



OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: September 27, 2004

TO: Managing Director

FROM: Inspector General

SUBJECT: Report on Audit of the Federal Communications Commission Transit Benefit Program

We have conducted an audit of the Commission's Transit Benefit Program as part of our annual audit plan and in response to FCC management concerns of possible increased risk of waste, fraud, or abuse due to the increase in allowable monthly reimbursements from \$65 to \$100 on January 1, 2002. We conducted the audit with the objectives of assessing the policies and procedures issued by the Commission for the transit subsidy benefit program for compliance with applicable regulations and union agreements, testing the Commission's internal controls for compliance with the program requirements, testing employee compliance with program participation requirements, and reaching an overall opinion as to the program's control system and compliance with requirements and identifying areas where operational improvements can be made.

We found the Commission's transit benefit program to be compliant with the government's transit benefit rules and regulations and did not find indications of significant abuse by transit benefit recipients. However, our report contains one finding, the Commission's Transit Benefit Program policies and procedures are inadequate. The Commission relies on Appendix D of the labor bargaining agreement between the FCC and the NTEU as the policies and procedures for operating its Transit Benefit Program. Appendix D only provides general guidance as to eligibility; application process; funding methodology; certification requirements; metrocheck distribution locations, dates, and times; and other administrative directions. It does not provide detailed guidance to administrators or transit benefit recipients.

As a result, we have identified four recommendations to address the finding. Implementation of our recommendations will provide a comprehensive framework for complying with and administering the Program and significantly reduce the risk of waste, fraud, or abuse.

During the course of our audit, we found four individuals that we will be referring for management action because of potential transit benefit program abuse. In addition, our audit

disclosed issues with daily parking passes and returned checks for parking fees that are included as Other Matters in the report.

Commission management concurred with our recommendations and outlined procedures for implementing each recommendation. We agree with the Commission's responses and consider their implementation plans to be adequate for improving the program and preventing waste, fraud, and abuse.

Should you or your staff have any questions, please contact Thomas Cline, Assistant Inspector General for Audit, at (202) 418-7890.

A handwritten signature in black ink, appearing to read "Walker", with a long horizontal flourish extending to the right.

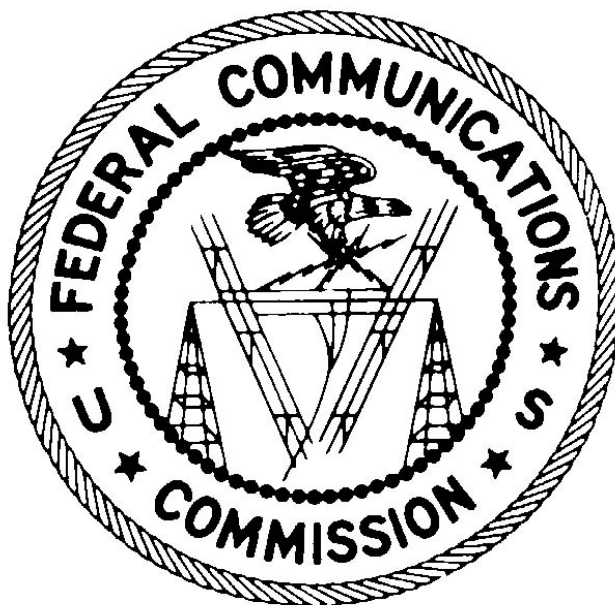
H. Walker Feaster III

cc: Deputy Associate Managing Director, Administrative Operations
Employee Transit Benefit Program Coordinator

Attachment

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF INSPECTOR GENERAL



Report on Audit of the Federal Communications Commission
Transit Benefit Program

Audit Report No. 04-AUD-02-02

September 27, 2004

Report on Audit of the Federal Communications Commission
Transit Benefit Program

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EXECUTIVE SUMMARY

The OIG initiated an audit of the Commission's Transit Benefit Program as part of its annual audit plan and in response to FCC management concerns of a possible increased risk of waste, fraud, or abuse due to the increase in allowable monthly reimbursements from \$65 to \$100 on January 1, 2002.

We conducted the audit with the objectives of assessing the policies and procedures issued by the Commission for the transit subsidy benefit program for compliance with applicable regulations and union agreements, testing the Commission's internal controls for compliance with the program requirements, testing employee compliance with program participation requirements, and reaching an overall opinion as to the program's control system and compliance with requirements and identifying areas where operational improvements can be made.

