooperative effort of the above listed organizations. (Res. 1990-207. Passed 11-27-90.)~~

~~462.07 ——— POLICY ISSUES.~~

~~(a) For purposes of these policies and procedures, where providers eligible to bid on supplying transit service are mentioned, the publicly-owned, including municipal transit systems, are encompassed, as are private sector transit carriers. This change was made because the urban Mass Transportation Administration has moved toward promoting the broader issue of competition for providing services versus exclusive privatization of transit operations, and these publicly-owned systems should be accorded the same rights and assurances as private operators.~~

~~FINANCE CODE ——— 14F~~

~~(b) The competitive contracting policy that UMTA has promulgated, which implements those sections of the UMTA Act pertaining to private enterprise participation, is intended to encourage and promote increased private sector opportunities in the provision of mass transportation services within a more competitive environment. The improved, more efficiently provided, and/or lower cost operation of transit services is the goal of this policy.~~

~~(e) It should be noted that the policy which is contained in Sections 462.08 through 462.12 is not concerned with procurement issues, as these are subject to other UMTA and State regulations and laws. That is, the competitive tender of all projects offered to private providers/operators will be governed by Federal and State procurement rules, contained in UMTA Circular C 4220.1A, and Ohio R.C. Chapter 306, respectively. Such issues as procurement (including the form and structure of the tender, and contractual terms and conditions), maintenance, management/marketing issues, plus issues arising from an existing contract between the complainant and the transit authority, must be resolved under these rules and regulations. The private enterprise participation policy addresses concerns relative to public operators meeting UMTA-mandated procedures in planning and operation issues.~~

~~(d) The UMTA policies regarding private sector participation raise various local issues related to the manner in which:~~

~~(1) The private sector will be provided with the opportunity to participate in the transportation planning process.~~

~~(2) The private sector will be provided with the opportunity to bid on new or restructured transit services.~~

~~(3) The private sector will be provided with the opportunity to bid on existing transit services.~~

~~(4) The private sector will be provided with the opportunity to jointly develop capital investment projects with public agencies.~~

~~(5) Proposals or bids by the private sector will be fully and fairly evaluated (i.e. development of criteria and cost methodology).~~

~~(6) Disputes on provider issues are to be resolved within a predictable process (i.e. the development of a local mechanism for the resolution of complaints).~~

~~Each of these issues is discussed herein with a recommended local private sector/competitive participation policy to be adopted by NOACA in complying with UMTA's policy directives.~~

~~(Res. 1990-207. Passed 11-27-90.)~~

~~THE LOCALLY DEVELOPED PRIVATE ENTERPRISE PARTICIPATION POLICY FOR THE NOACA REGION~~

~~462.08 PRIVATE SECTOR PARTICIPATION IN THE PLANNING PROCESS.~~

~~To accomplish the objective of maximum feasible private sector participation in the MPO planning process, particularly in development of the TIP/Annual Element, NOACA hereby establishes a process whereby transit providers are given an opportunity to participate and have their views considered.~~

~~(a) An inventory identifying all transit providers in the area has been prepared and will be updated to remain current with active providers.~~

~~(b) Reasonable notices (forty-five days minimum) will be provided to providers regarding proposed transportation plans and programs in order that they are made aware of opportunities for providers and can present their views.~~

~~(c) If a provider expresses a willingness to supply services being proposed, the requirements of the service involved should be specifically defined by an RFP or an~~

~~IFB. The terms of equipment needs, time of service, hours of service, special service provision, etc., are made available to the provider so that it is given the opportunity to submit its response to the RFP or IFB.~~

~~(d) Cost comparisons should be a factor in evaluating service proposals of the providers versus public operators.~~

~~The existing and proposed operating costs of the public operators to provide the proposed services should be defined. All the fully allocated costs should be counted.~~

~~Any operating subsidies, capital grants and the use of public facilities should be reflected. Individual cost elements, including overhead, labor and maintenance, should be identified.~~

