

**Before the Committee on Homeland Security
and Governmental Affairs
Permanent Subcommittee on Investigations
United States Senate**

For Release on Delivery
Expected at
2:30 p.m. EDT
Tuesday
April 24, 2007
CC-2007-048

Opportunities To Improve Internal Controls Over the Federal Transit Benefit Program

**Statement of
The Honorable Calvin L. Scovel III
Inspector General
U.S. Department of Transportation**



Chairman Levin, Ranking Member Coleman, and Members of the Subcommittee:

We are pleased to be here today to testify on opportunities to improve internal controls over the Federal Transit Benefit Program. A foremost concern of all participating agencies is maintaining the integrity of this important program and ensuring that it remains free of employee fraud and abuse. Our testimony today is based on our audit and investigative work regarding those issues.

The Government Accountability Office's current work found weaknesses in transit benefit programs at several agencies that make the Program susceptible to employee abuse or fraud. Those findings underscore the need to review and improve internal controls at all Federal agencies participating in the Program.

Mass transit plays an integral role in reducing traffic congestion and pollution and improving the quality of life for the Nation's workforce. In 1991, the Department of Transportation (DOT) began actively encouraging its employees to take advantage of these resources by becoming the first Federal agency to offer a monthly mass transit subsidy of \$21 for employees—creating the first Federal transit benefit program. By 1998, DOT had nearly 6,000 participants in the Program, and the maximum monthly subsidy had increased to \$65 per employee. DOT employees can now receive a maximum monthly subsidy of up to \$110.

Due to the success of the Federal Transit Benefit Program, President Clinton issued an Executive Order in April 2000 mandating that all Federal agencies in the National Capital Region provide incentives to their employees to use mass transit. Agencies had until October 1, 2000, to comply with the order.

Due to the short, 6-month timeframe, many agencies chose to use the existing services of the DOT Program's transit office to administer the acquisition, safekeeping, and distribution of transit benefits for their employees. Today, DOT facilitates the distribution of about \$205 million in annual benefits for 108 Federal organizations to provide transit incentives to over 233,000 Federal employees nationwide. Within the National Capital Region alone, DOT's transit office facilitates distribution of \$102 million in annual benefits to over 106,000 Federal employees.

An important point, Mr. Chairman, is that while DOT provides support for other agencies, it does not manage their transit benefit programs. Each agency is responsible for ensuring the integrity of its own program and establishing appropriate internal controls. For example, each participating agency is responsible for determining the initial and ongoing eligibility of each participant and the monthly subsidy that the participant qualifies for and for taking appropriate management action to address instances of employee fraud or program abuse.

As we have seen in other Federal programs, such as the Government Purchase Card and Travel Card Programs, strengthening internal controls and increasing the role of management are keys to improve accountability and prevent fraud and abuse. We see the role of the Inspectors General in the Federal Transit Benefit Program as one of oversight to ensure that internal controls are sufficient and that they are adhered to.

Today, I would like to discuss (1) the strengths and weaknesses of DOT's internal controls over its transit benefit program and (2) opportunities, as we see them, to improve internal controls over the transit benefit programs at DOT and all participating Federal agencies.

DOT Has Implemented Internal Controls Over Its Transit Benefit Program, but There Are Areas for Improvement

DOT implemented internal controls designed to prevent potential fraud or abuse within the Program. For example, DOT has a series of internal controls over the distribution of paper fare media when employees pick up their benefits. Those include requiring employees to provide current Government identification, verifying their enrollment in the program and the amount of benefits that they are eligible to receive, and requiring them to check a box stating whether or not their residence has changed. As noted below, DOT has also established controls to monitor the initial application and certification process and employees' continuing eligibility for participation in the Program. While those controls provide some assurances, there are areas for improvement.

More Supervisory Oversight Could Improve Controls Over the Initial Application and Certification Process. DOT established a series of initial controls to ensure that employees are eligible to receive benefits. For example, DOT employees must complete an application for the Transit Benefit Program. The application includes information about their city of residence, work location, mode of transportation, and commuting costs. DOT employees are also required to certify that the information provided is accurate and acknowledge punitive actions that could be taken against them for violations of the Program. The final application is approved by a Transit Coordinator within their agency who is responsible for verifying that applicants are DOT employees and eligible for benefits.

