



## Outsourcing rural school transportation: A Brazilian handbook for practice at the municipal level

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### A B S T R A C T

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In Brazil, Rural School Transportation (RST) falls under the responsibility of state and municipal governments. However, there are no clear rules to guide the provision of this essential service. RST in Brazil is characterised by inefficient contracting practices, poor service control by school administration, and lack of legal instruments to penalise poor services, thus allowing operators to run services according to their own commercial criteria. In addition, payment is low, leading to the employment of old vehicles, lack of safety equipment, and non-convenient routes, among other aspects. As a result, school children provided with this service are subject to long travel time over large distances, and irregular and late services, coupled with poorly maintained roads. When children finally arrive at school they are tired, which often negatively affects their school performance and attendance, contributing to early school drop-out. In order to contribute to the improvement of school transportation quality, state and municipal authorities must develop the required organisational, planning, and regulatory skills. Accordingly, this article addresses the elements and the structure of a handbook that is being elaborated for local governments.

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### 1. Introduction

Regulating services that are relevant to society, such as public school transportation, may be regarded as one of the main functions of the government as it pursues quality services that meet the population's wishes and needs (Viscusi, Vernon and Harrington, 1997).

The following steps are needed for the development of an efficient regulatory structure<sup>1</sup>: (i) establishing a regulatory strategy; (ii) selecting the elements to be regulated; (iii) defining the treatment to be given to data resulting from the regulatory process; and (iv) determining the legal procedures and directives for contracting out those services (Badwin & Cave, 2002; Viscusi et al., 1997).

However, and as pointed out by CEFTRU (2008a), in the real world very few municipalities have specific regulations for Rural School Transportation. In some municipalities, school principals determine which students will benefit from school transportation

in rural areas, based on procedures and criteria that are not always objective. In other situations, outsourced service operators themselves define the transportation routes. These factors contribute to poor quality, informally-operated services being offered to the population.

One may reasonably assume that failure to apply penalties and regulatory/inspection mechanisms, in addition to the lack of quality-driven incentives to service operators, leads them to perform services based on their own interests, and not on the best interest of all that are involved. Allied to poor compensation for service operators, this situation inevitably results in inefficient services.

In the case of Rural School Transportation Systems, which play an important role in ensuring children's access to, and retention in school, inefficient service provision may seriously jeopardise the students' learning process (Ripplinger & Wang, 2007).

Factors such as the length of time spent on rides, the long distances involved, the lack of service punctuality and ultimately of service availability on certain days, the poor conditions of roads and vehicles, all contribute to increase the physical fatigue of students, affecting school attendance, and lowering their academic performance (Ripplinger, 2005).

For all the above reasons, these services must be provided in such a way as to meet society's needs, allowing students to exercise

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<sup>1</sup> An efficient regulatory structure is one that ensures the continuity and high quality of services while balancing contracts in such a way as to ensure that operators can earn a living.

their fundamental right to education and eliminating barriers that may either make it difficult for them to enrol in educational institutions or affect their physical well-being, with negative impacts on the learning process.

Therefore, states and municipalities should formalise Rural School Transportation by developing instruments that allow for structuring and organising the management and control of available services. Promoting service improvements and ensuring the constitutional right of students to education and to transportation to school can be achieved by enforcing regulatory principles, directives and mechanisms that support the implementation of regulations for the sector.

Nonetheless, absorbing all of the principles and directives underlying regulatory theory is a complex process. As such, it becomes important to provide municipalities with basic regulatory elements that will allow them to properly organise the school transportation system.

Besides that, it is important to bear in mind that outsourcing private operators for provision of school transportation services has traditionally been an option for municipalities.

Under the terms of the 1988 Constitution (Brasil, 1988) that kind of contracting between the government and private enterprises requires a public bidding process, i.e. a mechanism established in the legislation to ensure the legitimacy of actions involving collective interests.

The public bidding process is not only an important procedure for choosing the most advantageous proposal for service provision, but it also constitutes a stage prior to the actual contracting during which form, strategy and directives can be embedded in the contract, with direct impact on its implementation. Therefore, the better the elaboration of the process as a whole, the fewer problems there will be later on.