In our opinion, the Commission's transit benefit program is in compliance with the government's transit benefit rules and regulations and we did not find indications of significant abuse by benefit recipients. However, we did find that the Commission's Transit Benefit Program policies and procedures are not adequate.

We found that the Commission relies on Appendix D of the labor bargaining agreement between the FCC and the NTEU as the policies and procedures for operating its Transit Benefit Program. Appendix D provides general guidance as to eligibility; application process; funding methodology; certification requirements; metrocheck distribution locations, dates, and times; and other administrative directions. It does not provide detailed guidance to transit benefit recipients.

Comprehensive policies and procedures detailing areas of responsibility, transit benefit recipient eligibility requirements, and allowable and unallowable transit costs for reimbursement are essential internal controls for operating a successful program. Additionally, it should also provide detailed procedures requiring the transit benefit coordinator to conduct oversight procedures that verify the accuracy of employee data in the database on an on-going basis and follow-up procedures for any instances of apparent or actual noncompliance. These policies and procedures would represent the essential framework for managing and preventing waste, fraud, and abuse in the Transit Benefit Program and should be readily available on the Commission's intranet site.

Commission management concurred with our recommendations and outlined procedures for implementing each recommendation. We agree with the Commission's responses and consider their implementation plans to be adequate for improving the program and preventing waste, fraud, and abuse.

AUDIT OBJECTIVE

The primary objectives of this audit were to:

1. Assess the policies and procedures issued by the Commission for the transit subsidy benefit program for compliance with applicable regulations and union agreements;
2. Test the internal controls the Commission has established to ensure compliance with the program requirements;
3. Test employee compliance with the program participation requirements; and
4. Reach an overall opinion as to the program's control system and compliance with requirements and identify areas where operational improvements can be made.

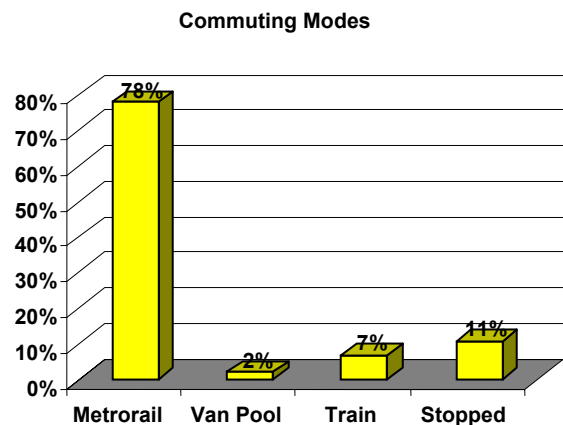
AUDIT SCOPE AND METHODOLOGY

The audit was conducted in accordance with *Government Auditing Standards* (updated June 2003) issued by the Comptroller General of the United States, and included such analyses, interviews and testing as required to support the audit findings. Specific audit steps included the following:

- Reviewing the Commission's Transit Benefit Program Policies and Procedures;
- Assessing control risk to use as a basis for planning the nature, timing, extent of testing;
- Examining, on a test basis, evidence supporting the amounts and disclosures in the data and records examined; and,
- Evaluating the overall data and records presentation.

Audit fieldwork was primarily performed within the Office of the Managing Director (OMD) from January through June 2004.

We randomly and judgmentally selected 89 transit benefit recipients from the Commission's calendar year 2002 and 2003 Transit Benefit Program databases and submitted a questionnaire to them for their response. As the graph on the right depicts and based on our sample, it appears that the vast majority of the Commission's transit benefit recipients commute to and from work via the Washington D.C. area metrorail system.



We designed the transit benefit questionnaire to obtain the sampled recipients' responses to validate the information they certified to in the program system's database, test for compliance with program requirements, and ascertain whether recipients read and are familiar with the FCC's transit benefit program requirements.

