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Fuel Price Adjustment Techniques: A Review of Industry Practice

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INTRODUCTION

In early 2004, the World experienced a sharp increase in fuel prices brought on by a volatile petroleum market. Prices well in excess of $2.00 per gallon were commonplace in many markets throughout the United States. Not since the mid 1980's have fuel prices escalated so rapidly. Even in the face of escalating prices, demand for petroleum products continues to grow. According to the Automobile Association of America (AAA), "crude oil demand rose 3.6 percent in January (2004) as compared to a year earlier. In January, imports accounted for more than 60 percent of the petroleum delivered to the U.S. market, up from 55 percent a year earlier. Of these imports, OPEC-member nations supply nearly half" (AAA, 2004).

Mark Baxter, director of the Maguire Energy Institute at Southern Methodist University calls the oil industry "…a very efficient system, until something goes wrong." In a recent article, he observed that "when there's little slack (in the system), any mishap along the supply chain can cause prices to jump." He further noted that fluctuations in supply and demand for fuel can result from short-run factors such as "…political unrest, accidents, transportation issues, adverse weather conditions, pipeline problems and maintenance" (AAA World, July/August 2004).

At the local level, there is little ability to foresee and influence spikes and troughs that result from global market changes in the oil industry. This translates to unknown risk and potential budget complications for all consumers, including transportation agencies and providers. In Monmouth County, New Jersey, where contracted transportation providers deliver more than 1,500 trips per day to Monmouth County citizens, this unknown risk became very real. Fuel price volatility prompted the County's primary transportation service provider to seek relief from high fuel costs under the threat of a service shutdown. Faced with this undesirable outcome, the county was asked to consider a fuel cost surcharge proposed by the vendor.

In July 2004, the Monmouth County Department of Human Services contracted with the Alan M. Voorhees Transportation Center at Rutgers, The State University of New Jersey to investigate current practices related to fuel price indexing/adjustment techniques in the public transportation industry. The study focused on fuel price management tools available to agencies that outsource transportation services to private sector providers. The study report is intended to provide policy guidance to the county as it considers future contracting options related to county-sponsored transportation services.

As part of the investigation, the research team met with representatives from Monmouth County Department of Human Services and Division of Transportation to ensure that the team had a thorough understanding of the type and extent of transportation services provided by the county and to understand better the process used by the county to contract with private sector service providers. In addition, the team undertook the following research activities:

1. literature review - the body of literature related to fuel price indexing/adjustment techniques available on the internet was reviewed;
2. industry survey – an email survey was distributed to transportation agencies, related trade associations, and four private or nonprofit transportation providers;

3. key informant interviews – follow up interviews with 18 survey respondents and a variety of other key informants with knowledge related to transit industry contracting and service operations were conducted.

This report documents the results of the investigation and presents a series of options for the county to consider as it moves forward with the procurement process for future transportation services.

SUMMARY OF FINDINGS

As indicated above, the research team conducted an internet literature review and industry scan using a general email survey sent to 45 transportation agencies across the nation, eight related trade associations, four private or nonprofit service providers and several key informants with specialized knowledge related to public transit operation and contracting. The survey was sent to an intentionally broad spectrum of recipients to help assess how different agencies assume price risk in their contracts. The recipient list included several agencies with a size and scope of service similar to that of Monmouth County. Central to the survey was the question: "Does your agency contract for the provision of transit service, and if so, is a fuel adjustment or surcharge provision used in the contract?"

Twenty eight survey responses were received. Fourteen out of 18 contracting agencies responding to the survey indicated that they assume fuel price risk, using a variety of mechanisms. Six agencies indicated that they use a fuel adjustment clause; three agencies reported using contracts that treated fuel cost as a reimbursable direct expense; and four agencies require direct refueling of contractor vehicles at agency facilities.

Fuel price contracting techniques

The literature review and survey of current industry practice revealed that there are several ways to lessen the impact of price fluctuations and reduce risk for public agencies and/or those they contract with to provide transportation services. The most common fuel price contract provisions include the following:

1. Contract pricing
2. Fixed price with adjustment using a contractually defined formula
3. Direct refueling using agency-operated fueling facilities
4. Floating price – direct cost reimbursement

Each option has benefits and drawbacks which are explained in more detail below.

Contract Pricing

The most common form of fuel price provision used is contract pricing, which sets the price of reimbursement for fuel costs based on a fuel price established in bid documents or submissions during the procurement and contracting process. This is the technique currently used by Monmouth County in contracting for transportation service. Although this technique is very predictable for both the agency and the transportation provider, it is also inflexible. For example, because the price for fuel cost reimbursement is set in the contract at the time of execution, if prices fluctuate below the contract price, agencies may have to pay more than

market price for fuel over the term of the contract. Conversely, if prices fluctuate above the contract price, agencies pay less than the actual cost of fuel and providers must absorb the price differential. Some providers may be unwilling or unable to assume the risk of potentially higher fuel costs, which could limit the number of firms responding to a request for bids.

Fixed price with adjustment

Another common form of fuel price provision is fixed price with adjustment based on a contractually defined formula. In this case, agencies either set the initial price for fuel cost reimbursement based on a "benchmark" source such as the Oil Price Information Service (www.OPIS.net), or request that the vendor set the initial price as part of the bid process. The vendor is paid based upon a pre-determined and agreed upon formula which identifies a "trigger price," (both up and down) which invokes the use of an adjustment surcharge or credit as fuel costs fluctuate over time. Most often the "trigger price" is defined by a percentage range of fluctuation (e.g., +/- 10 percent) from the initial agreed price. Examples of agencies using this type of fuel price provision include: Broward County Florida, NJ TRANSIT (NJT), NJT Access Link, and Wheels, Inc., a Philadelphia-based not-for-profit transportation provider. Wheels, Inc. began using a fuel surcharge provision in the late 1980s.

From a public agency perspective, this technique is less predictable than contract pricing; however, it is more flexible in terms of limiting risk for providers in terms of having to absorb costs when fuel prices increase. It also can protect against agency overpayment if fuel costs decline. This technique requires some administrative flexibility to accommodate changing fuel cost reimbursement rates over time.