To that end, the present article aims to:

- provide directives to regulatory strategies for rural school transportation;
- define relevant topics that should be taken into account in the regulation of rural school transportation by Brazilian states and municipalities;
- suggest certain actions that can be undertaken on the basis of the information feedback from the regulatory process;
- provide information on existing legal procedures for contracting goods and services related to Rural School Transportation, as well as some guidelines for designing the bidding process.

For that purpose, this article is divided into five sections following this introduction. The first section addresses the particularities of the Rural School Transport and its special contracting features. The second section is about the central issues for the Brazilian Public Authority when regulating rural school transport. The third section addresses what should be included in the handbook and the fourth and final section presents the final remarks.

## 2. Rural school transportation: special contracting features and modalities

Rural School Transportation is an important means of ensuring that people living in rural areas have access to schooling, as it brings students to the schools and educational facilities where they can study. Without such a service, constitutional guarantees of the right to free education become meaningless, especially for students from low-income families living in areas where access to ordinary public transportation services is difficult (Anderle, Kroeger, & Mascarello, 2005).

The Brazilian Constitution itself (Brasil, 1988) sets out provisions in Article 206, I, providing for equal rights of access to, and retention in, school; in Article 208, it attributes to the government a fundamental role in enforcing the right to education, charging state and municipal administrations with responsibility for organising their educational systems in such a way as to fulfil their obligation to provide compulsory, free fundamental education (sub-heading I); progressively promote universal access to free secondary education (sub-heading II); and provide assistance for students in basic education, in the form of supplemental programs offering teaching–learning materials, transport, nutrition, and health care (sub-heading VII).

That obligation has also been formally set out in other Acts, such as the Children and Adolescents' Act (Law no. 8.069/90, art. 54, VII – Brasil, 1990) and the National Educational Bases and Directives Act (Law no. 9.394/96, art. 4, VIII – Brasil, 1996). In those and other pieces of legislation, school transportation is instituted as a supplemental, indispensable program to ensure that students fully exercise their rights, thereby constituting an obligation on the part of the State.

As a supplemental program, the school transportation service is endowed with a singular character in that it is in fact a public service and, accordingly, is not eligible for commercial exploitation, nor can it be the object of concessions or permissions, as those two categories imply that a fare will be charged to cover the operators' risks (Art. 2 of Law no. 8.987/95 – Brasil, 1995). The school transport passenger (student) is entitled to it free of charge as it is part of the fundamental education package, which is free.

Another feature that distinguishes school transport from regular public transport, even though the latter is also a public service, is the intrinsically personalised treatment that the passenger should receive (Kileen & Sipple, 2000).

In ordinary collective transport, the operator takes no responsibility for ensuring whether a given passenger is taken on board or not; the operator is merely responsible for guaranteeing the continuity and regularity of operations, in addition to providing ready access to all those that wish to use the service and that are willing to pay the fare. (Law no. 8.987/95, art. 6); School transportation, in turn, is the “gateway to school”, the entry point of the educational system, and of the school itself. The operator is responsible for ensuring the safe and timely boarding and drop off of each student, from the boarding stop nearer to his/her home to the school, and on the way back.

In operational terms, school transportation is more closely related to “postal transport” where the operator's responsibility is not limited to the transit, but also involves the reception and safe delivery of the transported object (student) placed in his trust.

That means that school transportation requires planning and operational controls that are different from those applicable to ordinary collective transport, as the school must:

- supply the addresses of origin and destination of each passenger;
- provide safe and comfortable means of transportation;
- avoid rides that are overly long and that may tire the students and jeopardise their academic performance;
- and ensure that students use the school transport effectively as a way to control attendance.

Although school transport is not commercial by nature, there is nothing to prevent the government from contracting private operators to operate the service. Even though there is no prohibition for state and municipal governments to operate the service directly, some municipal governments prefer to make use of external services; indeed, they may not have sufficient financial resources to purchase and maintain vehicles directly, and to hire drivers.

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