

# Office of Inspector General

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**Audit of FMC's  
Transit Benefit Program**

**A13-01**



**November 2012**

**FEDERAL MARITIME COMMISSION**

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**FEDERAL MARITIME COMMISSION**  
Office of Inspector General  
Washington DC 20573

November 6, 2012

*Office of Inspector General*

Mr. Chairman and Commissioners,

The Office of Inspector General completed its review of the Commission's Transit Benefit Program. The audit objective was to assess the overall effectiveness of the Program. Specifically, we evaluated whether (i) Department of Transportation invoices accurately reflect the amount of subsidy being distributed to agency staff; (ii) benefits are being properly reflected in the agency's books and records and that adjustments are properly accounted for; (iii) employees receive only the amount of subsidy authorized under the program; and (iv) only eligible authorized agency staff receive a subsidy. During FY 2011, the OIG identified 80 Program participants using public transportation.

The OIG found that the Commission has internal controls in place for the Transit Benefit Program. The application and corresponding review processes were complete and thorough. Benefit subsidies are based on home addresses, computed by Program participants and verified by the Transit Benefit Coordinator before subsidies are provided. The application is reviewed and signed by the Program participant, his/her supervisor, the Transit Benefit Manager and the Managing Director.

Although controls are in place, we identified areas where improvements in Program administration and oversight are possible. Currently, the transit benefits are computed based on an eight-hour day, five day week, as it has been since program inception. However, this formula does not match the numerous work-life benefits employees enjoy, including alternative work scheduling and telework. As a result, many employees work or commute less than 20 days per month. The OIG believes that the "one size fits all" standard for computing transit costs should be revisited.

We identified duplicate payments to Program participants from our review of the monthly reports for two months of our review period that should have been identified and challenged. We also identified weak controls in the employee clearance process regarding transit benefits. The OIG identified one program participant who continued to receive benefits for three months after leaving the agency.

The OIG made five recommendations to address these needed improvements. Management agreed with the recommendations and has identified actions it will take to close each recommendation.

Details of these findings, and recommendations to address them, are provided in the attached report. Management's response is appended to the report in its entirety. We thank the Office of Management Services for its assistance to us throughout the audit.

Respectfully submitted,

/Adam R. Trzeciak/  
Inspector General

## **Audit of the Federal Maritime Commission's Transit Subsidy Program**

The Office of Inspector General has completed the audit of the Federal Maritime Commission's (FMC or Commission) transit subsidy program (Program). The objectives of the audit were to determine whether there are controls in place to monitor the transit subsidy program and whether employees are adhering to Commission policy.

### **Background**

The transit subsidy benefit is an employer-provided benefit designed to encourage employees to use mass transit for their home-to-work commute. Executive Order (E.O.) 13150, *Federal Workforce Transportation*, dated April 21, 2000, implemented a transportation fringe benefit Program for qualified<sup>1</sup> federal employees, not to exceed the maximum level allowed by law. From March 2009 through December 2011, the maximum monthly commuting subsidy was \$230; however, this amount decreased to \$125 in January 2012. Under E.O. 13150, federal agencies in the National Capital Region<sup>2</sup> are required to have a transit pass fringe benefit program.

Office of Management and Budget (OMB) Memorandum M-07-15, *Federal Transit Benefit Program*, dated May 14, 2007, provides guidance for agencies to use in establishing and implementing internal controls over their respective programs. Commission Order (CO) 109, *Transit Benefit Program*, dated April 21, 2010, establishes the FMC's policies and procedures for the Program, as well as agency and participating employee responsibilities.

The Department of Transportation (DOT), Transportation Services (TRANServe), administers the Program for Federal Government departments and agencies. Employees serviced by the Washington Metropolitan Area Transit Authority (WMATA) receive their transit subsidy

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<sup>1</sup> FMC defines a qualified employee to include part-time, temporary and full-time employees, and paid and unpaid interns. Contractors are not eligible to receive benefits at the FMC.