~~The proposed price of the private provider to supply the needed services should be defined as required by the RFP or IFB. It should be noted that lack of availability of desired equipment by the private operator should not be considered in comparing service proposals, as appropriate equipment may be leased from the public agencies to the provider, if the specified type of equipment is in the public transit agency's possession.~~

~~If equipment is not made available by the private operator, the private operator must insure that the specified type of equipment will be available by the planned start date.~~

~~(e) The steps undertaken by public transit agencies to involve providers in the planning process should be documented, including the evaluation of private operator service proposals, and presented to the NOACA Policy Board for consideration before endorsement of the Annual Element of the Transportation Improvement Program.~~

~~(Res. 1990-207. Passed 11-27-90.)~~

~~462.09 ——— BIDDING ON NEW OR RESTRUCTURED TRANSIT SERVICES.~~

~~(a) Federal regulations require that a list of all new or restructured services and operations to be implemented as a result of projects included in the Transportation Improvement Program be provided to UMTA either prior to, or concurrent with, the TIP approval process. This list is to include a description of how new or restructured transit services have been (or will be) developed, consistent with UMTA's competitive provider policy.~~

~~(b) The first step is identification of new or restructured service. The January 24, 1986 Federal Register includes in its definition "any new route(s), significant increase in service on an existing route, and a change in the type or mode of service provided on a specific, regularly scheduled route." The transit operators, through the TIP process, are asked to identify these services. At present, they are also asked to~~

provide their criteria in determining what constitutes a significant change. These are reviewed by NOACA.

(e) A variable threshold will be used to evaluate opportunities for competitive tender of restructured services. The threshold varies as follows:

Frequency of Existing Service (Minutes)	Service Improvement Threshold (Percent)
90 or more	200
60 to 89	100
45 to 59	75
30 to 44	50
1 to 29	25

(d) The varying threshold approach recognizes the need for efficiency and cost-effectiveness in the tender of services by the public transportation provider for the competitive bid. The establishment of an inflexible standard would be expensive for the public providers if they were to be forced to adhere to it. For example, if a strict twenty-five percent benchmark were to be mandated, the public provider would have to bid every service improvement that exceeded it. Thus, if a route which is operated with only two buses were to have a third bus added as a frequency of service improvement, from a sixty-minute to a forty-minute headway, this would represent a fifty-percent increase in service hours. Consequently, under a strict twenty-five percent threshold, this relatively small piece of service would have to be placed for competitive tender. For a large system, in which such minor service changes would be routine, it would prove highly expensive and administratively inefficient to prepare bid documents and manage the competitive tender process for each and every one of these minor service changes.

(e) The sliding thresholds based upon varying levels of existing service and service improvements would allow for economies of scale logically linked to existing service structures. Subsequently, public operators can package truly significant service restructurings into worthwhile competitive bidding opportunities for private operators. These competitive tenders would thus be of a scale so as to attract a variety of bidders. Also, they would allow for the public operators to prepare and administer a reasonable number of significant competitively tendered projects versus an unreasonably large number of relatively insignificant projects that would fail to solicit a strong response from prospective bidders.

(f) The second step in the process is soliciting provider interest in the operation of those services identified as opportunities for their involvement. The inventory of providers will be utilized to solicit interest. Proposals will be evaluated by the public operator using a cost methodology which places all those proposals received on an equal footing. The public operator shall, pursuant to UMTA guidelines, determine its full cost of the service prior to opening bids/proposals from eligible operators using the same cost methodology, so as to compare the bids submitted with the public operator's cost. The public operator will be responsible for monitoring contract compliance. The public operator will provide results/status reports to NOACA.

