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German Technical Cooperation



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Public transport improvements demonstration route project

Technical Guidelines on Bus Route Tendering

September 2001, Surabaya



GTZ's Sustainable Urban Transport Project (SUTP) in Surabaya aims to work with related agencies and the people of Surabaya to devise and implement policies toward environmentally, economically, and socially sustainable transport in the city.

This will result in a range of "local" economic (enhanced investment climate), social (poverty reduction) and environmental (cleaner air) benefits, and will also contribute to a stabilisation of "global" carbon dioxide emissions from Surabaya's transport sector. The project is hoped to provide a model of how to reduce such emissions from the transport sector in large cities in developing countries.

GTZ SUTP has embarked on an integrated program, including – working closely with the City Government – development of sustainable transport policies, design and implementation of a public awareness campaign, technical measures to reduce vehicle emissions, enhanced air quality management capability, adoption of appropriate fiscal instruments and transport demand management measures, improvement of conditions for non-motorized transport and pedestrians, elaboration of an effective inspection & maintenance and roadworthiness program, promotion of the use of CNG, a public transport demonstration route including regulatory and institutional reforms to be applied nationally if successful, and dissemination of international experiences.

GTZ SUTP commenced in Surabaya in 1998 and is due to finish in 2001.



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Richard Meakin, September 2001

The findings, interpretations and conclusions expressed in this report are based on information gathered by GTZ SUTP and its consultants from reliable sources. GTZ does not, however, guarantee the accuracy or completeness of information in this report, and GTZ cannot be held responsible for any errors, omissions or losses which emerge from the use of this information.

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1. THE IMPORTANCE OF COMPETITION

1.1. Competition: a force for improvement

Development requires a mixture between competition and regulation. Regulation must set the ground rules for competition. Competition is incentives or motivation for the operator to provide better (more passengers, higher income) and more efficient (lower costs) services.

It has been demonstrated that the private sector is capable of providing very efficient, demand-responsive bus services at affordable fares provided the operators have incentives to respond to users needs. Competition is the most effective form of incentive and tends to keep service quality high and fares low. The incentives must be carefully ‘tuned’ to remain effective.

Competition takes place for support services, such as between maintenance contractors; within the company between various work units and between managers; for profit; and for plaudits, through reputation or benchmarking.

Direct competition can be in the form of:

- *Competition for the market*: a license to provide services or facilities in an exclusive form (for example, one operator is given a “monopoly” to provide service in one route) for a fixed period, conferred through open competition.
- *Competition in the market*: operators compete on the road for passengers, subject to some rules.

There are various forms of competition, as described in Table 5.1.

Arrangement	Characteristics
Public monopoly	Authority owns and operates system
Management contracting	Authority owns system, hires management
Service contracting:	
- gross cost	Revenue goes to authority, bidders compete for production cost
- net cost	Revenue goes to operator, bidders compete for cost and revenue
Franchising*	Authority fully specifies the service
Concessions	Authority imposes a few basic requirements
Quality licensing	Any operator who meets quality criteria can operate
Quantity licensing*	Limit on number, enough to generate competition
Open market	Free entry, with a few basic rules

* Proposed for the Surabaya demonstration route.

Table 5.1: A wide range of competitive arrangements for bus services.

1.2. Why is bus competition ineffective in Surabaya now?

Conditions needed to promote competition include:

- a supportive government policy
- clear transport objectives
- a legal framework enabling fair competition
- institutional capacity to promote, direct and regulate competition

These conditions do not yet fully exist in Surabaya.

In Indonesia, government has relied on regulation (not competition) for urban public transport development. But regulation needs plans, policies, & institutional capacity which need development in Surabaya.

Ineffective regulation (eg. partial, inconsistent, arbitrary application of regulations, inappropriate regulations) enables illicit regulation and charges, for example by the police, preman, and operators' associations. These illicit interests tend to constrain transport development.

Public transport policy issues are dealt with *ad hoc* and arbitrated by the Road Traffic Office according to:

- the loudest voice
- greatest influence (links to politicians, police, military)
- greatest leverage (eg threat of demonstration by angkots)

Users tend not to be organised, so their interests are minor considerations

Lack of a policy framework and fear of resistance has paralysed the bus network planning process in Surabaya.