<sup>2</sup> E.O. 13150 defines the National Capital Region as the "District of Columbia; Montgomery, Prince Georges, and Frederick counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William counties in Virginia; and all cities or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties."

benefits through “SmartBenefits,” which electronically uploads the dollar value of an employee’s monthly subsidy directly to a SmarTrip card. SmarTrip cards are permanent electronic plastic fare cards that can be used for bus and subway transportation services. Employees who use commuting services that do not accept SmarTrip cards (e.g., commuter trains and buses) received paper fare cards until recently. Currently, subsidies are uploaded through fare card machines for WMATA users or onto a debit card for commuter train patrons.

According to TRANServe records, there were between 80 and 90 FMC employees listed as participants in the Headquarters transit subsidy program during fiscal years 2010 and 2011. Annual Program benefits totaled \$116,516 and \$114,117, respectively<sup>3</sup>.

## **Objectives, Scope & Methodology**

The overall objectives of the audit were to determine whether (i) there are controls in place to monitor the transit subsidy program and (ii) employees are adhering to Commission policy. To address these objectives, we assessed whether (i) DOT invoices accurately reflect the amount of subsidy being distributed to agency staff; (ii) the agency-paid transit subsidy was properly reflected in the agency’s books and records and adjustments were properly accounted for; (iii) employees were following Program guidelines when calculating their monthly subsidy request and receive only the amount of subsidy authorized under the Program; and (iv) only eligible, authorized agency staff receive a subsidy. During FY 2011, the OIG identified 80 Program participants using the following forms of public transportation:

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<sup>3</sup> FMC employees are serviced by the WMATA, Maryland Transportation Administration MARC train, Virginia Railway Express, vanpools and local jurisdiction buses. Commuter bus recipients received their benefits through paper media.

**Table 1. Commuter Methods of Transportation**

Method of Transportation	Number
Commuter Train (MARC, VRE)	19
WMATA (includes transit bus)	55
Commuter Bus	3
Vanpool	1
Application Missing in File	2
<b>TOTAL</b>	<b>80</b>

We discussed Program implementation with Office of Management Services (OMS) staff, including its process for reviewing and approving applications, and steps taken to verify transit subsidy claims. We also discussed OMS reviews of DOT TRANServe monthly and quarterly reports, including how these reports assist OMS in managing the Program.

TRANServe reports include the following:

**Alphabetical (Alpha) Listing of All Participants** – A monthly report that identifies the employee’s name, duty station, telephone number, monthly subsidy and withdrawal date (if applicable) from the Program for current and former FMC employees.

**Monthly Fare Disbursements Report** – The report identifies current employees participating in the Program and the amount of the transit benefit each receives.

**Customer Statements** – This monthly statement includes the annual transit agreement total, quarterly Intra-Governmental Payment and Collection (IPAC) against the agreement, agreement balance and annual collection totals. In addition, the statement includes monthly amounts billed to the agency.

**Account Activity Statement** – A monthly statement identifying the transit benefit billed, management fee<sup>4</sup>, distribution services fee<sup>5</sup>, credits (if applicable) and subsidy totals.

**Quarterly IPAC Statement** – This statement is used to authorize collection/credits for the Program between DOT and the Commission. It is used by the Transit Benefit Coordinator (TBC) to approve fund transfers.

We reviewed annual intra-agency agreements for fiscal years 2010 and 2011 to better understand DOT TRANServe and FMC obligations and responsibilities. We reviewed FY 2010 and FY 2011 Program requisitions and purchase orders to ensure funds were appropriately obligated and to assess timeliness of the obligations. We reviewed TRANServe invoices for accuracy and to ensure payments were properly reflected on the agency's books and records. We traced deobligated amounts (unused funds) back to the agency to identify whether these funds were used within the proper fiscal year or returned to the U.S. Treasury.