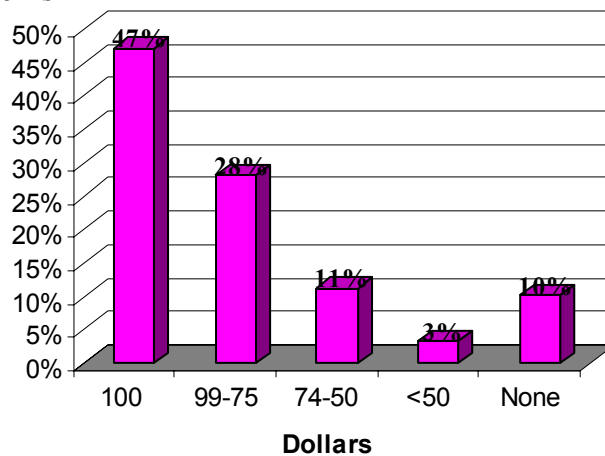
BACKGROUND

On October 1, 2000, the Federal Communications Commission (FCC) implemented its Transit Benefit Program as part of the collective bargaining agreement with the National Treasury Employees Union (NTEU) for qualified Commission employees. The purpose of the Transit Benefit Program is to encourage maximum use of public mass transit for commuting to and from the workplace and comply with Federal requirements¹. These requirements require federal agencies to offer transit subsidies for employees in the National Capital region using public transportation.

The Executive Order requires that all federal agencies provide transit benefits up to the full amount allowed by Internal Revue Service Code, which increased from \$65/month to \$100/month in January of 2002. Agencies are required to fund their transit benefit incentives from existing appropriations. The benefits are also excluded from taxable wages and compensation consistent with section 132 of title 26 of the United states code (26 U.S.C. 132 (f) (2)).

Under the Transit Benefit Program, the Commission provides qualified employees with Metrocheks based on the amount the employee certifies they spend for commuting from home to work via public transportation up to a maximum of \$100.00 per month. Based on our random and judgmental sample selection, it appears that approximately half of the Commission's benefit claims are for the \$100.00 maximum amount. Transit benefits were disbursed to approximately 830 recipients that averaged \$72,000 per month in 2002 and 845 recipients that averaged \$74,000 per month in 2003. These disbursements resulted in estimated annual costs of \$861,000 and \$887,000 to the Commission for calendar years 2002 and 2003, respectively.

Respondents' Monthly Claimed Benefit Amount



¹ Executive Order 13150, "Federal Workforce Transportation" dated April 21, 2000 ordered that, effective October 1, 2000

FCC management considers the program to be a success but feels that there is an increased risk for waste, fraud, or abuse since the Transit Benefit Program increased from \$65 to \$100 per month. Their informal reviews indicate potential overpayments based on employee addresses and/or methods of commuting. Management also noted that several Commission employees increased their claimed commuting costs when the benefit increased on January 1, 2002.

AUDIT RESULTS

FINDING – The Commission’s Transit Benefit Program policies and procedures are not adequate.

In our opinion, the Commission’s transit benefit program is in compliance with the government’s transit benefit rules and regulations. The FCC offers transit benefits to employees that participate in approved mass transit commuting options which complies with Executive Order 13150, effective October 1, 2000. This Order requires all federal agencies to offer benefits in the form of transit passes up to the maximum allowed by 26 USC 132(f)(2). Beginning January 1, 2002, the maximum benefit increased from \$65 per month to \$100 per month.

We did not find indications of significant abuse by benefit recipients from our random and judgmental samples. Of the 89 employees sampled, only four (4) employees appeared to receive overpayments ranging from \$13.00 to \$45.00 per month. These individuals will be referred to management for appropriate action.

However, we did find that the Commission’s Transit Benefit Program policies and procedures are not adequate. FCC management has not issued comprehensive policies and procedures but rather relies on Appendix D of the labor agreement between the FCC and the NTEU as the program’s policies and procedures. Appendix D is not comprehensive enough to be adequate and is not readily available to employees on the Commission’s intranet site. We found that Commission management has drafted transit benefit policies and procedures that appear to be adequate and may provide comprehensive guidance to employees and management for participating in and managing the program, if released and made available on the Commission’s intranet site.

Comprehensive policies and procedures detailing areas of responsibility, transit benefit recipient eligibility requirements, and allowable and unallowable transit costs for reimbursement are essential internal controls for operating a successful program. Additionally, they should provide that the transit benefit coordinator conduct oversight procedures that verify the accuracy of employee data in the database on an on-going basis and follow-up procedures for any instances of apparent or actual noncompliance. These policies and procedures would represent the essential framework for managing and preventing waste, fraud, and abuse in the Commission’s Transit Benefit Program.