Direct refueling using agency-operated fueling facilities

Many government agencies and public transportation providers operate their own fuel storage and fueling facilities. Most often these agencies operate their own fleet of vehicles and provide transportation services directly. For example, Monmouth County owns and operates a fleet of transport vehicles which refuel at county owned and operated refueling facilities. Other examples include several other New Jersey counties and South Coast Area Transit (SCAT), California.

In addition, as is the case with Monmouth County, agencies sometimes also outsource certain specialized transportation services. In New Jersey, there are several examples of counties (e.g., Union and Warren) which report that they require contract transportation providers to refuel their vehicles at county operated facilities. This technique provides the agency with predictability because the agency has control over fuel purchases and pricing. The technique also shifts the risk associated with fuel price volatility from the provider to the agency. It is important to note, however, that direct fueling requires appropriate accounting and audit procedures to ensure proper monitoring and tracking of fuel usage. This administrative burden was cited as an important consideration by those agencies using or considering this technique.

Floating price – direct cost reimbursement
A fourth and less common type of fuel price provision used by some agencies is floating price – direct cost reimbursement. This option treats fuel as a pass-through cost where the provider buys fuel and is reimbursed on a specified basis (e.g., revenue vehicle miles, total vehicle miles, or number of trips) based on the cost paid at the pump. This option, which eliminates any risk to the provider relative to fuel price volatility, is very unpredictable from a public agency budgeting perspective. It also requires significant administrative flexibility to accommodate changing fuel cost reimbursement rates over time. The Metropolitan King County Transit Department in Washington state is an example of one agency that uses this technique.

In addition to the four fuel price contract options described above, transportation agencies operating large fleets may also have the ability to make ***large fuel purchases based on a "lock-in" price*** as is done in other commodity markets. Airlines, national car rental agencies and large transit agencies use this technique and even sometimes engage in "hedging" their fuel purchases to protect against future price volatility. The Port Authority of Allegheny County (PATCO), which operates a large public transit fleet in Pittsburgh, Pennsylvania, uses this technique. Although large fuel purchases reduce the risk of future price increases, they require the need for very large quantities of fuel, significant financial resources, specialized financial market expertise and an appropriately sized fuel storage and distribution infrastructure. This technique is not appropriate for small to mid-sized transportation agencies.

General observations related to fuel price adjustment
Responses to the industry survey and follow up phone interviews also yielded the following additional observations and suggestions regarding things to consider when determining which fuel price provision to use:

- Fuel price fluctuations and risk affects all parties, including agencies, providers and consumers.
- Expecting or asking the vendor to bear all the uncertainty/risk associated with fuel pricing in a contract will often ensure that they will artificially inflate costs to manage the potential liability of unknown price escalation.
- Removing fuel price risk from contracts can focus vendors on delivering high quality service rather than meeting the "bottom line."
- In the interest of reducing the risk burden on the vendor, setting a maximum fuel price with a 'trigger' or adjustment formula should the price escalate within a given contract term can allow for better overall management of costs, which can benefit both the agency and vendor.
- Whether a fuel adjustment clause is used or not, there are a number of on-line resources available to assist in setting benchmark prices, such as the "initial" or "contracting" price; "trigger" price, which invokes an adjustment clause; and/or "tracking" prices, which can assist in monitoring and assessing vendor provided fuel prices submitted for direct cost reimbursement. Furthermore, some benchmark or tracking sources, such as AAA offer regional pricing.

- Public agencies, which are required to monitor, audit and report fuel usage and costs to various funding agencies, can use monitoring and audit data to document fuel usage patterns, as well as cost and price fluctuation over time. This can help to inform future contracting decisions.
- Contracts may include a clause for both the agency and vendor to 'opt out' of the contract if conditions do not meet expectations and ability to perform the contracted services is compromised.
- Agencies should consider establishing a reasonable evaluative framework that is straight forward and transparent. Administrative complexity can unnecessarily burden both the agency and vendor.

Benchmarking price

Whatever contract choice is made, fixed price, adjusted price floating price, or bulk/forward purchase, an established source of repute is required to ascertain "benchmark", "trigger" and "tracking" prices over the duration of the contract. There are a variety of sources that can be used to benchmark or check fuel prices at contract inception and throughout the contract period. There are several federal, state agency or private sources, which are all web accessible. Examples documented as part of the industry review include the federal Department of Energy and the Central Intelligence Agency, the Oil Price Information Service (Opisnet.com), and AAA.

Oil Price Information Service

Touted as "the world's most comprehensive source for petroleum information, products and prices, and the world's most comprehensive database of U.S. wholesale petroleum" OPISnet.com, tracks more than 70,000 rack prices for heating oil, gasoline, diesel and kerosene, and thousands of contract prices for jet fuel, LP-gas, residual fuel, and ethanol. More than 85,000 retail gasoline prices are also tracked daily. The OPIS benchmark is relied on by major and independent oil companies, dealers and retail service stations, major metropolitan transit authorities, schools, utilities, railroad systems, commercial airlines, truck stops and fleets, U.S. federal, state, municipal and county government, and U.S. military operations. OPIS is an information reporting company that follows strict anti-trust guidelines in collecting and distributing sensitive oil pricing data. Their website includes detailed descriptions of all reporting methodologies used, including the statement " OPIS recognizes that suppliers cannot afford even the slightest perception of price sharing or price signaling, which is why OPIS does not provide price notification and messaging services for suppliers and embargoes release of all rack pricing data until after the changes become effective to customers." (Oil Price Information Service, www.OPISnet.com).

American Automobile Association (AAA)

Established in Philadelphia at the first automobile conference on April 20, 1900, AAA is the oldest standing organization devoted to automobile travelers. While their on-road and travel services are well known, they also provide region specific fuel price tracking for those interested in truly local fuel pricing. AAA's Mid-Atlantic Chapter covers the Monmouth County region.

In addition, there are a number of other on-line resources providing fuel price information to help inform consumer choice and disseminate information on lowest (and highest) prices of gasoline throughout New Jersey. A recent Star Ledger article, "Web sites fuel gas wars across state", August 29, 2004 notes that these sites post prices and "refresh" or update information continuously based on consumer input.