We reviewed OMB and FMC policies, including CO 109, *Transit Benefit Program*, dated April 21, 2010, and OMB M-07-15, *Federal Transit Benefits Program*, dated May 14, 2007, to identify the FMC benefit coordinator and staff responsibilities and to assess compliance with program requirements.

We obtained a listing of separated staff from the Office of Human Resources (OHR) for fiscal years 2010 and 2011 for comparison with TRANServe's *Alpha List* of all participants and the *Monthly Fare Disbursement Reports* to determine whether employees were removed from the Program timely and to verify that no benefits were paid to former employees. We reviewed Form FMC-25, *Employee Clearance Statement*, to determine whether Program participants were properly identified. We also used information collected to help us verify whether separating employees with outstanding subsidy balances reimbursed the agency prior to being cleared.

We reviewed Forms FMC-123, *Application for Transit Benefit*, to determine whether applications for transit benefits were complete, accurate and appropriately authorized. We

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<sup>4</sup> This includes transit benefits billed and other costs for the program.

<sup>5</sup> This amount is the agreed upon amount executed through the annual interagency agreement.

conducted tests for a sample of 17 employees to verify whether subsidy claims were consistent with home addresses. We also determined whether employees made adjustments to their monthly subsidies when on extended leave or travel, as required in CO 109.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Audit Recommendations and Findings**

The Commission has internal controls in place for the transit benefit program through the implementation of policies and procedures identified in CO 109. The application and corresponding review processes were complete and thorough. Benefit subsidies are based on home addresses, computed by Program participants and verified by the TBC before subsidies are provided.<sup>6</sup> The application is reviewed and signed by the Program participant, his/her supervisor, the Transit Benefit Manager (TBM), TBC and the Managing Director. The TBC also maintains a list of all Program participants with their commuting costs for easy reference.

Although controls are in place, we identified areas where improvements in program administration and oversight are possible. Program participants, not the TBC, should be responsible for documenting transit costs. Employees work shortened weeks, telework and maintain a variety of work schedules (flexible arrival and departure times). Employees are in the best position to know these variables and should document deviations from the standard five-day week, eight hour day, because these deviations often impact commuting costs. While employees are asked to identify their commuting costs, it is the TBC who supports (i.e., documents) the claim. Since the TBC is not familiar with each employee's work hours, alternative work schedule or telework arrangement, the "one size fits all" theory for computing transit costs (20-day month, eight hour day), should be revisited.

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<sup>6</sup> The TBM is also the agency's Contracting Officer and the Director of Office of Management Services.

The TBC should play a proactive role in identifying costs/refunds associated with the Program by closely reviewing the TRANServe monthly reports. Because funds are obligated for the program, DOT simply “IPACs” 25 percent of the annual agreement every three months. During the program period, the agreement overestimated actual expenses by \$23,039 and \$42,860 for fiscal years 2010 and 2011, respectively, or 22 percent of program obligations. The TBC should work with DOT to make the adjustment in the last quarter, netting funds “IPAC’d” to TRANServe against prior month overages. This would enable the FMC to better estimate the amount of unused funds and to better plan for the use of the funds over the final three months of the fiscal year, instead of scrambling to obligate unused transit funds in the final days of the fiscal year.

We also identified duplicate payments to Program participants from our review of the monthly reports for two months of our review period. These duplicate payments should have been identified and challenged. Even though the amounts were not substantial (\$812 and \$120), there is no guarantee that overpayments could not occur again at substantially higher amounts. Only a dedicated review would catch them.

We identified weak controls in the employee clearance process regarding transit benefits. Currently, it is the separating employee who controls whether unused transit benefits are reimbursed to the agency as required by Commission Order (CO), as no independent verification is made of amounts outstanding by the TBC.

Details of these and other findings are provided below.

***Finding 1. Internal Controls are in Place for Review of Subsidy Applications***

Commission Order 109, *Transit Benefit Program*, dated April 21, 2010, establishes policy and identifies agency and employee responsibilities for administering and participating in the Program. According to OMB Circular A-123 *Management’s Responsibility for Internal Control*, dated December 21, 2004, documented policies and procedures form the foundation of program controls by ensuring all staff is familiar with how the Program should operate.