To compete effectively requires a good knowledge of market supply and demand. However under the *setoran* (deposit) system, drivers and not licence-holders (owners) have market knowledge.

2. CREATING COMPETITION BY TENDERING

2.1. Principles of tendering

The essence of the tendering process is the creation of competition for the right to provide bus services. The process must be capable of allocating routes fairly and objectively among operators with different corporate forms. It should be as fair and transparent as possible, with the evaluation procedure being conducted in the presence of bidders, the publicity media and observers, and the results published.

The marking scheme (the evaluation criteria and their weightings) must be fixed prior to the publication of the invitation to submit bids. All evaluation criteria should be quantifiable, there should be minimal scope for the exercise of subjective judgement by individual members of the tender committee. The identity of the bidder should not be known, or indicated, until after winning bid has been selected. The bid offering the most favourable bid, as measured by the marking scheme, will be awarded the Route Licence.

The primary evaluation criteria will be:

- Fares (if policy permits fares to be variable) and /or

- Level of service: frequency regularity, capacity, daily operating period
- Quality of service: capacity, specification, age, condition, equipment of buses to be used
- Environmental standards: emission standard of buses

The task of the regulator is to guide the development of the bus sector, manage the tender process, monitor operators' performance, and ensure that minimum vehicle and service levels are complied with and that competition is fair and equal.

The 'regulatory risks'¹ borne by the operators must be reduced by limiting powers of intervention to a minimum, especially over fares, and clearly defining the rights and obligations of both the authority and the licensee.

Licensing of public transport in Surabaya (particularly minibuses, as the large bus sector is stagnant) is strongly influenced by relationships between vehicle owners and officials who give out the license, or are purchased in bulk by vehicle dealers such that the dealer can sell a vehicle complete with license. This situation tends to lack in a lack of control on the number of licenses issued. The "fee" of such licenses varies according to the area, and the revenue-earning potential of the route. As a result of the illicit fees, the investment costs tend to swell, with the high costs in turn passed on to users, or resulting in lack of investment and withdrawals of service.

Improving the efficiency of public transport can be done by changing the method of distributing licenses from distribution based on unclear criteria, to distribution based on a fair and open tender procedure. In this way, not only operators close to officials will have access to licenses; rather all prospective operators will have the same opportunity.

2.2. Conditions for successful tendering

2.2.1. Market conditions for successful tendering

- Tender criteria (including route specifications) must be related to market conditions, especially the type and number of vehicles provided, and an affordable fare
- More buses available, than are needed
- Status of bidders (operators) must be the same (problem of the "special position" of Damri)
- Easy entry/exit to the bus industry, without unnecessary costs
- Routes are seen to be profitable with specified fares (more flexible fare allocation for premium routes).

Effective competition requires that more bidders seek licences than are available. If existing operators are the only bidders, the tender process may only result in a re-distribution and consolidation of operators between routes with little incentive to improve services. It is essential that the tender process be used to attract new investment into the bus sector.

Offering small packages of one or two routes in each tender will enhance the level of competition. Small packages will allow small companies and consortia to bid, while a succession of tenders will allow losing bidders to re-tender several times. The negative effects of a succession of small tenders may be to deter substantial investors of over 100 buses and the fragmentation of the network.

¹ Commercial risks borne by the operators that are affected by the exercise of regulatory powers, such as the restriction of fares to uneconomic levels, or the maintenance of levels of service that are not warranted by demand.

The most fundamental factor in increasing the attractiveness of the tenders is creating confidence among potential bidders in the integrity and impartiality of the procedures.

It must be made clear in the initial round of publicity and consultation that ultimately all route licences will be subject to the tender process. Notice must be given that, after a grace period of perhaps 6 months after the first tender, no bus route licence will be renewed on the current 'joint' terms. This will provide an incentive for bus operators to consolidate into companies or co-operatives of the size required to bid for the routes. Bus owners will also have ample notice to recruit drivers and conductors as employees (since this will be a condition of participation in the tenders) and to develop internal management arrangements.