Conclusion

As previously described, this study was initiated in response to increasing fuel prices which peaked in May 2004 at an average of $2.10 per gallon. Although today's average price is $1.77 per gallon and falling (Lundberg Survey 9-04), it is reasonable to expect that fuel prices will continue to fluctuate over time. A review of industry practice indicates that public agencies that outsource transportation services have increasingly incorporated fuel price indexing/adjustment techniques in their contracts to help manage fuel price volatility. Based on the research and given the type and extent of transportation services traditionally procured in Monmouth County, it appears that there are three major options appropriate for the county to consider as it moves forward with contracting for future transportation services. These options are summarized below; however, the reader should note that this study did not include a detailed review of the financial processes and procedures necessary for implementation.

Option 1: Contract Pricing

Under this option, the county would continue to set the price of reimbursement for fuel costs based on a fuel price established in bid documents or vendor submissions during the procurement and contracting process.

Option 2: Fixed Price with Adjustment

Option 2A - Agency sets adjustment procedure and fuel price

Under Option 2A, the county would specify the contract price for fuel cost reimbursement, the price adjustment procedure, and "trigger" price or range of price variation (e.g., +/- 10%) which invokes the adjustment clause as part of the bid specifications. The county could also specify a "benchmark" source to be used for tracking and monitoring fuel price fluctuation. Vendors prepare proposals based on these bid specifications. This option shifts the risk of fuel price fluctuation away from the provider. It levels the playing field between large and small providers by eliminating the potential market advantage held by large providers able to make bulk fuel purchases at lower prices. Therefore, this option removes fuel price as an evaluation factor in procuring transit service, thereby focusing attention completely on other factors such as quality of service considerations and past performance. (Examples: Broward County FL.; Roanoke, VA.)

Option 2B – Agency specifies adjustment procedure and vendor sets fuel price

Under Option 2B, the county would specify the fuel price adjustment procedure and "trigger" price or range of price variation (e.g., +/- 10%) as part of the bid specifications. The county could also specify a "benchmark" source to be used for tracking and monitoring fuel price fluctuation. Vendors would be asked to set a contract price (either from an established source or not) for fuel cost reimbursement in their bid and, as appropriate, a "benchmark" source if one is not otherwise specified in bid documents. This option shifts some of the risk associated with fuel price fluctuation away from the provider by allowing vendors a measure

of protection against unforeseen fuel price escalation. However, this option also permits vendors with economies of scale to put forth a contract fuel price that reflects their ability to make bulk purchases, at sometimes less than market price. (Examples: NJT Access Link; Wheels, Inc.)

In both cases, once the "trigger" price has been reached, invoking the price adjustment procedure, vendors provide documentation of actual price paid at time of refueling for reimbursement as a direct cost. In addition, both sub-options may require additional/new agency policies and procedures related to administration and monitoring. Sample contract language and formulas are included in Appendix B.

Option3: Direct Refueling

Under this option, the county would require its vendor to fuel vehicles at a county operated refueling facility. This option requires significant monitoring to ensure proper accounting of fuel usage. (Examples: Union County, Warren County, Montgomery County, MD, Metropolitan King County, WA)

APPENDICES

A. Survey Results

B. Sample Contract Language

C. New Jersey Bulk Fuel Purchasing Process

D. Monmouth County Transportation Services

E. Selected Resources

APPENDIX A

Survey Results

Summary

	Contracting Agencies	Transport Provider	Trade Association
Total survey recipients	33	4	7
No Response	15	1	3
Do not have fuel price contract provision	5	N/A	N/A
Use fuel price adjustment provision	7	N/A	N/A
Use other fuel price management technique	6	N/A	N/A

Response Detail

RESPONDANT	No/ NR	Y	DESCRIPTION/COMMENTS
CONTRACTING AGENCIES			
RADAR – Roanoke, VA (Ex. Dir. Curtis Andrews)		X	***'Adjust'*** based on Formula Number of miles Run X Cost of Gas over $1.30/gallon 5 Miles Per Gallon
Blacksburg Transit VA (Rebecca Martin)		X	***'Adjust'*** Use an escalation/de-escalation clause based on the daily rack price – Purchasing Dept determines
NJ Transit Access Link (Alex Cisneros)		X	***'Adjust'*** – ask contractor to set their Bid Price, live with +/- 10% . Hit trigger point, NJT reimburse based on invoice of actual (audit/monitor) 2 of 5 regions have this new clause so far. Terms = 2 year contracts with 3 additional option years.
Metropolitan King County Transit Dept WA (Bob Sahm)		X	***'Float'*** -"All of our contracted services treat fuel as either pass through or is directly provided by the County". Note "pass through" – contractor buys fuel and is reimbursed, vs directly provided by county
Montgomery County Transit (Mary Ellen Davis-Martin Procurement)		X	***'Float'*** - County buys fuel, and indexes it to CPI. Some departments are reimbursed on a flat fee, other contracts may have language
MARQ-TRAN, Marquette County Transit Authority (TA) (Robert Niemi, ED)		X	***'Float'*** - TA purchases from commercial vendors at $0.03 of the pump price. The Vendor then credits TA for the taxes on the monthly bills.
Broward County Transit, FL (Andrea Busada) *T*ransportation *Op*tion*S (TOPS)*		X	'***Adjust'*** **-** Fuel price surcharge based on 1.35/gallon base price, calculated on the average monthly cost per gallon of unleaded, 87 Octane gasoline, as published by the Weekly OPIS Metro Fuel Report. Fuel adjustments paid monthly for the actual number of TOPS trips provided that month (pay per trip completed, regardless of mileage, note Medicaid trips not eligible for fuel clause calculations).
Union County (Transportation Coordinator, Cathy Carmello)		X	***'Direct fuel'*** **-** Contracts with ATC for drivers only. County supplies vans, insurance, maintenance and gas. 2 years ago, the county transitioned to a "Gas Boy" electronic key system at county pumps. Each vehicle is assigned a Gas Boy key (identifies vehicle, plate, year, model, department it is assigned to) to access the county pumps directly. Departments are billed internally.