As stated previously, the Commission relies on Appendix D of the labor bargaining agreement between the FCC and the NTEU as the policies and procedures for operating its Transit Benefit Program. Appendix D provides general guidance as to eligibility; application process; funding methodology; certification requirements; metrocheck distribution locations, dates, and times; and other administrative directions. However, it does not provide detailed guidance to transit benefit recipients. For example, Appendix D, Section 2, Sub-Section D, provides the only eligible and ineligible cost guidance to transit benefit recipients as follows:

“Employees assigned to headquarters who utilize approved public mass transportation are eligible to participate in the Transit Benefit Program. Car pools, van pools that do not have a contract with the WMATA (Washington Metropolitan Area Transit Authority), and/or applicants who are named on a worksite motor vehicle parking permit with any other Federal agency are not eligible to receive a transit benefit.”

Appendix D does not provide clear guidance on transit costs that are not eligible for reimbursement, such as parking fees, gas, etc. In addition, these policies and procedures are not readily available to anyone seeking guidance. The transit benefit policies and procedures should be readily available in the employee benefits area of the Commission’s intranet site.

Respondents to our questionnaire bear this deficiency out. Approximately 40 percent responded that they have not read or are not familiar with the transit benefit program requirements. For example, one respondent commented and recommended: “The guidance document that I have seen is “Appendix D, *Transit Benefit Agreement Between the FCC and NTEU Chapter 209*.” That document provides a little guidance on the ethics of the program, but no guidance on decrementing absences from the monthly commuting subsidy schedule.

Another respondent commented that: “The rules with respect to what costs can be included in our transit benefit and what to do about variations in monthly commuting costs are not been (sic) fully explained nor are there mechanisms in place to deal with such variations. The only rules for this program that I am aware of are on the application and they are not very specific. For instance, should parking/gas be included in the transit benefit? With respect to monthly cost variations, when I first asked (years ago) what to do if I had leave scheduled in a particular month, I was told that I should do nothing to my transit benefit, unless the leave totaled half of the month.”

As indicated by the above response examples, the existing policies and procedures fail to provide the Commission’s employees and administrators with clear guidance for complying with and managing the Transit Benefit Program. This lack of clear guidance leads to confusion, individual interpretation, and inconsistent oversight which increase the risk of waste, fraud, and abuse.

Because of the above, we recommend that Commission management:

1. Design more comprehensive Transit Benefit Program policies and procedures. Consider implementation of the current draft procedures developed by ASC.
2. Make the policies and procedures readily available on the Commission's intranet site.
3. Establish formal notification procedures for communicating any Program changes or issues.
4. Require the Transit Benefit Coordinator to conduct random or regular checks of employee information. This would include verifying the accuracy of employee data in the database and following-up on instances of any apparent or actual non-compliance.

Implementing these recommendations will make the policies and procedures readily available to Commission employees and increase management controls over the Transit Benefit Program. This will provide a comprehensive framework for complying with and administering the Program and significantly reduce the risk of waste, fraud, or abuse.

Commission management concurred with our recommendations (Attachment) and outlined procedures for implementing each recommendation. Management also reported that they are investigating the option of having the Department of Transportation take over management of the Commission's Transit Benefit Program. We agree with the Commission's responses and consider their implementation plans to be adequate for improving the program and preventing waste, fraud, and abuse.

OTHER MATTERS TO BE REPORTED

At ASC's request, we reviewed the Commission's daily temporary parking pass controls and employee monthly parking checks being returned to the contractor for insufficient funds.

Daily temporary parking passes. During April 2004, the ASC contacted the OIG for advice on a parking problem. Two individuals who were signed up for a car pool that parks in the FCC's Portals II parking garage were parking both of their cars at the FCC Portals II parking facility on a daily basis. This is a clear violation of FCC discount parking policy, which only allows one car pool vehicle in the parking garage per car pool and specifically prohibits employees in the transit benefit program from participating in the discount parking program. The ASC investigated this and found that one of the car poolers parked their car using the monthly parking pass while the other car pooler parked their car by obtaining temporary daily parking passes from the parking attendant. Temporary daily parking passes are for paid monthly parkers who lost their monthly parking tag, forgot to transfer the monthly tag to the car they're driving, or some other

legitimate reason. It is not to be used for unauthorized parkers to access to the parking garage.