~~on an annual basis as part of the submission for the TIP.~~

~~(g) If a public operator should conduct a demonstration project of limited scope, area of impact, and duration that exceeds the appropriate threshold requirement regarding mileage or revenue hours, the project shall not be construed as new or restructured service only under the following circumstances:~~

- ~~(1) that it is a declared demonstration project; and~~
- ~~(2) the project lasts no longer than twelve months without providing eligible transit operators the opportunity for competitive involvement in the project.~~

~~(Res. 1990-207. Passed 11-27-90.)~~

~~462.10 PERIODIC EXAMINATION OF EXISTING TRANSIT SERVICES.~~

~~UMTA requires a periodic examination, at least every three years, of each route to determine if it could be more efficiently operated by a private enterprise.~~

~~After completion of these examinations, each agency using the provider inventory to solicit interest will determine if such providers can provide any existing services. Each agency will provide NOACA with its analysis and any resulting recommendations.~~

~~The public transit system in Geauga County will conduct periodic reviews of existing services to assess potential competitive participation by providers, as required by the January 24, 1986 Federal Register Notice for Section 18 and Section 16(b)(2) Recipients. The Geauga County system will provide NOACA with the results/recommendations of its analysis as a matter of information.~~

~~(Res. 1990-207. Passed 11-27-90.)~~

~~462.11 TIP/AE DOCUMENTATION.~~

~~(a) Public operators will provide sufficient information and/or access to such information to NOACA to enable the MPO to certify that the local process has been followed and to describe how the local process led to the development of the projects contained in the TIP/AE.~~

~~(b) The TIP/AE documentation will contain:~~

~~(1) A description of the involvement of the private sector in the development of the specific projects. The determination of whether service or support functions reflected in the annual element are to be provided by a public or private provider can be arrived at through use of requests for proposals, invitations for bids or other means in local planning process;~~

~~(2) A description of the proposals received from the private sector and how they were evaluated;~~

~~(3) A description of impediments to holding service out for competition and the measures taken to address the impact of such impediments; and~~

~~(4) A description and status of private sector complaints.~~

~~(Res. 1990-207. Passed 11-27-90.)~~

462.12 ~~DISPUTE RESOLUTION PROCESS.~~

~~(a) The October 22, 1984 Federal Register requires the development of a local mechanism to resolve disputes on provider competition related issues. This process is required to ensure that disputes are resolved in a manner which ensures fairness to all parties. UMTA will entertain complaints only upon procedural grounds that the local planning and programming process has not established procedures for the maximum feasible competitive participation of providers consistent with Section 8(c) of the urban Mass Transportation Act of 1964, as amended, and the spirit of UMTA's competitive participation policy; or that the local procedures were not followed; or that the local process does not provide for fair resolution of disputes. Accordingly, UMTA will not review disputes concerning the substance of local decisions regarding service or the appropriate service provider. Nor will UMTA entertain procedural protests prior to a disposition of complaints at the local level.~~

~~(b) Since the publicly owned transit systems are the primary operators of public transit service, and NOACA is the responsible entity for development of the TIP, both must have a major role in the resolution of disputes. It is recommended that Stage I of the process be a written filing of the complaint with the public transit system (see Figure 1 following this section). The transit system shall notify NOACA of such complaints within fifteen days. The complaint should identify the major area of concern, such as:~~

- ~~(1) Failure to provide reasonable notice of proposed plans and programs;~~
- ~~(2) Inadequate documentation of service requirements, i.e. lack of a fully detailed scope of services that includes costs and criteria;~~
- ~~(3) Cost proposal comparison methodology issues; and/or~~
- ~~(4) Contractual terms, changes, payment, problems.~~

~~(c) The public transit operator shall review the complaint and prepare a response to the complainant within thirty days of its filing. The public transit operator will provide NOACA with a copy of the response at the same time.~~

~~(d) If the complainant is not satisfied with the resolution at the end of Stage I, then the complainant files a written appeal to NOACA within thirty days of the delivered response. This begins Stage II of the process, and it initiates the appeal resolution process.~~

~~(e) Appeals will be heard by an arbitrator chosen by the American Arbitration Association. The complainant will bear the costs of the arbitrator. Transit agencies will continue operations while the dispute is being arbitrated. If the transit agency and complainant are satisfied by the arbitration findings, then the issue will be considered resolved. If they are not satisfied with the findings, the transit agency or complainant may appeal to the appropriate Federal or State agency.
(Res. 1990-207. Passed 11-27-90.)~~