To participate in the Program an employee must complete Form FMC-123, *Application for Transit Benefit*. This form requires employees to identify their name, assigned office, the last four digits of their social security number, home and work address, mode of public transportation, and daily and monthly commuting costs. The application is certified and dated by the employee, signed and dated by the supervisor, certified by the TBM (that the employee met the Program requirements) and approved by the Managing Director (four signatures).

As part of the TBC's review process, information from the pertinent transit authority website is downloaded, based on responses on the application to verify an employee's commuting costs and submitted to DOT TRANServe for activation of the monthly transit benefit.

Although the review process is thorough and follows documented procedures, we noted that each application requires four signatures before it is sent to DOT for final processing. The final review by the agency's Managing Director, the agency's top administrative and program officer; seems to us to be unnecessary. Although the four-layer review process did not appear to cause delays or require significant time to perform, it is unclear what value is added by the Managing Director's review that has not already been added by the supervisor and the TBM during their review. Although we are making no recommendations in this area, we suggest that the Office of Managing Director reconsider whether this final review is necessary.

***Finding 2. Program Participants should be Required to Support Commuting Cost Claims***

The computation of the employees commuting cost is the first step in budget planning and execution for the transit subsidy program. If commuting costs are incorrectly determined, then employees will be either over or under subsidized and agency payments to DOT will not reflect the true Program costs. One control used to ensure that subsidy claims accurately reflect true costs is the worksheet used by the TBC when verifying employee claims.

The process has several steps. First, employees are required to identify their commuting costs on the benefit application without support for the claim. Many employees who use mass transit daily know the fare amounts. WMATA also provides users with information on its

website that identifies fares between station stops adjusted for rush hour and non-rush hour travel times. Once the application is complete and signed off by the applicant and the supervisor, it is reviewed by the TBC for accuracy and completeness. An important component of the TBC's review is the verification of the employee's commuting cost.

Next, the TBC verifies commuting costs by visiting applicable mass transit websites to compute fares based on information provided by the employee on the application. For employees that use WMATA, the TBC generally uses 7:30 am start and 4:30 pm departure times to verify the employee's commute and associated costs, even though the TBC does not know the actual start and departure times for employees participating in the Program. This estimate is important for WMATA subway users because of WMATA's three tier fare approach (non rush, peak, and peak-of-the-peak) in effect during fiscal years 2010 and 2011. Further, the TBC does not include telework in his computations, assigning all participants a 20-day per month subsidy.

Once the daily amount is computed, the TBC uses the 20-day criterion to calculate the employee's monthly subsidy. Form FMC-123, *Application for Transit Benefit*, requests employees to identify their actual methods and costs of public transportation between work and home. It does not request telework or arrival/departure times. Nor are employees asked to include support for the daily commuting cost.

Rather than requiring the TBC to provide this work-up with incomplete information, employees are in a better position to identify actual commuting patterns. We believe that all benefit participants should be required to affix proof in the form of website cost computations when the application is submitted. OMB M-07-15, *Federal Transit Benefits Program*, notes that "some agencies require employees to affix a copy of a complete Washington Metropolitan Area Transit Authority on-line Trip Planner, which employees can use to determine the participant's actual daily, and then monthly, public transportation costs." We also believe that the subsidy form itself should reflect the hours worked; alternate-work-schedules (AWS) and telework arrangements and be applied to new Program participants or during the re-certification process, whichever comes first.

