



INDEPENDENT  
TRANSPORT  
SAFETY AND  
RELIABILITY  
REGULATOR

# INDEPENDENT TRANSPORT SAFETY AND RELIABILITY REGULATOR

## SUBMISSION TO THE INDEPENDENT PRICING AND REGULATORY TRIBUNAL

COMMENTS ON THE DRAFT REPORT:  
Improving CityRail's accountability and incentives  
through stronger governance arrangements

## Introduction

The Independent Transport Safety and Reliability Regulator (ITSRR) was established to regulate rail safety and advise on public transport reliability. Reliability is broadly defined in the legislation to include service quality, effectiveness and efficiency.

To provide evidence-based advice on reliability ITSRR conducts research and analyses public transport performance data. ITSRR monitors CityRail's performance against standards set by Government. It does not recommend or set standards.

ITSRR's recent research program included a review of the means by which transport authorities procure commuter rail services from transport operators.<sup>1</sup> The findings from this review have been used to inform this submission in response to the draft report, *Improving CityRail's accountability and incentives through stronger governance arrangements*, prepared by the Independent Pricing and Regulatory Tribunal (IPART).

## Background

### Current procurement arrangements

The current institutional arrangements for the provision of CityRail services consist of:

- a Funding Agreement between the Ministry of Transport and RailCorp
- a Rail Performance Agreement between the Minister for Transport and RailCorp
- a separate agreement between the shareholding Ministers and RailCorp called the Statement of Corporate Intent, setting goals for RailCorp's finances and defining parameters for RailCorp's financial and management accountabilities.

### Recent developments related to the Agreements

Recently the NSW Government, IPART and ITSRR have each expressed a position on contracts and/or agreements. These positions are:

- At the time of writing the NSW Government has introduced legislation into the NSW Parliament to change RailCorp from a State-owned corporation to a statutory corporation. This change implies there will be changes to the

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<sup>1</sup> Independent Transport Safety and Reliability Regulator, *Best Practice in Procurement of Commuter Rail Services*, ITSRR, November 2008.

institutional arrangements. In particular, the new legislation makes explicit provision for a service contract between the Government and RailCorp.

- The draft IPART report makes recommendations for strengthening the Rail Performance Agreement, the Funding Agreement and the Statement of Corporate Intent.
- A key finding of ITSRR's recently completed international research on procurement of commuter services is the requirement for a service contract.

In the light of the new legislative developments, the IPART report and ITSRR's research findings, there is agreement with the requirement for a service contract. Further, ITSRR agrees with IPART that the matters of importance relate to the purpose and content of the service contract. ITSRR therefore confines its comments in this submission to these matters.

### **Structure of this document**

This submission first presents a summary of ITSRR's international research into procurement of commuter rail services.

Drawing on the research findings the remainder of the document provides comment on the contents of a service contract.

### **ITSRR's research on procurement of commuter rail services**

ITSRR's procurement research was conducted in two stages. The first stage was a survey of 21 cities in Australia, New Zealand, Asia, Europe and North America. The survey gathered information on procurement arrangements and performance monitoring practices.

The second stage focussed on the effectiveness of the purchaser-provider model used in Australia with the view of identifying best practice. The eight cities included in this stage were London, Paris, Zurich and Amsterdam in Europe and Brisbane, Melbourne, Adelaide and Perth in Australia.

The key finding from the research is that there should be a formal arm's length contract (a written agreement) between the Government and the rail service provider, regardless of whether the provider is a public or private rail operator.

While the details should be determined by local circumstances, the research indicates that contracts should have the following features:

- The contract should be the sole document that sets out the government's transport requirements and the funding of those requirements.

- At a minimum the contract should include:
  - transport objectives
  - clear specification of the roles and responsibilities of the purchaser and the provider
  - clear specification of the services to be provided, including minimum service levels, intermodal connections and other service quality aspects (e.g. passenger amenity)
  - reporting and monitoring requirements, including information for transport planning
  - mechanisms for compliance with contract requirements including public reporting of performance
  - mechanisms for contract review and variation including independent reviews
  - a fixed price with indexation and service variation provisions
  - the fare structure and fare levels.

Such a contract is just one of many factors which constitute best practice in procurement arrangements. Other important factors are:

- high quality services, passenger amenities, infrastructure and rolling stock
- integration, across all public transport modes, of ticketing, timetabling, marketing, information services, and complaint handling
- transport policy coordination across related government portfolios such as roads, land use planning, and infrastructure
- a single transport authority, with the appropriate skills, in control of transport policy, planning, procurement including fare setting, and policy coordination across modes and across government
- a collaborative relationship between the purchaser and provider (i.e. one where the lead role is taken by the purchaser with the provider giving advice on how the government's requirements can best be met). This collaboration applies to joint problem-solving but does not extend to the awarding or determination of the terms of a contract.

## **Contract contents**

### **Purpose**

It is ITSRR's view that the purpose of the contract, as well as being to obtain the rail services it requires, should be to assist Government to develop policy. (For this purpose reporting and data collection requirements in the contract should be more comprehensive than those required for performance monitoring; this issue is discussed further below.)

## **Scope**

In ITSRR's view, the service contract should include requirements for:

- CityRail and CountryLink services, including service plans
- condition and capacity of the Metropolitan Rail Area network infrastructure and of fleet
- network access for third party operators (e.g. freight).