Warren County (Sally Middlebrook, ATC)		X	***'Direct fuel'*** - Contract with ATC, 3 years ago county went to new fueling process – providing a gas card to contractor to access county garages directly. Side bar comment - fuel quality is better with county supply versus former retail gas – less maintenance problems encountered.
WHEELS, Inc. Phila.PA (Rex Knowlton)		X	***'Adjust'*** Includes a fuel surcharge, has done so since last gas crunch. If price increases or decreases by 10% or more from the price bid during the course of the fiscal year, will pay surcharge. Uses PA Department of Energy Index of average cost of gas & diesel. Have done monthly processing. Last year used only year-end reconciliation – showing $13,000 more paid out.
Dallas Area Rapid Transit Paratransit		X	'***Adjust'*** Contract with ATC – have an escalator clause
MTA NY City Transit Paratransit (Inna Glick)		X	***'Direct Fuel'*** Fuel cards and on-site fuel at some carriers
SEPTA		X	***'Adjust'*** SEPTA includes a + or – 20% range.
SCAT – CA (G.M.) Deborah Linehan	No		'***Direct fuel'*** Operate own fixed route & contract with Laidlaw for paratransit – own CNG fueling station onsite – fuel fleet & do not charge Laidlaw
City of Lawrence, KS (Karin Rexroad, Public Transit Administrator)	No		"…contract out our fixed route, paratransit and maintenance for the Lawrence Transit System…five year contract …did not make fuel pricing as a trigger within our rates…potential for the City to be hurt if prices drop … also … the contractor could bear the burden if fuel prices increase drastically."
Port Authority of Allegheny County Pittsburg (B. Jobe)	No		***'Lock in'*** price (see press release excerpt). "No surcharge or trigger clause in our fuel contract"
DART Delaware DOT - (Peggy Archer)	No		
KVCAP Transportation, Maine	No		
Potomac Public Transport - Geauga County, Ohio	NR		
LA Metropolitan Transit Authority	NR		
Albany Transit System (KMiller)	NR		
Ann Arbor Transportation Authority (CFO P. Webb)	NR		
Ben Franklin Transit (web)	NR		
Bloomington Public Transportation, Indiana (w)	NR		
C-Tran Vanc. Wash (w)	NR		
Central Puget Sound – (w) Regional Transit Authority	NR		
Rabbit Transit, York PA (w)	NR		
Logisticare, Atlanta	NR		
Lowell Regional Transit Authority (w)	NR		
Massachusetts Bay Transportation Authority (w)	NR		
Memphis Area Transit Authority (GC C. Claxton)	NR		
Mountain Lion Transit (w)	NR		
OC Transpo – Canada	NR		

PROVIDERS			
ATC – Northeast Region Mgr (Steve Fittante)		X	***'Adjust'*** – Fuel surcharge with percentage range in use (Dallas)
Laidlaw Paul O'Brien, DM, NJ		X	***'Adjust'*** Note, Laidlaw contracts with NJ Transit AccessLink – See NJ Transit entry. Fuel adjustment costs calculated monthly and adjustments will be made every three months. Providers must submit a separate invoice for all fuel adjustments, per vehicle, reported monthly with documentation.
Triboro Coach		X	***'Direct fuel'*** Fuel transporter delivers 7,000 gallon loads
ATC – NEC Berkshire Peter Cavanaugh	NR		
TRADE ASSOCIATIONS			
VA Community Transit Association (Curtis Andrews, ED)	No		See RADAR above for example of fuel adjustment used by one member transit agency.
United Motorcoach (Amy Stalknecht Member Relations)	No		"Trade Associations are strictly limited on their involvement on anything relating to service pricing due to anti-trust laws. UMA has in the past recommended to operators to consider including fuel surcharge language into their customer contracts. However we have absolutely no idea how many of the some 3,600 interstate authorized motorcoach companies in the Nation have done so."
US Communities (Chris Mellis, Program Mgr.)	No		Not something we do as an organization
Kansas Public Transit Association, Topeka (ED Ron Butts)	No		
American Public Transportation Assoc. APTA	NR		
Canadian Urban Transit Assoc. CUTA (Marco D'Angelo)	NR		
Northeast Passenger Transp. Association	NR		

APPENDIX B
Sample Contract Language

Example 1 – Wheels Inc., Philadelphia

Fuel Surcharge Adjustment

3.13.1 Subject to the availability and receipt of funds by WHEELS from the Commonwealth of Pennsylvania, and subject to approval from the DPW, and subject to compliance with other material terms and conditions of this Agreement, including the audit and refund provisions, and subject to an assessment by WHEELS that a surcharge adjustment is necessary, WHEELS may offer CONTRACTOR a temporary monthly fuel surcharge adjustment to offset temporary inflationary increases in the cost of fuel. If the price of fuel increases or decreases by 15% or more from the price bid during the course of the fiscal year, WHEELS will examine and reserve the right to increase or decrease the payment. The rate paid to the CONTRACTOR utilizes the formula established and used by WHEELS' during the 2002 calendar year. Any temporary monthly fuel surcharge adjustment WHEELS may offer in its sole discretion after this twelve-month period shall be reviewed monthly by WHEELS and offered only when the conditions listed in this paragraph have been met and the average cost of regular gas exceeds a cost per gallon ceiling price determined by WHEELS' Fiscal Department.

The fuel surcharge adjustment will be calculated by WHEELS utilizing a formula which takes into account the percentage cost of fuel for CONTRACTOR, the cost per gallon ceiling price of fuel as determined by WHEELS, and the amount of increase in the cost of fuel each month. WHEELS' Fiscal Department shall provide the actual formula utilized when the first adjustment payment is activated and shall advise CONTRACTOR when WHEELS decides to discontinue the adjustment.