The OIG verified the commuting costs of 78 subsidy participants using identical mass transit websites to those used by the TBC. We noted the TBC made adjustments to subsidy claims and these adjustments did not always agree with OIG calculations. For example, calculations performed by the TBC on claims submitted by 31 percent of WMATA users (17 of 55) did not agree with the OIG calculations of the trip costs. Regarding discrepancies between OIG and TBC calculations, the TBC speculated the differences resulted from either confusion over peak-of-the-peak<sup>7</sup> charges and/or which station is used to enter or exit the subway system, for those Program participants who commute by subway. For example, peak fares and “peak-of-the-peak” fares vary by as much as \$8/month for commutes between Shady Grove Road and Union Station. By using the “peak-of-the-peak” premium fare, participants could have been over subsidized if their commute fell within the peak times.

Employees also have options when using subway stations and buses in route to work or home. These options also added to discrepancies we found. For example, most employees exit the subway at Union Station and walk the approximate three blocks to work. Other employees exit at Gallery Place and take a bus to the Headquarters building, eliminating any need to walk. The OIG could not find any requirement that employees take the least expensive commute route, as this latter route added approximately \$20 per month to the subsidy. However, we also identified three individuals who claimed to exit at Gallery Place (and received a larger monthly subsidy) on the application but, when queried by the OIG, told us that they traveled to Union Station and walked to the headquarters building.

**Recommendation 1.** We recommend that transit benefit applicants affix supporting documentation from mass transit calculators on the internet to the transit application when applying for benefits.

**Recommendation 2.** We recommend that the Transit Benefit application be revised to factor in work schedules (AWS, telework) and arrival/departure times for new participants or during the next re-certification for all participating employees.

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<sup>7</sup> Peak-of-the-peak period is weekdays from 7:30 – 9:00 am and 4:30 – 6 pm based on the starting time of the trip.

### ***Finding 3. Monitoring Program's Funds***

DOT TRANServe enters into an annual agreement that outlines DOT's and FMC's responsibilities for the Program and identifies estimated costs. For FYs 2010 and 2011, the agency agreed to participate in the Program at ***estimated costs*** of \$139,554.00 and \$156,985, respectively (amounts before any adjustments).<sup>8</sup>

On the budgetary side, the FMC establishes an obligation for the Program year based on participation estimates and DOT fees at the beginning of the year. DOT "IPACs" the FMC for one quarter of the amount every three months at the end of each quarter.<sup>9</sup> Funds unused in the Program due to lower than expected participation rates are turned back to the agency for use in other areas, but not until fiscal year end. The OIG's concern is that, given the timing of these refunds, the agency has little time to plan for their optimal use. The following table shows the timing of IPACs for fiscal years 2010 and 2011.

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<sup>8</sup> Estimated costs shown above differ from actual costs as identified on page 2 of this report.

<sup>9</sup> An IPAC provides a standardized inter-agency fund transfer mechanism for federal agencies and facilitates the intra-governmental transfer of funds, with descriptive data from one agency to another.

**Table 2. Fiscal Year 2010 & 2011 IPAC Payments**

**2010 IPACs**

<b>COR's Approval Date</b>	<b>Amount</b>
December 18, 2009	\$34,888.00
January 21, 2010	\$34,888.00
March 23, 2010	\$34,888.00
June 15, 2010	\$34,890.00
September 28, 2010	(\$22,208.61)
December 29, 2010	(\$828.99)
<b>TOTAL</b>	<b>\$116,516.40</b>

**2011 IPACs**

<b>COR's Approval Date</b>	<b>Amount</b>
November 19, 2010	\$39,245.00
December 31, 2010	\$28,480.31
January 31, 2011	\$10,764.69
April 30, 2011	\$27,465.50
May 31, 2011	\$1,000.00
June 30, 2011	\$36,303.27
August 31, 2011	(\$12,358.70)
September 30, 2011	(\$16,502.92)
September 30, 2011	(\$16,502.92)
March 31, 2012	(\$279.74)
<b>TOTAL</b>	<b>\$114,117.41</b>

For FY 2010, DOT “IPAC’d” the agency two refunds that totaled \$23,037.60. The refunds were provided to the agency on September 29, 2010 (one day before the end of the fiscal year) for \$22,208.61 and December 29, 2010 (\$828.99).