In 1995, DOT established a policy for cross-checking active participants in the Transit Benefit Program against names of DOT employees registered for parking permits in DOT buildings to ensure that transit benefits provided were actually used by the employee for commuting purposes. That check is necessary because employees could try to receive subsidized parking permits for DOT buildings while also receiving and accumulating transit benefits. The accumulated transit benefits could then be used for means other than their authorized purposes.

The cross-check procedure, if done consistently, is an important step that should prevent that type of employee abuse. However, it is limited because it would only detect DOT employees receiving both parking and transit benefit subsidies from DOT. It would not identify cases involving DOT employees who are registered with a carpool using parking privileges at another Federal agency.

We found other weaknesses within DOT's internal controls over the application process. For example, when initially applying for transit benefits, employees list their city location, method of transportation, and total monthly commuting expenses incurred. Based on the information provided, employees can then receive up to \$110 in transit benefits each month. Employees self-certify that the information entered on their enrollment application is complete and accurate. However, DOT has not developed a mechanism to determine if the commuting costs claimed by an employee are reasonable, based on the distance between an employee's home and work and the method of transportation used.

In our opinion, a significant weakness in this process is that employees' supervisors are not involved. Currently, there is no uniform process for DOT that requires supervisors to approve employees' transit benefit applications. Instead, DOT employee applications are approved by a Transit Coordinator, who is responsible for approving benefits for an entire agency. Although involving employees' supervisors would not solve every issue, supervisors are in a better position to know information about employees such as their home location, commuting methods, and schedule.

Involving employee supervisors in the application process could help prevent cases where employees misrepresent their commuting methods or distance and obtain more transit benefits than they are eligible for. The ability of an employee to accumulate transit benefits creates the opportunity to use those benefits for other than their authorized purpose. Our investigations over the last several years have uncovered this type of abuse.

- For example, a DOT employee applied for more transit benefits than she was eligible to receive. She certified on the enrollment application that she was eligible for the maximum amount of transit benefits when her actual commuting costs were significantly less. When confronted by our investigators, she acknowledged that she used the excess fare cards for personal travel on weekends. In this case, a supervisor's review of the information provided may have detected the misrepresentation of her commuting costs.
- In a similar case, our investigators identified a DOT employee who received transit benefits worth over \$4,300 over a 5-year period while he was actually driving to and from work. When confronted by our investigators, the employee admitted that he gave the benefits to friends. He also admitted that he self-certified the information about using the transit benefits for his daily commute.

The employee was subsequently terminated and required to repay the fraudulently obtained benefits. Likewise, in this case, had a supervisor been required to review the application, the inconsistencies may have been discovered.

We note that Government-wide program management improvements in the Government Purchase Card Program included requirements for better supervisory oversight. Similar requirements for DOT's transit benefit program would significantly improve the Department's existing internal controls.

Additional Controls Are Needed To Adequately Monitor Employees' Ongoing Program Eligibility. DOT has recently established a new, internal control to check that employees remain eligible for the amount of benefits that they were originally authorized to receive. Last month, DOT began requiring DOT employees to recertify their eligibility for transit benefits. This new process requires all participants in the National Capital Region to update their enrollment information by July 1, 2007, and will now be an annual requirement to continue participating in the Program.

These are clearly steps in the right direction, but additional controls are needed. While program participants sign a roster when they pick up their transit benefits certifying that their home and work addresses have not changed, in our view, stronger controls need to be put in place. We found that other than employees' self-certification, there are no procedures requiring employees to update personal information for changes when they occur, such as changing their commuting method or work schedule through either extended leave, temporary duty, or telecommuting. All of those factors affect the amount of benefits an employee is eligible to receive. By not updating personal information, employees could accumulate benefits in excess of their actual monthly requirements, which violates the Program's rules and makes it likely that the benefits will be used for other than their authorized purpose.

Our investigations have confirmed instances of employees abusing the Program in such a manner.

- For example, a DOT employee sold \$789 worth of fare media that she received through the Transit Benefit Program on the online auction website, eBay.[®] When confronted by our investigators, she admitted to selling the excess transit benefits but stated that she was not aware that selling them was prohibited. The employee told our investigators that the excess benefits were accumulated as a result of her temporary assignment, which allowed her to work from home 4 days per week. Had the Department established procedures requiring employees to update their information and recertify as changes in commuting methods or schedules occurred, this situation may have been prevented.

In our opinion, DOT needs to improve the existing controls over the application and certification process by requiring employees to update their information and recertify

whenever meaningful changes in their commuting methods or schedules occur. Requiring employee supervisors to review and approve this information would help to improve this aspect of the process.