Example 2 – NJ Transit – AccessLink

AccessLink is an ADA demand-response paratransit service fully complementary to NJ Transit's fixed-route buses. The Access Link fleet currently consists of 180 vehicles, running 7,742,000 vehicle miles in fiscal year 2004, providing 471,000 trips. Access Link service area covers the entire state, and is operated in 5 different regions under separate contracts. Service agreements are for two-year terms with three additional options, to be exercised at the agency's discretion. The new fuel adjustment clause is now included, and is based upon the bid price. As long as the price of fuel remains within 10% plus, or minus, the bid price is paid. Once the price varies over the 10% mark, invoices are submitted and verified, and the contractor is paid based upon the submitted invoice.

"NJ TRANSIT has developed a procedure to calculate fuel price adjustments due to unpredictable increases/decreases in Service Provider fuel costs. Fuel adjustment costs will be calculated monthly and adjustments will be figured on a ± 10% off the base price. The Service

Provider should maintain proper documentation of their monthly fuel usage which NJ TRANSIT may require periodically. Such documentation may include copies of receipts, charge slips, fuel supplier monthly reports, vehicle mileage, etc. NJ TRANSIT reserves the right to reject fuel cost adjustments if proper documentation is not provided."

Example 3 – RADAR Roanoke, Virginia

For fiscal year 2003, RADAR offered 67,569.75 hours of service, with 810,029 miles and provided 173,310 one-way trips.

RADAR includes a fuel surcharge in their contracts. They set the price at $1.30 per gallon, and they implement the formula below when the cost of gas exceeds $1.30 per gallon by 15%.

$$\frac{\text{Number of Miles run}}{\text{5 miles per gallon}} \text{ X the cost of gas over \$1.30 per gallon}$$

Example 4 – Broward County, Division of Mass Transit - TOPS Transportation OPtionS Four providers of contracted TOPS Paratransit service.

TOPS provided 1,313,402 one-way trips over 12,968,973 vehicle miles (11,350,442 revenue miles) in calendar year 2003 with 340 vehicles in service.

Fuel surcharge is paid per one-way trip, and providers are paid per trip completed, regardless of mileage.

Method used to calculate fuel surcharge: Using the Weekly Oil Price Information Service (OPIS) Metro Fuel Report for Broward County/Fort Lauderdale, calculate the average of the four/five weeks for the month to establish the price per gallon that the surcharge will be based on. For example, see the actual prices posted for the month of July 2004 below, calculate the average fuel price of $1.98 per gallon for that week, as follows:

Week Ending	City	Unl
7/2/2004	Ft. Lauderdale, FL	199.80
7/9/2004	Ft. Lauderdale, FL	197.47
7/16/2004	Ft. Lauderdale, FL	197.27
7/23/2004	Ft. Lauderdale, FL	197.24
7/30/2004	Ft. Lauderdale, FL	197.11
		988.89
		197.78

average price for the week	$1.98
surcharge	$0.50 per trip

Based on the contract Exhibit G, the provider receives $0.50 for each non-Medicaid trip performed that month (in addition to the per trip rate they already received on their weekly payment). If the monthly average price per gallon were $1.35 to $1.49, provider would receive

no fuel surcharge for that month. If the monthly average price per gallon were $1.16, provider would pay Broward County $0.20 per non-Medicaid trip.

Schedule for Fuel Adjustment Clause

January 1, 2003 - December 31, 2006

The base price for the term of the agreement is established at $1.35 per gallon.

The rate schedule for the Fuel Clause Component is as follows:

	Price Per Gallon			**Rate Per Trip**
	$ 1.15	-	$ 1.19	$ (0.20)
	$ 1.20	-	$ 1.24	$ (0.15)
	$ 1.25	-	$ 1.29	$ (0.10)
	$ 1.30	-	$ 1.34	$ (0.05)
Base Price	**$ 1.35**	-	$ 1.39	$ -
	$ 1.40	-	$ 1.44	$ -
	$ 1.45	-	$ 1.49	$ -
	$ 1.50	-	$ 1.54	$ 0.05
	$ 1.55	-	$ 1.59	$ 0.10
	$ 1.60	-	$ 1.64	$ 0.15
	$ 1.65	-	$ 1.69	$ 0.20
	$ 1.70	-	$ 1.74	$ 0.25
	$ 1.75	-	$ 1.79	$ 0.30
	$ 1.80	-	$ 1.84	$ 0.35
	$ 1.85	-	$ 1.89	$ 0.40
	$ 1.90	-	$ 1.94	$ 0.45
	$ 1.95	-	$ 1.99	$ 0.50
	$ 2.00	-	$ 2.04	$ 0.55
	$ 2.05	-	$ 2.09	$ 0.60
	$ 2.10	-	$ 2.14	$ 0.65

The calculation will be based upon the average monthly cost per gallon of unleaded, 87 Octane gasoline, as published by the Weekly OPIS Metro Fuel Report. Fuel adjustments will be paid monthly based upon the actual number of TOPS trips provided for that month (Medicaid trips are not eligible for the fuel clause calculations).

EXHIBIT G. Amended effective January 1, 2003

Example 5 – Montgomery County Maryland

"Fuel shall be billed as a separate line item on each monthly invoice based on the agreed upon cost per gallon for diesel and gasoline. At the beginning of this contract, the CONTRACTOR shall submit current per gallon costs for both diesel and gasoline, which must be accepted by and approved by the COUNTY, for calculating the total monthly fuel cost. Copies of each and every bill or charge slip for each and every gallon of fuel purchased during the month for which the invoice is submitted must be attached to the invoice. The invoice must include a form which indicated the fuel purchased for each day of the billing period, the number of gallons of both diesel fuel and gasoline by day, the cost associated with each gallon of fuel and the total cost of fuel for each day of the billing period. CONTRACTOR shall calculate the total gallons for the entire billing period and calculate the total cost for that billing period and include this information on the invoice."