In FY 2011, three refunds occurred for a total of \$29,141.36. Refunds were provided on August 31, 2011 for \$12,358.70; September 30, 2011 for \$16,502.92 (last day of the fiscal year); and March 2012 for \$279.74. These refunds were for quarterly benefit advances “IPAC’d” by the FMC to DOT during the year.

Refunds received during the final days of the fiscal years totaled \$38,712. Knowing in August or even early September the amount of funds that would be available would better enable the agency to plan for the use of these funds in an efficient manner. The Director of the Office of Budget and Finance told the OIG that the agency cannot deobligate funds until it receives notification from DOT concerning excess funds. DOT officials confirmed that in FYs 2010 and

2011, they did not have procedures in place permitting DOT to make adjustments to the account before it IPAC'd the agency. Since then, DOT has implemented procedures making these adjustments in the 4<sup>th</sup> quarter possible which, according to DOT, should reduce or eliminate large refunds near fiscal year end or thereafter. For this reason, it is imperative that the agency track the actual use of funds each month so that it is able to estimate its year-end refund and be in a better position to use the funds wisely.

On the accounting side, two reports provided to the FMC by TRANServe, the *Monthly Fare Disbursement Report* and the *Account Activity Statement*, provide information on benefits issued by participant and a list of fees, credits and miscellaneous charges applied to FMC's account. Importantly, these statements also provide the detail needed to manage the Program, specifically to monitor funding to identify surpluses during the Program year so that funds can be deobligated and used to meet other agency needs timely. The invoice should be reviewed to ensure that amounts billed reconcile to employee participation for the month, i.e., that the agency is not being over or under billed. At the FMC, it is the responsibility of the TBC to monitor monthly reports and to obligate and deobligate funds when appropriate.

During our review of FYs 2010 and 2011 activity, we reviewed two reports that identified duplicate benefit payments that were charged to the agency by DOT and paid. We also identified one instance where an IPAC was sent to DOT without sufficient funds obligated in the account to cover the transfer.

Duplicate payments are a problem because the agency pays twice for the same service. In the case of benefits, the *Monthly Fare Disbursement Report* identified individuals receiving more than their entitled share in October 2009 and December 2010, increasing Program costs and using funds that could go to meet other agency needs.

In October 2009, six employees were disbursed duplicate transit benefit amounts totaling \$812.00, and ranged from \$66.00 - \$180.00 per employee. Duplicate benefits were made to one employee again in December 2010, totaling \$120.00. These payments were identified on reports provided to the agency by TRANServe but were not questioned by OMS staff. The TBC told us that he reconciles the IPAC statements with the monthly costs – both statements prepared by

TRANServe. OMS told the OIG that it suspects a computer glitch during that time could have resulted in multiple transit benefits amounts being reported. No funds were returned to the agency by any employee during this period. OIG provided specific information to the TBC at the exit conference for follow up.

We next reviewed purchase requisitions, purchase orders and IPAC statements for the same period to determine if obligating documents were in place before acceptance (approval) of the IPAC Statement. In FY 2010 and FY 2011, there were four and eight modifications, respectively, to the purchase order to increase or decrease funds.

We found only one instance where OMS approved an IPAC statement for funds in excess of amounts set aside (obligated) by the agency. The initial purchase order was signed on October 29, 2009 for \$11,630.00 and was modified on November 19, 2009 by adding \$18,996.00 to the amount available (new total for the Program was \$30,626.00). The TBC approved the first IPAC statement against this obligation on December 18, 2009 for \$34,888.00, \$4,262.00 more than the obligating document.

**Recommendation 3.** We recommend that the TBC monitor Program costs closely using DOT monthly reports to calculate the amount of funds to be refunded by DOT at year end to better enable the agency to plan for their optimal use.