Based on the above discussion, we recommended that the ASC should make the temporary daily passes pre-numbered controlled documents that cross reference to a roster with matching parking pass numbers. Once they obtain the pre-numbered parking passes, we recommended that they require their parking attendants to record the temporary parker's name, FCC badge number, vehicle type, and vehicle license number on the subject daily roster that corresponds to the pre-numbered daily pass number each time one is used. This control should significantly reduce parking privilege abuses and provide investigative support for any related disciplinary actions.

The ASC concurred and immediately implemented our recommendation. As a result, they were able to increase control over the parking program and identify other parking abusers. For example, they identified a transit benefit program participant who had been using a temporary daily pass to park in the Portals II garage.

Checks returned for non-sufficient funds (NSF). Based on discussions about monthly parking participant checks being returned to the parking program contractor, Natek, Inc., for NSF, we requested a listing of all returned checks from January 1, 2004 through June 30, 2004. We found that twenty-seven (27) monthly parking checks had been returned as NSF in the last six months totaling \$3,105.00. Of approximately 725 monthly parking checks received by Natek, Inc. each month, less than 1% gets returned as NSF. This does not appear to be a significant problem, but we did notice that two (2) participants had NSF checks returned two (2) different times during this six month period.

As a result, we recommend that management counsel individuals who issue NSF checks of possible ethics violations as a Federal employee for the first violation and consider disciplinary action if violations appear habitual. Additionally, the Commission would be well served to include a refresher on employee responsibilities in this area as part of its ethics education program (i.e. ethics grams).

UNITED STATES GOVERNMENT
M E M O R A N D U M

DATE: September 21, 2004

TO: Inspector General

FROM: Managing Director

SUBJECT: Draft Report on Audit of the Federal Communications Commission
Transit Benefit Program

Set forth below are our comments on the recommendations in your draft report on the audit of the Federal Communications Commission transit benefit program.

Recommendation 1:

Design more comprehensive Transit Benefit Program policies and procedures. Consider implementation of the current draft policies developed by ASC.

OMD Response:

Concur. The Office of the Associate Managing Director – Administrative Operations, Administrative Services Center, is currently working with the Labor Relations and Performance Management Service Center as well as the Department of Transportation (DOT) on several issues:

- Final review of the draft policies and procedures.
- Possible implementation of the Smart Trip Program which would allow the agency to better monitor actual usage on a monthly basis.
- Option of the Department of Transportation's TASC/TRANSSERVE taking over the agency's Transit Benefit Program

Recommendation 2:

Make the policies and procedures readily available on the Commission's intranet site.

OMD Response:

Concur. The final, approved, policies and procedures will be posted on the intranet, regardless of whether the program is managed by DOT or remains in-house.

Recommendation 3:

Establish formal notification procedures for communicating any program changes or issues.

OMD Response:

Concur. All program changes will be communicated both in hard copy at the Transit Benefit Window as well as an e-mail to all Transit Benefit Program participants.

Recommendation 4:

Require the Transit Benefit Coordinator to conduct random or regular checks of employee information. This would include verifying the accuracy of employee data in the database and following up on instances of any apparent or actual non-compliance.

OMD Response:

Concur. Currently each application is reviewed by the Transit Benefit Coordinator or her representative to ensure accuracy prior to approval. However, it was noted that in some instances all the information needed to verify for accuracy was not being provided, i.e., Station location, etc. The forms have been revised to include information which will better assist us in ensuring the total benefit requested is in fact what the employee is eligible for. The forms have now been automated and are available under Word FCC Forms, for ease of access for the employee. If the agency decides, after meeting with the Department of Transportation, to continue the program in-house, the Transit Benefit Coordinator will, as in the past, follow up on any instances of apparent or actual non-compliance and will also check a certain percentage of applications each quarter. If the decision is made that DOT take over the program for the agency, they will be responsible, in conjunction with the agency's Transit Benefit Coordinator, for ensuring all employees are in compliance with all regulations, policies and procedures governing the Transit Benefit Program.

OTHER MATTERS:

Daily temporary parking passes. The agency concurred with and immediately implemented the IG's recommendations.

Checks returned for non-sufficient funds (NSF). The ASC will notify the appropriate ABC for Management as well as the employee's immediate supervisor each month regarding employees who have had checks returned for non-sufficient funds and ask that they counsel them of possible ethics violations as a Federal employee and that they consider disciplinary action if violations appear habitual. The AMD-AO will also recommend that the Office of

General Counsel include a refresher on employee responsibilities in this area as part of its education program.



Andy Fishel