2.2.2. Regulatory conditions for successful tendering

Regulatory conditions for successful tendering include:

- Operators must have faith in the integrity of the tender procedure
- The tender program in its entirety must be announced together:
 - All bus routes which are to be tendered (problem of phasing/displacement)
 - Current approach of joint licensing in one route must be phased out
 - Operators do not have option of keeping existing licenses (problem of time frame of existing five year licenses)
- Risks to the operator (see Table 5.2) must be minimised.

Risk	Strategy to Reduce Risk
Tender unfair, not impartial	- Transparency - Strict observance of tender procedures - Avenue of appeal against result
Adverse impacts of regulatory actions after award of licence	- Minimise scope for intervention by regulator - Regulation to be within policy framework - Obligations and freedoms to be defined in licence
Fare increases constrained	- Fare review process to be defined in licence - Cost-based procedure, not politicised
Falling demand for public transport	- Gov't policy to promote public transport development
Poor operating conditions	- Traffic management to favour public transport - Better terminal management
Unpredictable reactions by <i>angkots</i>	- Socialise with <i>angkots</i> - Later extend tenders to <i>angkot</i> routes
Illicit payments	- To be eliminated, or formalised, transparent - Formal regulation to displace informal regulation

Table 5.2: Reducing operators' risks

2.3. Legal basis for bus route tendering

The national transport legislation in Indonesia (KM84/99 and its predecessor KM68/93) specifies no principles or procedures for tendering, but neither does it preclude tendering.

To meet the requirement for very high procedural definition and the propriety of the tender process, the main elements are set out in these Technical Guidelines, which will have legal effect.

The technical guidelines create a legal basis for tendering bus routes within Surabaya, and between Surabaya and adjacent *Kabupaten*. The Guidelines (or Code):

- create a legal obligation on the Authority to prepare and implement a tendering program,
- define the tender procedure, criteria, and evaluation scheme,
- commit the Authority to apply tender and regulatory procedures in a transparent, fair and consistent manner,
- define the terms of the licences to be offered by tender,
- give aggrieved bidders a course of action in case of unfairness or improper procedures.

To enjoy a real prospect of success the scheme of tendering should be introduced, not in isolation, but in a supportive environment of policy and institutional changes. The following sequence, in advance of the first tender, is suggested:

Policy	Obtain political consensus on policy objectives, including the operators and other interests likely to be affected.
Authority	Define the regulatory regime Specify necessary planning and regulatory powers and procedures. Vest licensing powers initially in City Road Traffic Office. Specify the constitution of the Authority to be formed later. Empower the Authority with regulations to discharge its functions.
Resources	Ensure DLLAJ Tk. II, and other departments of the municipal government, have sufficient resources (finance and qualified staff) to provide support to the Authority.
Plan	Draft the first 3-year public transport plan, with a policy statement. Draft planning, tendering, monitoring, procedures to be followed by the Authority.
Program	Specify routes to be tendered, tender program.
Implement	Finalise detailed tender program. Provide technical assistance to the bus operators in management techniques. Initiate planning, tendering, monitoring procedures.

2.4. Practical aspects of the tender

Favourable conditions on the pilot route include:

- Dense, trunk corridor, differentiated market
- Few parallel or overlapping angkot routes
- Premium service fare, less impact on cheaper modes
- High operating speeds.

Nevertheless various practical difficulties must be faced related to the tender, as elaborated in Tabel 5.3.

Problem	Strategy
Existing 32 'big bus' fleets average 6 buses	Must combine to tender
DAMRI dominates - 60% of buses	DAMRI to be excluded from tender unless costs are transparent
Current licences have 5-year term	Negotiate surrender or cancellation of licences
Withdrawal of buses from existing joint routes to operate tendered routes	Negotiate with operators

Table 5.3: Problems related to the tender, and strategies to overcome them

3. TENDER PROCEDURE

3.1. Eligibility to participate in tenders

Eligibility to participate in tenders will be restricted to organizations that are able to meet the following conditions:

- i. a company, consortium or cooperative with a formal management and responsibility structure which has a designated person who is accountable for the operation of the route,
- ii. meets the conditions for holding a transport business licence under KM 84/99².
- iii. employs drivers and conductors and pays them a regular salary based on hours worked,
- iv. confers collective responsibility on all vehicle owners (where there are multiple owners) for compliance with the conditions of the licence,
- v. bus operation is not subsidised or subvented,³
- vi. maintains proper accounts of revenue and expenditure.

