Passenger Transportation Board
MOVING FORWARD, TOGETHER

Capable

Context

Section 28(1) of the Act sets out the criteria the Board must consider on an application. The first two criteria (Fit and Proper, and Capable) are a threshold test. The Board must first consider that an applicant is a fit and proper person and capable of providing a service before it can continue on to other criteria. If the applicant passes the threshold test, the Board will then consider whether there is a public need for the service and whether the application, if granted, would promote sound economic conditions in the passenger transportation business in BC.

The Board's Capable policy explains how the Board interprets this concept. The policy does not list all the ways in which the Board might consider capable, as the Board has discretion to consider other factors. However, the policy should give an idea of how the capable criteria may be demonstrated by applicants and submitters and interpreted by the Board.

Applicability

This policy applies to:

- New or amended applications for a special authorization
- Transfer applications for a special authorization
- Urgent public need applications (section 26(3) of the Act)
- Temporary Operating Permit applications (section 38(2) of the Act)

- Any person making a submission to the Board respecting an application

Policy

Capable is not defined in the Act. Capability is generally understood to mean that an applicant has the ability or qualities necessary to skillfully and effectively meet its obligations, and achieve the results it says it will achieve. When looking at capability, the Board reflects on whether the applicant has demonstrated that it has the knowledge and understanding of relevant regulatory requirements and policies that govern passenger transportation providers, and whether it is able to comply with those requirements. It also looks at whether the applicant has the background, skills and knowledge to manage its proposed service, and the financing to operate it.

The Board expects an applicant to demonstrate its competence and ability by providing sound and realistic information in its business plan and financial statements that is consistent and compatible with the transportation service it proposes.

The following sections provide more information on what the Board may consider in determining whether an applicant is Capable, including considerations specific to business plans and financial information.

Board considerations

Awareness and knowledge

In general, the applicant or licensee should demonstrate an awareness and knowledge of responsibilities to comply with the following:

- Passenger Transportation Act including requirements set out in:

- The Passenger Transportation Regulation
- Terms and conditions of licence
- Board approved rates and rules governing the rates

- Requirements under the Motor Vehicle Act (including Motor Vehicle Act Regulations) that apply to holders of a passenger transportation licence
- Requirements that apply to extra-provincial, inter-city bus operators in federal Accessible Transportation for Persons with Disabilities Regulations

Care and control

The applicant or licensee must provide a business plan (see ‘Business Plans’ section below) and other application materials that demonstrate operational care and control as outlined in sections 6 and 7 of the Passenger Transportation Regulation. Factors the Board considers include:

- Core responsibilities of owners, managers, and others who influence how the operation is managed
- Hiring practices
- Driver and employee training
- Driver and employee disciplinary measures
- Policies to ensure that apps and other technologies are programmed in ways that facilitate compliance (e.g., accurate geo-fencing and programming of rates in apps)

Educational and professional experience

The applicant's business plan and resumés should include enough information about the applicant or management team to demonstrate that the company's key personnel have the education, experience and/or training that is necessary to set up and maintain the services the applicant says it will provide.

Safety obligations

The applicant's business plan should reflect an awareness and knowledge of its National Safety Code (NSC) obligations in B.C., and it should note that it has procedures in place to meet them. For more information, see the Ministry of Transportation and Infrastructure's Carrier Safety Guide.

NSC obligations include:

- Educating Licensees, drivers, and employees of NSC Safety Certificate requirements
- Ensuring that vehicles are properly inspected and maintained
- Ensuring competent and qualified drivers drive the Licensees' vehicles
- Keeping records to track drivers' hours of service, the maintenance of vehicles, and company safety programs and policies to ensure that drivers and employees follow safety procedures and requirements

Business plans

A business plan demonstrates that the applicant has taken the time to research and investigate the financial viability of the business they propose. The Board reviews the business plan to see that the applicant:

- Provides a clear description of the transportation service being proposed
- Provides public need indicators

- Has identified its target market
- Understands local conditions and competitive challenges
- Has developed a marketing plan
- Has identified any business partnerships and alliances it depends on

When a licensee submits a business plan update with an application to change a licence or add vehicles to a fleet, the licensee should demonstrate the criteria above by focusing on the changes proposed and how they will affect the business and operations.

The applicant should provide as much information and evidence as possible to support general statements.

The Board has provided applicants and licensees with additional guidance on preparing a business plan on its website.

Financial information

The Board reviews financial information submitted with the application. This includes 36-month cash flow projections, balance sheets, and income statements. When reviewing financial information, the Board considers the following:

- Does the applicant have the financial resources or funds to start-up the operation?
- Do assumptions and budget forecast projections have enough detail to show that revenue estimates are realistic?
- Do cost projections cover the main expense categories and are they realistic?

- Do the planned business activities and services align with the financial statements and projections?
- Do the financial statements reflect a company that will be profitable and well managed?

The Board has provided applicants and licensees with additional guidance on providing financial information on its website.

Legislation

28 (1) The board may approve, in whole or in part, an application forwarded to the board under section 26(1) [other licence applications] after considering the following:

(a) whether the applicant

(i) is a fit and proper person to provide the service the applicant proposes to provide under the special authorization, and

(ii) is capable of providing the service

(b) if the board considers that the applicant is a fit and proper person to provide the service and is capable of providing the service,

(i) whether there is a public need for the service, and

(ii) whether the application, if granted, would promote sound economic conditions in the passenger transportation industry in British Columbia.

Related topics:

- Fit and proper policy

- Fitness
- Preparing a business plan
- Providing financial information
- Resumes, criminal record checks and business registration documents