APPENDIX C

New Jersey Bulk Fuel Purchase Process

Source: New Jersey Department of the Treasury's website on NJ Contract Fuel and Gas Prices: http://www.state.nj.us/treasury/purchase/noa/contracts/t0077.shtml#instruct

BACKGROUND OF BULK FUEL PURCHASING PROCESS

In order to arrange the bulk purchase of fuel, an entity such as a government agency must first secure a fuel oil contract with a private vendor. This requires the agency to solicit bids from multiple vendors, after which it must decide to whom it will grant a bid award. In turn, the vendors bidding to provide this service must prove that they can meet the agency's demands—for example, the agency may require that all bidders have an established bulk storage plant with stationary tanks, located within a reasonable distance from the point to which deliveries are to be made by transport tank wagon, to ensure a steady supply of fuel for the agency and decrease the likelihood of vendor inefficiency.

In addition, the vendor must propose a bid price that, in conjunction with a benchmark[1], will be used as the basis for determining an upcharge that is added to the cost of fuel. Upon awarding the notice of award to the successful bidder, the agency will detail the terms of this benchmark in the contractual language, including the formula for computing the correct contract price at any given time.

Proper payment to the vendor requires applying the fixed upcharge[2]—or, in rare cases, downcharge—amount to the most recently posted market price for the fuel. While the market price of fuel varies on a daily basis, the upcharge remains constant for the duration of the contract, having been determined immediately prior to the onset of service by the vendor.

This upcharge is calculated by first establishing a unit price per delivered gallon (benchmark) for the fuel. Typically, this unit price is based on the published price for the fuel in question from a date prior to the initial delivery of that fuel. The State of New Jersey's Purchase Bureau, for instance, bases its benchmark determination on fuel prices listed in the Newark Journal of Commerce "Daily Petroleum Prices" Low End Postings on the Monday before the first distribution. Once the unit price per delivered gallon is submitted, it is subtracted from the bidder's price per delivered gallon. The resulting difference is established as the upcharge or downcharge. This upcharge or downcharge amount is then added or subtracted to the daily published price per delivered gallon in calculating the actual cost of fuel.

[1] A benchmark, or unit price, for fuel is considered the base price for price adjustments on which an upcharge or downcharge is established.

[2] An upcharge consists of all costs associated with the delivery of the fuel to the site, including but not limited to labor, profit, delivery charges, etc. to be added to the fuel prices as calculated. A downcharge is the same except that it is subtracted from the fuel prices as calculated.

For example, if a facility in County A receives a delivery of heating oil on Thursday, Apr 15, 2004, the contract vendor is American Oil, and the established benchmark is $0.5075/gallon, the price per gallon would then be determined as follows:

American base bid: $0.6055/gal
Benchmark: $0.5075/gal
Upcharge on posting: $0.0980/gal

This upcharge of $0.0980/gallon will then be added to the daily published fuel prices used by the agency in question. So if the daily published price on April 15 is $0.4840, the actual cost of fuel per gallon for that day will be $0.5820/gallon.

It should be noted that until several years ago, many agencies would normally cite the market prices of fuel on a weekly basis, usually the previous Monday's published low end postings. Because of the immense volatility in the prices of fuel, though, some entities—including the State of New Jersey's Purchase Bureau—now base their calculations on daily prices. Not only is this a reaction to the unstable, typically rising prices of fuel over the past several years, it is intended to protect both the vendor and the agency in the event of large daily price fluctuations in the price of fuel.

In addition to the Newark Journal of Commerce postings, some of the major fuel price indices most often cited by bulk purchasers of fuel include OPIS and AAA, the latter of which tracks rack rates throughout the state of New Jersey. The State of New Jersey also offers several means for purchasers to view fuel price quotes, including through weekly telephone tape recordings and via their internet website.

Generally, fuel delivery is an automatic process for bulk purchasers—that is, additional supplies are delivered by the vendor without the need for additional orders to be placed. In the event that an individual agency must submit a request for a new order, it will generally do so by phone, after having consulted the appropriate fuel prices indices.

Some of the largest purchasers of fuel in the state of New Jersey include the Central Motor Pool DOT, the NJ Turnpike Authority, and larger institutes and development centers. On a smaller scale, an agency running a small state park with one vehicle may place their fuel orders in a similar fashion as the larger entities, although the volume and frequency of delivery will obviously vary to a great degree.

Generally, fuel oil is delivered in metered trucks to the intended destination. In the event fuel oil deliveries do not comply with requirements, penalties may be deducted from the vendor's invoice.

APPENDIX D
Monmouth County Transportation Services

Agency	Service	Contractor	Contract Terms	Hours	Trips[3]	Miles	Fuel	Vehicles
DOT	**SCAT** **Fixed shuttle bus routes (2 of the 5 SCAT routes)**	N/A Laidlaw	5 semi-fixed shuttle bus routes; 3 run by DOT, 2 under contract to Laidlaw. Loaded Vehicle Time.[4]	N/A	N/A 80	N/A 80,100	Diesel Diesel	52 diesel vehicles 2 40-foot buses
DOT	**Shared Ride**	JBI	Loaded Vehicle Time. Unloaded Vehicle Time.[7] Supplements SCAT services.	19,965	71,320	319,148	Diesel, Regular unleaded	Also available for all DOT services including Medicaid
DOT	**MCBETS**	JBI	Loaded Vehicle Time.	8,600	17,431		Diesel, Regular unleaded	5 WC[5] vans, 4 14-passenger vans, 3 7-passenger vans, 18 5-passenger sedans[6]
DOT	**WFNJ**	JBI	Loaded Vehicle Time.	5,342	36,882		Diesel, Regular unleaded	
DSS	**Medical Transportation**	JBI	Trips calculated as round trips, except for small handful counted as single one-way trips. Loaded Miles.[8]	86,530	63,168 5,264[9]	928,000	Regular unleaded	2 7-passenger vans, 1 8-passenger van, 3 14-passenger vans, 25 5-passenger sedans
DOT	**Medicaid Region**	JBI	Overlap of DSS's Medical Transportation Services. Bill county by per mile and flat fee basis. About 204 round trips/month.[10]	10,600	2,448 204[6]		Diesel, Regular unleaded.	See note above

[3] All trips contracted out by DOT are counted as one-way trips; virtually all trips contracted out by DSS are counted as round trips, with a few rare exceptions.
[4] Loaded Vehicle Time: Vendor is paid from the point where the first passenger boards the vehicle to the point where the last passenger disembarks.
[5] Wheelchair-accessible vans.
[6] Of the five wheelchair-accessible vans, three are fueled by diesel, two by gas. The remaining vans and sedans are all fueled by gas.
[7] Unloaded Vehicle Time: Vendor is paid at bid cost per vehicle hour for authorized trips.
[8] Loaded Miles: Vendor is paid for mileage accrued when a vehicle is actually carrying a client.
[9] One-way trips per month.
[10] Represents 1% of all DOT-funded trips.
NOTE: All figures above are annual estimates, unless otherwise noted.