The following are pre-conditions for an eligible bid:

- Vehicle types within permitted range, complying with specified emission standards.
- Age of vehicles to be below specified maximum.
- Valid Fitness Certificate for each vehicle.
- The bidder has made adequate arrangements for parking and maintaining the vehicles.

Bids not complying with these conditions will not be considered.

² Law KM 84/99 states that "the undertaking of public transport by a public vehicle may be done by:
a. a state-owned, or regionally-owned enterprise
b. a national privately owned enterprise
c. a co-operative
d. an individual Indonesian citizen."

³ Under current conditions DAMRI Surabaya does not meet this condition.

3.2. Tender procedures

3.2.1. Procedure for announcing and conducting tenders

Preliminary Notice - 3 months before tender closing date

The Authority publishes its intention to offer bus route licences by tender, including the outline procedure, the routes (if known), the timescale for the tender programme and the timing of subsequent announcements. The notice is published and sent by mail to all holders of current route licences.

Notice of Tender - 2 months before tender closing date

The publicity programme is repeated, with more specific information about the routes to be offered, the tender programme, any pre-conditions for eligibility and the evaluation criteria.

Notice of Route Specification - not less than 30 days before the tender closing date

Full details of the tender are announced. The notice will include:

- the specification of the routes or packages of routes to be offered
- the eligibility criteria (the pre-conditions for a valid bid)
- the evaluation criteria
- the marking scheme (the marking scale and maximum marks for each criterion).

The specifications of the route to be offered will be prepared by the Authority. The route parameters will determine the minimum number of buses required, and will therefore fix the cost base. The Authority must be satisfied that the potential demand on the route is sufficient for an efficient operator to recover costs at the regulated fares or at a reasonable fare level.

The following data will comprise the Route Specification and will provide the 'baseline' against which bids will be evaluated.

- The route - with any permitted variations, and termini
- Running time (competition on journey times and bids based on unrealistic journey times will not be allowed)
- Minimum frequency, by period.
- Days of operation, minimum daily service hours
- Minimum passenger capacity
- Maximum fare (or the fare may be a factor in competition)
- Any restrictions on the size or type of bus to be used.

Marks will be awarded with reference to a pre-set marking scale which reflects the weighting of each criterion. Marks will be awarded, up to maximum, in proportion to the extent by which a bid exceeds the minima in the Route Specification.

Operators wishing to participate in the tender must submit a written application to the Authority to receive a set of tender documents. The deadline for applications to receive the tender documents will be not less than 15 days from the day the tender was announced. The Authority will record all applications in a register.

A bidder may be charged for the package of tender documents based on their actual production cost. Payments are to be deposited in a special account to be used only in connection with the tender.

- vii. Bids must include the following data and information for evaluation by the Tender Committee:
 - the corporate structure of the organisation, including the management structure and terms of employment of staff
 - the proposed fares to be charged, taking into account full cost recovery;
 - the make, type, specification, capacity and age of buses to be used;
 - the proposed operating timetable for the route.
- viii. Only applicants eligible to hold a Transport Business Licence to operate urban passenger transport are eligible to bid.
- ix. Bids received after the closing date will not be considered.
- x. The package of tender documents distributed to intending bidders shall include:
 - regulations and procedures for awarding bus Route Licences by tender;
 - a form for submitting information about the bidder;
 - instructions for bidders;
 - the route requirements for the routes offered;
 - a form for submitting details of the bid;
 - a specimen Route Licence showing the conditions of operation for a route (or package of routes);
 - a set of envelopes (1 big and 2 small) for submitting the bid and information on the bidder.

The words "Tender Bid", and "Details of the Bidder " are marked on the small envelopes. The name of the route (or a package of routes) is marked on the big envelope. The tender documents prepared for the bidder must be certified by the Authority. Receipt by the bidder is registered in a special book.