**Recommendation 4.** We recommend the TBC ensure that all IPAC funds are supported with valid obligating documents.

***Finding 4. Controls Need to be Strengthened over Checkout of Transit Participants***

Commission Order 109, *Transit Benefit Program*, identifies responsibilities for employees leaving (separating from) the Commission who also participated in the Program. According to CO 109, separating employees should notify the TBC as part of the check out process and return unused vouchers or tickets. An employee receiving SmarTrip benefits should not claim the monthly benefit if there is a balance sufficient for the employee's final month. The OIG obtained a listing from OHR of employees who left the agency in FYs 2010 and 2011 and

the respective *Employee Clearance Statement* (FMC-25). Twenty-four (24) employees separated from the agency; 19 participated in the Program.

We reviewed the monthly reports of the *Alpha Listing* and *Monthly Fare Disbursement* to determine if these employees received benefits after their separation date. The *Alpha Listing* is a cumulative report that provides information on all current and former FMC staff that participated in the Program along with the date an employee withdrew from the Program. The *Monthly Fare Disbursement Report* provides information on the transit amount disbursed to the employee for the month.

Of the 19 separated employees, the OIG found one employee who continued to download transit benefits after leaving the agency. For three months, January 2011 – March 2011, the employee was disbursed transit benefits after he separated from the Commission in December 2010. The disbursed amounts appeared in the *Monthly Fare Disbursement Reports* after his departure, which showed that the agency was billed for \$248.25. The employee was eventually removed from the Commission's Program in April 2011. The OIG provided the name and relevant information to management for follow-up.

When removing an employee from the transit benefit participant list, the process relies on the participant, rather than on technical controls, to ensure benefits are not downloaded. To remove an employee from the benefit list, the TBC must notify TRANServe of the separation. TRANServe then cancels access to benefits. The TBC also updates his internal participant list and reviews the *Alpha Listing* at the end of each quarter to verify that the employee withdrew from the Program. By waiting to verify removal for up to three months, the employee identified above was able to continue downloading benefits. We could not determine whether the FMC was slow to notify DOT of this employee's departure or if DOT was slow to act once information was provided.

Importantly, any employee separating from the agency could continue to download benefits until his/her name is removed from the benefits list, including the remaining 18 employees in our sample. We verified that none did, but note that these employees remained on

DOT's *Alpha Listing* as an active participant between two and nine months. This remains an area of vulnerability for the Program.

Another concern identified during our review was the apparent laxity of the check out process for transit subsidy participants. Form FMC-25, *Employee Clearance Statement*, contains a checklist of Commission offices and functions each employee must visit prior to leaving the agency to ensure that no outstanding debts are owed and all agency-provided equipment is accounted for. Included on the checklist is "transit benefit payment." The purpose of this check is to determine whether an employee participated in the Program and is in possession of unused transit benefits. For the 19 separated employees in our review, no benefits were returned.

On the other hand, we noted that the clearance statements did not always identify the correct information about an employee's participation in the Program. For example, for the five employees that did not participate in the Program two (2) employees were nevertheless cleared from the Program. The other three (3) employee's clearance statements were correctly annotated as "not applicable." For the 19 employees that participated in the Program, the clearance statements contained correct information for 16 employees; the remaining three employee clearance statements indicated non-applicable. With this response, the agency could have missed subsidies owed to the agency.

It appears that, in some instances, OMS staff cleared employees from the Program without verifying the employee's participation in the Program, including whether any outstanding transit benefit balances were owed. OMS staff told us that it has no way to determine whether an employee has an excess balance in their transit account, other than to simply ask the employee. However, DOT TRANServe told the OIG that this information is available from DOT, even though it is not included in their monthly reports. We do not envision this step for all departing employees, e.g., those separating at the end of a month. However employees separating just after the start of a new month should be considered.

**Recommendation 5.** The OIG recommends that OMS contact DOT to identify the amount of the last download to validate that funds are not owed to the agency. This added step could be used for employees separating before the middle of the month.