Opportunities To Improve Internal Controls Over the Transit Benefit Program Throughout the Federal Government

Our work has identified areas where the Department can proactively improve controls over its Program. In our view, these actions could also be taken Government-wide to help ensure the integrity of the Transit Benefit Program at all participating agencies. These actions include the following:

Including the Transit Benefit Program in agencies' assessments of their internal controls during the A-123 process: To date, most identifications of internal control deficiencies regarding the Transit Benefit Program have resulted from investigations of alleged abuse. While our investigations will continue to identify these weaknesses, managers can take greater responsibility for assessing and correcting internal control deficiencies by integrating the Transit Benefit Program with the Office of Management and Budget (OMB) Circular A-123 assessment process.

OMB Circular A-123 requires Federal managers to take systematic and proactive measures to assess the adequacy of internal controls of their programs and operations and report annually through management assurance statements. Circular A-123 provides specific requirements for management to assess and report internal controls over activities such as financial reporting and the use of Government purchase and travel cards. In the case of DOT, the Department includes controls over safeguarding paper fare media as part of its A-123 process but it does not include an assessment of its Transit Benefit Program operations, such as the application and distribution processes.

Including an assessment of the internal controls over the Transit Benefit Program in the A-123 process could be an effective means for proactively preventing fraud or abuse.

Requiring employees to annually recertify their eligibility: DOT has recently initiated an online process requiring Federal employees using the Program in the National Capital Region to update and recertify their enrollment information annually. Participants are required to update and verify items such as their mode of transit and their monthly commuting costs. They also are asked to confirm specific information such as their city, state, and zip code as well as their permanent duty station location. Prior to finalizing the recertification, participants are prompted with a warning statement that clearly states that false, fictitious, or fraudulent certifications may result in criminal prosecution.

This warning also states that the employees are fully aware that they are certifying to the following:

- they are employed with the U.S. Department of Transportation;
- they are eligible for a public transportation fare benefit;
- they will use it for their daily commute and will not give, sell, or transfer it to anyone else; and
- they will not use the Government-provided transit benefit in excess of the statutory limit in any given month.

All Federal agencies that have not already done so should implement a similar recertification requirement to ensure the accuracy of Program data and to clearly communicate the responsibilities of Program participants. Although the annual self-certification process could help in “keeping honest employees honest,” it would not prevent employees from intentionally falsifying their information. To minimize those cases of abuse would require other means, such as independently verifying the information provided.

Further, the annual certification process would not reflect changes that may occur to employees’ commuting methods or work schedules during the year that significantly affect their eligibility or the amount of benefits they are eligible for. To accurately capture those changes, additional controls would be needed requiring employees to update their information and recertify whenever changes in their commuting methods or work schedules occur.

Reviewing and applying appropriate lessons learned in other Government programs: There are lessons to be learned from other Government-wide efforts to prevent fraud and abuse. In the past, the Federal Government has shown its ability to strengthen its oversight of programs when it focuses on those issues. For example, OMB made significant improvements Government-wide to both the Government Purchase Card Program and the Travel Card Program in 2002. Those Programs are also similarly susceptible to fraud and abuse by employees, and OMB directed agencies to evaluate their internal controls and develop remedial action plans. OMB later distributed recommendations to the agencies on best practices and eventually developed Appendix B to OMB Circular A-123, which sets out how agencies should go about improving the management of Government charge card programs.

Training and enforcement improved these programs and could also benefit the Transit Benefit Program. A well-developed training program provides for consistent education and information about the program, ensures that participants cannot avoid being held accountable by later claiming they were unaware of the program’s requirements, and heightens awareness of the consequences of program abuse. For

example, all Federal employees must complete a training course before they are authorized to use Government purchase cards. Similar training should be established for the Transit Benefit Program. Agencies should be able to use their experience in developing and implementing these programs for purchase cards and apply it to improving the Transit Benefit Program.

Developing and enforcing consistent administrative policies: While potential criminal and civil penalties could result from transit benefit fraud, this type of fraud is unlikely to be prosecuted and, in our experience, has not been prosecuted. For this reason, it is important that management pursue appropriate disciplinary action.

However, there are no required or recommended disciplinary actions for transit benefit fraud. In our experience, management has responded to transit benefit fraud and abuse cases with punishments ranging from verbal counseling to the proposed removal of the employee. The development of uniform, recommended penalties and consistent enforcement of those penalties would, in our opinion, be important steps for preventing this type of abuse.