- xi. The small envelopes containing the bids and information on the bidder are submitted in the big envelope. If more than one package of routes is offered, a separate set of envelopes must be used for each package. The envelopes must not have any marks or distinctive signs in order to make it impossible to identify any bidder. All envelopes are to be sealed.
- xii. The date for submission of bids must be not less than 15 days after receipt by bidders of the package of tender documents. The closing date for submission of bids must be specified in the Notice of Tender.
- xiii. Bidders may not make any amendments after submitting tenders.
- xiv. Bids will be valid for 60 days after the submission date.

3.3. The procedure for opening and evaluating bids

- i. the Authority will appoint a Tender Committee to evaluate bids
- ii. The Authority will provide an Evaluation Team' which to make the initial calculation of marks for verification by the Tender Committee.
- iii. The Chairman of the Tender Committee will mark the first serial number boldly in the upper right corner of the big envelope, open it and mark the small envelopes with the same number. The envelope with the information on the bidder is put back into the big envelope.

- iv. The Chairman will open the envelope containing the first bid, mark the first serial number on each copy and distribute them to the Evaluation Team.
- v. The Evaluation Team will examine each bid against the eligibility criteria. Any disqualified bid will be marked, together with the reason.
- vi. The Evaluation Team will mark each criterion in each valid bid and awards marks with reference to the marking scheme approved by the Authority.
- vii. The team's evaluations (including disqualified bids) will be handed to the Chairman of the Tender Committee who puts them into the big envelope with the first serial number. The same procedure is followed with all the remaining envelopes of bidders for that route.
- viii. Each member of the Tender Committee reviews and verifies each result. The Chairman of the Tender Committee compiles a form with the final scores on which the winning bid is identified.
- ix. After the Chairman of the Tender Committee has confirmed the tender result, the small envelope with the serial number of the winning bid containing "Information about the Bidder" will be opened and the winner identified.
- x. The results will be entered in an official record, which is signed by the Chairman and members of the Tender Committee. The winner of the tender will be given a certificate confirming the right to operate the route. The certificate will be signed by the chairman of the Tender Committee and certified by the seal of the Authority.
- xi. On the basis of the record of the Tender Committee, the winning bidder has the right to be awarded the Route Licence. The Licence must be issued within 30 days after the result was announced.
- xii. In the first 15 days after the tender and before the contract signing, the Evaluation Team (on behalf of the Committee) has the obligation to check and verify the data provided in the winning bid. If the commitments in the winning bid cannot be honoured, the bidder with the next highest score is considered to be the winner.
- xiii. Any bidder may request, in writing, a copy of the results of the bid evaluation, both of his own bid and those submitted by other bidders. Any bidder who feels he has not been treated fairly or in accordance with the bidding procedure may appeal to the Mayor (or other person such as a judge, appointed by the Authority).

3.4. The marking scheme

The route specification

The Route Specification against which bids will be evaluated will include:

Non-biddable items:

- The route - with any permitted variations, and termini
- Journey times including layover

Biddable items above minimum:

- Peak frequency and capacity
- Weekday service hours
- Size, type, specification of buses
- Age of buses

Biddable below maximum:

- Fare (unless fixed)
- Concession or section fares.

Marking scales

A marking scheme to evaluate competing bids is specified below. The Authority may amend the marking scheme but it must be applied consistently during tender any exercise; no variation may be made after the publication of the Notice of Tender, two months before the closing date.

The proposed criteria are simple and easy to quantify and are direct indicators of the quality of service. They leave little scope for the exercise of subjective judgement by the members of the Tender Committee. There is, for example no marking for quality of management or maintenance facilities. These are either adequate for the fleet size and vehicle type (an eligible bid) or they are not (an ineligible bid). Experience elsewhere has shown that subjective judgment of such criteria is a major source of disparities and bias.

Marks will be awarded, up to the maximum indicated in the tables below, according to the degree that the bid exceeds the parameters set out in the Route Specification.

If, for any route for which a tender is to be held, the Tender Committee decides that the fare shall be fixed, or shall not be an evaluation criterion, this will be announced in the Notice of Tender.