APPENDIX E

Selected Resources

Transit Cooperative Research Program (TCRP) Legal Research Digest, August 1997 – Number 8 *Transportation Service Agreements: A Preparation and Reference Guide for transit Attorneys.*

Contracting for transit-related services is widespread, particularly among municipal and county governments that sponsor small bus operations. Many of these transit operators do not have staff attorneys who are familiar with contract requirements, or they may use city/county or private attorneys on a part-time basis. This report provides an up-to-date reference and guide on the essentials of contracting for service agreements and should be useful to attorneys and contract administrators. There were no sample clauses for fuel adjustments included in this document.

NJ Transit Annual Report, 1999. Senior Citizen and Disabled Resident Transportation Assistance Program.

This Annual report outlines expenditures for the Casino Revenue Fund, the state allocation disbursement to counties, county paratransit and provides an overview of all the programs which relate to Senior Citizens and Disabled Residents Transportation Assistance Program. By state law, NJ Transit receives fifteen percent of the annual allocation of casino revenue funds budgeted under the Senior Citizen and Disabled Resident Transportation Assistance Program. The largest expenditure of funds under this is at the county level. The allocation formula distributes eight-five (85) percent of the funds to support county based coordinated transportation services. The counties operate on a calendar year budget and for calendar year 1998, NJ transit reimbursed the counties a total of some $17 million. This represents a 7 % increase in spending over the 1997 reimbursements of some $16 million.

WifCon Forum. Online Federal contracting Discussion Board. http://www.wifcon.com *"Where in Federal Contracting*?" serves the federal and state acquisition and the federal assistance community, including public and private organizations, by providing quick access to acquisition and assistance information such as contracting laws and pending legislation, current and proposed regulations, guidance, courts and boards of contract appeals, bid protest decisions, contracting newsletters, selected analysis of federal acquisition issues, federal assistance policy, daily listings of grants and cooperative agreements, archived listings of grants and cooperative agreements, and federal assistance sites. WifCon consists of three sites. The main site is on federal contracting and there are two sub-sites within the main site. These two sub-sites are on (1) federal grants and cooperative agreements and (2) state contracting. The three sites share the same basic format so that they blend together in function. The horizontal menu bar at the top of the page is the same on all three sites and leads to main site pages. The vertical menu bar to the left of the page is unique to each individual site and leads to pages of the individual sites. WifCon is updated each week-day unless there is a federal holiday. Additionally, wifcon.com includes thousands of links on over 600 pages to various federal government, state government, international government, non-profit, and private sites. The links on the main pages are checked

manually on a rolling basis. The links in the archives pages are tested periodically on a sampling basis.

GasPriceWatch.com. Online website.
GasPriceWatch.com was created in April of 1999 with the goal of saving the average consumer money by giving consumers information required to make cost-saving decisions. GasPriceWatch provides consumers with the ability to search their local gas stations for the lowest prices, where their research has shown that prices in the same town vary as much as $.20 per gallon. Sometimes even the same fuel company will charge different prices in different parts of town to remain a low-cost leader in that neighborhood. GasPriceWatch.com has no affiliation with any of the fuel vendors or other advocacy groups listed in this site. Their mission is to become a voice for the consumer and they plan to continue to improve their value to the consumer.

NewJerseyGasPrices.com. Online website.
Allows motorists to post prices, lowest and highest, offered by particular service stations, and includes historical data for New Jersey retail gasoline.

Opisnet online website: www.opisnet.com
Opisnet.com, a fuel pricing website, is the world's most comprehensive source for petroleum information, products & prices. It distributes the most accurate, reliable and referenced petroleum prices—retail and non-delivered—via fax, newsletter, e-mail, Internet, 3rd party vendors, and through one of the nation's first commercial on-line services — PetroScan. Its client list includes the top 200 oil companies, thousands of distributors, traders, government and commercial buyers of petroleum products—in short, agencies that purchase extremely large quantities of fuel.

OPIS pricing experts track more than 70,000 rack prices for heating oil, gasoline, diesel and kerosene, and thousands of contract prices for jet fuel, LP-gas, residual fuel, and ethanol. More than 85,000 retail gasoline prices are also tracked daily, based on pump prices at various cities across the country.

OPIS monitors all key spot markets throughout the day. Everyday, OPIS captures station-specific retail gasoline and diesel prices for up to 85,000 service stations throughout the United States, allowing it to provide the most comprehensive and accurate pump prices in the industry. Information is collected on a state, regional, metropolitan area, and city basis. OPIS Rack-to-Retail Reports break down fuel price information by county, city, state, zip code, or brand.

OPIS collects price information of most major retailers regardless of whether the station is company operated, jobber-owned or dealer operated, and disseminates this information in daily, weekly, and monthly standard reports as well as customized reports. OPIS's Pump Report provides specific daily, weekly, and monthly average retail gasoline and diesel prices by grade and by city at virtually every location in the continental United States. This data is then rolled into an easy-to-use OPIS National Retail Report that provides average prices by state and by region — New England, Mid-Atlantic, Great Lakes, Midwest, Southwest, Southeast, Rocky Mountains, and West Coast — complete with a U.S. National Average. It is relied on

extensively by the nation's biggest gasoline and diesel fleets to monitor fuel surcharges. These companies may access OPIS's data through at FTP site, via e-mail, fax, or at www.opisnet.com. OPIS does not take orders for fuel purchases; rather, it solely publishes the prices.

OPIS' Retail Site Specific Report provides information about specific station locations to evaluate competition, analyze buy/sell opportunities, audit store mangers, or follow station prices on a daily basis. OPIS Site Specific Retail Reports provide current up-to-date retail prices by brand and by specific street address. The data can be combined to provide county, state, or regional information.