We are also not aware of any current procedures for denying employees future transit benefits due to their misuse of the Program. Agencies should consider whether this would be appropriate and how best it could be implemented.

Mandating the use of the SmartBenefits[®] program throughout Government agencies in the National Capital Region: Most transit benefits are provided to DOT employees using paper fare media. However, based on discussions between our office, the Department, and the Washington Metropolitan Area Transit Authority, the transit authority announced that it will transition all Federal and private-sector employees to the electronic fare media by January 2008. The Department subsequently mandated that all DOT employees receiving transit benefits in the National Capital Region must begin using electronic fare media as of July 1, 2007, if their mode of transit is equipped to accept that technology.

The SmartBenefits[®] program features an electronic plastic fare card known as a SmarTrip[®] card. This card is rechargeable in that it can have benefit amounts electronically loaded onto it each month and can be used on Metrorail, Metrobus, and registered vanpools, as well as some other area transit systems, such as DASH and the D.C. Circulator. Under the SmartBenefits[®] program, the monthly transit benefits an employee is authorized to receive are electronically distributed to the employee's SmarTrip[®] card at kiosks in Metrorail stations.

Other agencies that voluntarily implemented the use of SmarTrip[®] have experienced high rates of utilization of the technology. For example, at the Federal Aviation Administration, about 61 percent of the participants use this technology.

Use of the SmarTrip card in the National Capital Region reduces the potential for fraud and abuse because it is more difficult to sell or transfer benefits on the SmarTrip® card than when benefits are distributed using paper fare media. This is because of several reasons.

- First, the SmarTrip® card is programmed to accumulate a maximum of \$300 in credits. This would prevent employees from developing a large cache of unused benefits and using them for means other than their authorized purpose.
- Second, if employees sell their SmarTrip® card, they must obtain a replacement in order to continue receiving benefits. The SmarTrip® card allows for detailed electronic record keeping about each employee's use of the card. Employees frequently requesting new cards would raise a "red flag" of possible fraud if a means were available to screen for such activity and report it to the employees' agency.
- Third, because employees' monthly benefits are loaded onto the SmarTrip® card (a single card as opposed to the multiple paper fare cards currently distributed), employees cannot use part of their benefit and then give away or sell the unused portion of their benefits as easily as with paper fare cards. For example, under the current system, an employee could hypothetically receive \$110 in benefits by receiving 11 fare cards worth \$10 each, use 5 of the fare cards for actual commuting expenses, and then sell the 6 unused cards. With the SmarTrip® card, all \$110 in benefits will be loaded onto the electronic card.

Federal agencies in the National Capital Region also stand to achieve cost savings with regard to processing millions of dollars in paper fare media. Considering WMATA's deadline for its transition to SmartBenefits®, Federal agencies need to act now and mandate the use of the SmartBenefits® program for participants in their transit benefit programs.

In closing, it is important to recognize that the role of the Inspectors General in the Federal Transit Benefit Program is to ensure that strong internal controls are established and adhered to across the Government. It is equally important to recognize the number of actions that agencies could take now to improve internal controls over their programs, absent mandates from OMB or legislation. They include the following:

- Requiring that employees' supervisors review and approve employee enrollment applications before they are sent to the agency Transit Coordinator.
- Requiring employees to annually certify that the information included in their enrollment application is accurate and subjects them to disciplinary action, such as suspension or debarment from the Program, for falsifying information.

- Requiring employees to update their information and recertify whenever changes in their commuting methods or work schedules occur.
- Checking that employees applying for transit benefits are also not receiving subsidized parking benefits.
- Converting to the electronic fare cards (SmartBenefits[®]) in the National Capital Region.
- Developing procedures to screen for employees who frequently request new SmarTrip[®] cards.

In addition, the integrity of the Transit Benefit Program could be improved Government-wide if each agency adopted best practices found in other Government-wide programs that are also susceptible to employee abuse or fraud (such as the Travel Card Program and Purchase Card Program). Those best practices include the following:

- Developing training programs (similar to the Purchase Card Training requirements) for participants in the Transit Benefit Program and their managers.
- For those agencies that have not already done so, expanding the A-123 process to cover their transit benefit programs, similar to requirements for Government travel and purchase cards.
- Ensuring that there are uniform administrative penalties and sanctions (including suspension or debarment from the Program or termination from employment) available to and consistently enforced by agency managers when employees have abused or misused transit benefits.

That concludes my statement, Mr. Chairman. I would be happy to address any questions you or other Members of the Subcommittee may have.