3.4.1. Fare

Marks: ±10 points per Rp 500 single whole-distance fare, up to the maximum (if any).

Bid fare (Rp)	Marks
3,000 (max)	30
2, 500	40
2,000 (base)	50
1,500	60
1,000	70

3.4.2. Level of service

(a) Enhanced peak frequency/capacity - 10 marks

Where the Route Requirement specifies a minimum peak frequency of, or below, 6 per hr (10-min headway), marks are awarded for higher frequency.

Where the route requirement specifies a minimum frequency above 6 per hour, marks are awarded for higher capacity.

Min. Route Requirement Buses per Peak Hour	Standard hourly pax capacity (bpph) @ 65 pax	Marks for:	
		Higher peak frequency (bph)	Higher peak capacity (bph)
30	1950	marks pro-rata for frequency increments	10
20	1300		
15	975		
12	780		
10	650		
6	390		
3	195	10	marks pro-rata for capacity
2	130	10	marks pro-rata for capacity

- eg
1. A proposed frequency of double the minimum frequency = 20 marks
 2. A proposed capacity of double the standard capacity = 20 marks

(b) Daily operating hours - maximum 5 marks

Marks for extended operating hours: 1 mark per extended hour.

Operating Hours	Marks
Min. required hours	0
1 additional hour	1
2 " "	2
3 " "	3

- eg
- A bid of minimum operating hours: 06.00 - 21.00 (15 hours) scores 0
 - A bid of 05.30 - 21.30 (16 hours) scores +1

(c) Total daily trips - maximum 5 marks

Marks for additional total trips per weekday

Total Daily Trips	Marks
As Rt requirements	0
+ 0 to 10%	1
+ 10 to 20%	2
+ 20 to 30%	3
etc	

3.4.3. Size & type of vehicle

(a) Bus quality specification

Specification	Yes	No
Air-conditioning (unless required)	+ 5	0
Floor height, lower than xx m	+ 1	0
Cabin headroom, higher than 1.8m	0	- 2
2 doors, if capacity exceeds 50	0	- 2
Emission meets: Euro 1	+ 2	0
Euro 2 or better*	+ 4	0

Air-conditioning may be specified as a pre-condition, when 0 marks will be awarded

*Marks awarded pro-rata where only a proportion of the fleet complies

(b) Penalty for low seated ratio (high standing ratio)

Currently typical layout: 45 seated + 30 standees (60% seated)

Penalty for low seated ratio: less favourable than 1 standing space per 4 seats (80% seated),

Standing area calculated from 6 persons per sq.m. of unobstructed, level floor area

Seated ratio (%)	Marks
80 or higher	0
60 to 80	- 2
40 to 60	- 4

(c) Penalty for small buses

Penalty for average bus passenger capacity below 50

Average bus capacity	Marks
50 & above	0
40	- 2
30	- 4

3.4.4. Average age of buses

Average age of all the buses to be allocated, plus 10% spares

Average Age (yrs)	Marks
under 2	10
2 - 4	8
4 - 6	6
6 - 8	4
8 -10	2
over 10	0

3.5. Summary of marking scheme

The marking scheme is very sensitive to level of service criteria.

Maximum possible score

Criterion	Maximum marks
Fares	70
Level of service	30
Frequency capacity	20
Daily operating hours	5
Total daily trips	5
Size and type of buses	10
Bus quality	10
Bus specification	0
Standing ratio	0
Bus capacity	
Age of buses	10
Maximum possible score	120

Marks for bid complying with, but not exceeding, all criteria

Criterion	Marks
Fares	50
Level of Service	10
Frequency, capacity	10
Daily operating hours	0
Total daily trips	0
Size and Type of Buses	20
Standing ratio	0
Bus capacity	0
Bus quality specification	10
Age of buses	10
Total score	80

4. PENALTY PROCEDURES FOR BREACHES OF THE CONDITIONS OF ROUTE LICENCES

4.1. The range of penalties

Penalties for breach of licence conditions will be based on a points system. The number of points awarded will depend on the severity of the offence. A progressive range of penalties will be imposed based on the number of points accumulated by the operator within a fixed period. An initial period of one year is recommended.