OPIS maintains one of the world's largest historical databases for retail gasoline and diesel fuel. OPIS' historical retail price history dates back to 1996. Prices are available by station, by brand, by market, and by grade of product on a daily, weekly, and monthly basis. Retail price histories can be generated for more than 85,000 individual stations in nearly 400 metropolitan markets in the U.S. In most cases, OPIS can provide very site-specific information for branded and unbranded stations throughout the U.S.

Nearly 100 billion gallons of fuel are pegged to OPIS rack and spot prices annually. OPIS is the most widely accepted fuel price benchmark for supply contracts and competitive positioning. It is used as the benchmark price by the world to buy and sell U.S. gasoline, diesel, LP-gas, jet fuel, crude, propane, feedstocks, resid, kerosene, and MTBE. OPIS has no stake in fuel transactions, is not funded by oil industry initiatives, and strictly adheres to antitrust guidelines determined by independent legal counsel.

The OPIS benchmark is relied on by major and independent oil companies, jobbers, dealers, c-stores & retail service stations, major metropolitan transit authorities, schools, utilities, railroad systems, commercial airlines, truckstops and fleets, U.S. federal, state, municipal and county government, and the DESC for virtually every gallon of fuel used for U.S. military operations.

State of New Jersey Contract Fuel and Gas Prices online website:
http://www.state.nj.us/treasury/purchase/fuel/
The NJ Department of the Treasury's website contains information on various fuel contracts that the state holds with private vendors, including bidding procedures, purchasing of fuel in bulk, benchmark fuel price determination, and recent fuel prices.

In each of the contracts listed on the site, the state demands that bidders for state transportation contract services must have a permanently established bulk storage plant with stationary tanks within a reasonable distance from the point to which deliveries are to be made by transport tank wagon, to ensure a steady supply of oil. In lieu of this, bidders who do not have a bulk storage plant with stationary tankage must submit a letter from their source of supply stating that it is committed for a certain number of gallons to the bidder.

When purchasing fuel, the state always dictates the terms—for instance, the previous year's purchases do not dictate this year's amount, and the state always uses as much as is necessary, while changing the amount ordered at any time.

In determining the cost of fuel, prices are based on the low end prices per gallon taken from the Newark Reseller Tank Car Prices, published under the "Daily Petroleum Prices" in the Journal of Commerce each Monday. The benchmark and all price increases and/or decreases are based on the Journal of Commerce "Daily Petroleum Prices" (Low End Postings) for the Monday immediately prior to the delivery of fuel oil.

AAA online website: www.aaa.com/news

The American Automobile Association (AAA), the nation's largest motoring and leisure travel organization, provides 47 million members with travel, insurance, financial, and automotive-related services. It also surveys fuel pump prices at retail gas station locations throughout the United States.

In the mid-1970s, with the onset of fuel shortages and large price increases, AAA began providing regular, reliable information on fuel issues to the media and the public. Today, AAA's Fuel Gauge Report updates national, state and local fuel price information each day on the Internet. The AAA NewsRoom also provides more in-depth coverage with a monthly overview of what's happening in the market and information on how to make your vehicle more fuel-efficient. The Fuel Gauge Report is a public service of AAA and is available to the news media and other users with appropriate attribution.

The Fuel Gauge Report is based on data from Oil Price Information Service (OPIS), the nation's most comprehensive source of petroleum pricing information. AAA purchases the data and makes it available free on the Internet as a public service. Average daily prices for the nation, all 50 states and more than 250 localities are available for all grades of gasoline, making the site the most current and complete public source of fuel price information.

The AAA Fuel Gauge Web Site is derived from credit card transactions at over 60,000 stations around the country. Prices shown are combined averages of the last card swipe of the previous day with the exception of Saturday and Sunday.

Crude oil price is based on the West Texas Intermediate closing prices on the New York Mercantile Exchange and converted from price per barrel to a per gallon price. There are 42 gallons in each barrel. The wholesale price is based on the combined average of all the terminals in the United States tracked by OPIS. OPIS wholesale rack prices are the industry benchmark. The AAA Fuel Gauge Web Site is the most current and most accurate source of gasoline prices available.

***The Pennsylvania Bulletin*'s online website: www.pabulletin.com**

The Pennsylvania Bulletin notes a relatively recent incident in which the Pennsylvania Public Utility Commission considered, and ultimately approved, the Tristate Household Goods Tariff Conference's request to raise membership rates in order to implement a Fuel Cost Recovery Surcharge. This surcharge was intended to cover the increased costs associated with rising fuel prices incurred by its members. We took note of this episode as part of the process of considering past precedents for fuel surcharge adjustment implementation.

Monmouth County, NJ online website: www.visitmonmouth.com
This site contains links to the websites of the Monmouth County Division of Social Services (DSS) and the Monmouth County Division of Transportation (MCDOT). These sites in turn provide information on these agencies' county-funded transportation services. The Monmouth County Transit Map, produced by the Monmouth County Planning Board, includes an overall county map, divided into service regions, showing NJ Transit rail, bus, private carrier bus and county fixed route bus schedules and details. Descriptions of boarding, ticketing, fare options and the services for Seniors and Disabled Accessible Transportation Services, park n rides, ferries and other relevant contact information is provided.

Wheels for Wellness online website: www.wheelsinc.org
Wheels Medical Transportation is a charitable organization that provides free, non-emergency transportation to health care facilities for the needy ill and handicapped of the Philadelphia community. We referenced this site in order to study Wheels' precedent of implementing fuel surcharge and insurance surcharge adjustments in order to offset temporary inflationary increases in the cost of fuel.

A1 Limousine online website: www.a1limo.com
A1 Limousine has been one of the largest business and personal transportation service providers in the country for 40 years. The company has a fleet of nearly 300 vehicles, including Cadillac sedans and limousines as well as vans and motor coaches. As with Wheels, we studied A1's practice of instituting a fuel surcharge adjustment in order to analyze the feasibility of such a move.