## **Objectives**

It is good practice for Governments to state their transport objectives in contracts with transport service providers. In NSW the State Plan sets out objectives in terms of public transport mode-share targets for peak hour journeys in Sydney. Any patronage targets in the contract should be aligned with these State Plan targets.

## **Service specifications**

ITSRR supports the specification of minimum service requirements, that is, hours of operation (times of first and last train services) and minimum service frequencies.

ITSRR also supports specification of minimum standards for selected aspects of service quality in the contract. ITSRR suggests that the aspects of service quality selected should be those which influence transport choice and travel behaviour.

Though there is no need for the contract to specify safety requirements already covered in legislation (*Rail Safety Act 2002*), the Government may wish to specify other aspects of safety in the service contract, for example, the frequency of transit officer patrols on trains.

## **Performance indicators**

Findings from ITSRR's research support the specification of performance reporting requirements in the contract. These requirements should include information for monitoring performance against the specified service levels and standards.

It is ITSRR's view that the specific performance indicators in the contract should be determined by Government in consultation with RailCorp. ITSRR therefore has no comment on the performance indicators listed by IPART other than to note that none of the indicators relate to safety. Government might wish to consider including some performance indicators relating to safety. It is common practice to do so in other jurisdictions (e.g. equivalent fatality rates).

### **Information requirements for transport planning**

The current and future condition and capacity of the rail network for both passenger and freight use are of critical importance to the Government.

The contract should therefore include Government's requirements for the purpose of informing transport policy and transport planning.

Good planning requires good data, particularly data for forecasting future demand for services (not just for CityRail but for planned Metro lines). Forecasts of demand are required for determining infrastructure, rolling stock and staffing requirements. It is ITSRR's view that the contract should make specific provision for RailCorp to collect and provide data to Government for this purpose. Examples might be:

- patronage data disaggregated by train line and by time of day
- passenger loadings on trains at specified parts of the network.

### **Public reporting of performance**

ITSRR's research supports public reporting of performance particularly for publicly owned rail operators where incentives and penalties are less likely to have an impact on performance.

The experience from other jurisdictions is that public reporting is one of, if not the, most effective ways of influencing an operator's behaviour and compliance.

Ideally the performance indicators reported publicly would be confined to those of most interest to the public.

### **Definition of peak**

The peak generally refers to those times when passenger demand is relatively high. Knowledge of the times of peak passenger demand and the size of that demand is important for determining resource requirements (such as infrastructure and fleet). This applies both to the current time and into the future. The implication of this is that there is a requirement for the operator to provide detailed reports on demand for planning purposes.

There is also an expectation that the train timetable will reflect passenger demand meaning that the available seat capacity will be higher during times of peak demand. This in itself does not imply that the peak needs to be defined. However, it does imply that the contract should specify a relationship between passenger demand and the supply of seats that would need to be incorporated into the timetable.

There are two circumstances for which the contract would need to specify times of day which are usually related to the time of peak passenger demand. These are:

- ticketing – the times when ‘peak’ and ‘off-peak’ fares apply
- freight curfew – the times when freight trains are not permitted on the CityRail network.

In addition, the contract could specify performance monitoring (e.g. measurement of on-time running, patronage and passenger loadings) at specified times of day, including times that extend well beyond the times of peak use of train services.

### **Development of the contract**

IPART has specifically recommended that Government drive the development of the new Agreements for rail services.

ITSRR supports this recommendation. All transport authorities surveyed by ITSRR as part of its procurement research take the lead role in developing their contracts/agreements with rail service providers.

However, another of ITSRR’s research findings worth noting is that contracts are more effective when there is a collaborative relationship between the purchaser and the provider, not only in contract implementation but also in contract development when contracts are reviewed and improved. It is therefore ITSRR’s view that, while the Ministry of Transport (on behalf of Government) should drive the contract development, RailCorp should also have some involvement.

### **Fares**

ITSRR has no view on the fare structure recommended by IPART. However, the Government might wish to consider the CityRail fare structure in a broader context, taking into account transport integration, smartcard ticketing, carbon emission reduction targets and State Plan targets.

In this broader context the following comments are pertinent:

- fare structure is an important part of transport integration – typically, in a fully integrated system, the fare for a trip from Point A to Point B is not dependent on the transport mode(s) used
- ITSRR’s research found that fare levels were amongst the factors affecting patronage
- the elasticity of demand needs to be taken into account in setting fares – if fare levels are set too high, there could be a reduction in patronage; this is

particularly important for those travelling long distances if distance-based fares are not discounted

- those who travel the greatest distance by rail tend to be those who are least able to pay high fare costs.

## **Summary**

In summary it is ITSRR's view that a contract between Government and RailCorp for rail services:

- should acknowledge the State Plan targets
- should cover CountryLink services, condition of the Metropolitan Rail Area, and network access for third party operators, in addition to CityRail services
- should include information requirements for transport policy and planning in addition to the specification of service levels, service quality standards and performance monitoring
- does not need to specifically define peak commuter times apart from indicating those time periods when peak and off-peak fares apply, and when the freight curfew operates; for other requirements, such as performance monitoring, the specific times of day can be included in the contract.