The progressive scale of penalties will be:

Loss of operating rights

- Loss of right to exceed the scheduled frequency/operating period
- Loss of exclusive right to a route (where the licence grants an exclusive right to a second licence should be issued to another operator to operate the same route.)
- Shortening of the period of the licence term
- Loss of any right to renewal or extension on expiry
- Immediate cancellation of licence and re-tendering.

Financial penalties

It is recommended that financial penalties should not normally be used to penalise operators due to the need for a quasi-judicial process to assess and recover fines, and because fines may be passed on to passengers in the form of higher fares or lower levels of service. Fines should only be used where an infringement is committed with the intent to produce a financial gain (increased revenue or reduced costs) to the operator, eg charging a fare higher than that authorised or persistently failing to operate unremunerative trips.

4.2. Thresholds

The 'thresholds' of accumulation of points must relate to the duration of the licence. It was recommended that initially route licences should have a duration of 1 - 3 years.

Generally, it is recommended that a serious offence against licence conditions (or a repetition) should carry a penalty of 3 points and a minor offence (or repetition) should carry a penalty of 1 point. An operator accumulating 15 points within a one- year period should incur the maximum penalty of withdrawal of the licence and re-tendering of the route. The intermediate penalties will be imposed for pro-rata accumulation of points.

The number of penalty points to be imposed will be decided by the Authority with reference to:

- the severity of the offence,
- degree of loss or inconvenience to third parties, including passengers and other operators,
- whether operational safety has been prejudiced,
- any benefit to the licensee in additional revenue or reduced costs,
- whether the breach arose through an omission or default, or with deliberate intent,
- any mitigating circumstances such as contributory factors beyond control of the licensee,
- whether offence has been repeated or continued after a formal notice by the Authority,
- any other relevant circumstances.

A breach of licence conditions will be regarded as severe if it involves personal injury, damage to property, infringement of road traffic or other laws and regulations, deception or false reports by the operator, or infringes the licensed right of another operator. Failure to operate a small proportion of scheduled trips will usually be regarded as a minor offence.

4.3. Procedure for imposing penalties

When the Authority becomes aware that licence conditions are being breached (eg by its own monitoring procedures or complaints from users or the public) it will undertake an investigation to confirm and quantify the offence. If the investigation confirms a breach of licence conditions the Authority will issue a warning letter specifying details of the offence and ordering the operator to cease the breach within a specified time. If the operator complies with the order the Authority this will be a factor in mitigation of the offence.

In every case in which the Authority decides to impose a penalty, the decision shall be notified to the operator by a formal letter, which will include details of the offence, any precedents for the offence by that operator and the number of penalty points to be imposed.

The letter will invite the operator to make a representation to the Authority giving any reasons why no penalty, or a lesser penalty should be imposed. The Authority will not confirm the penalty until:

- the operator has had a reasonable period (at least 2 weeks) to submit a representation, and
- any representation has been fully considered.

It is recommended that an operator should have a final right of appeal to a higher authority, such as the Mayor.

4.4. Consistency and fairness

It is expected that precedents will develop as the Authority accumulates experience with administering the penalty system.

The points thresholds may have to be adjusted to ensure the maintenance of a deterrent effect while not withdrawing more than a few licences each year.

The Authority itself should not expose operators to penalties through its own actions, for example by requiring unrealistically high service specifications for tendered routes, or imposing fare constraints that do not allow a reasonably efficient operator to cover costs from revenue.

It is most important that the Authority acts fairly and consistently. Monitoring of compliance with licence conditions must be systematic and applied equally to all routes and all operators. The Authority must not allow widespread breaches of licence conditions to persist while taking action against only a few offenders. This will invite corruption and bring the penalty system into disrepute.

The Authority will maintain a record of all breaches of licence conditions brought to its notice, all warning letters issued and penalties imposed. The record will be available for public inspection. The Authority will refer to the record when imposing a penalty and shall ensure that all penalties are, as far as possible, consistent and commensurate with the severity and frequency of the breaches.

Penalty points accrued by operators will be taken into account in the bidding process for the tendering of routes.