***Finding 5. Adjustments Were not Made to Transit Subsidies for Leave or Other Extended Absences***

Commission Order 109, *Transit Benefit Program*, identifies steps employees are required to take to reduce subsidies when extended absence is anticipated. Such absences include business travel, and annual or sick leave. For example, each employee is required to notify the TBC in the event of any extended absences so that the TBC will be aware of any possible adjustments to fare disbursed the following month. OMB's M-07-15, *Federal Transit Benefits Program* also addresses adjustments to commute due to travel, leave, or change of address.

We judgmentally selected employees that used WMATA for their commute to and from work to determine whether any adjustments were made to their commute during the months of June 2010 through January 2011 (8-months). These months were selected because they coincide with when most employees use leave (vacations, holiday leave, and/or "use-or-lose" at year end).

We used the *Monthly Fare Disbursement Reports* for amounts disbursed to each employee. We reviewed employee time and attendance reports for days of leave taken and their documents for travel and training that occurred outside of the Washington Metropolitan area. This information was selected to provide a snapshot of the number of days the employee would not use the transit benefit and compared the information with the fare disbursed for the month.

Through this analysis we found that employees generally did not make any adjustments to their commuting costs when they had multiple days off (5 – 10 days), within a month. There were only two instances where adjustments to the employee's commuting costs appeared to occur which was in September 2010 and January 2011, saving the agency approximately ninety dollars.

Even though the new WMATA system swipes excess transit benefits at the end of the month, employees are still able to use unused subsidies on weekends and after hours. No recommendation is being made but employees are to be mindful of this requirement in CO 109, while participating in the Program.

## Summary

The transit benefit program has undergone changes since the period of our audit that strengthens controls over abuse of Program funds and aid Program administration. Although our findings pertain to fiscal years 2010 and 2011, we focused on Program attributes and management oversight that are still applicable today.

We believe that the TBC is doing a good job managing the overall Program. His office has implemented policies and procedures for staff to follow when participating in the transit benefit program. There are controls in place with the submission of the application to obtain benefits; to verify each employee's commute; to monitor the Program's funds and to remove an employee from the Program. Notwithstanding, we believe that the application process suffers from too many layers of review. We counted five layers of review for each application approval.

One of our biggest concerns is the application itself. The application bases the employee subsidy on a 20 day month, eight hour day work schedule for all employees. Most FMC employees participate in the alternative work schedule (AWS) program, working as few as 15 – 17 days per month. Further, the agency, following executive branch guidelines, has permitted staff to participate in a work-at-home program, further reducing commuting costs. As a result, the agency may be over subsidizing many of its employees.

The new Program has enabled the TBC to track obligations and to identify surplus funds in time to use them to meet other Commission needs. Although most excess funds were used by the agency during the period of review, often the agency was not aware of exact amounts until the final days of the fiscal year. These funds, tens of thousands of dollars, were then spent, often within hours of the fiscal year end. DOT's new fund tracking capabilities make it easier to spot surpluses earlier in the year and to net last months' payments against the surplus. But the TBC must be diligent and closely review monthly participation lists. We identified both duplicate payments and, in one instance, payments to one former employee that lasted three months.

Finally, the check out, the last avenue to reconcile outstanding benefits with departing employees, needs to be tightened. The TBC relies on employee assertions regarding the existence of surplus benefits. For employees leaving early in the month, before they've had the

opportunity to use the bulk of the benefits, the TBC should independently verify with DOT, funds remaining in the separating employee's transit account before signing off on the check out form.

# Memorandum

**TO** : Inspector General **DATE:** November 1, 2012

**THROUGH** : /Managing Director/

**FROM** : Director of Management Services

**SUBJECT** : Audit of the Federal Maritime Commission's Transit Benefit Subsidy Program

OMS has reviewed the audit report covering the Transit Benefit Subsidy Program (TBS) for fiscal years 2010 and 2011. It should be noted that the TBS has gone through major changes over the past three fiscal years, with those program changes correcting many of the findings. For example, the report notes that the program overestimated actual expenses during fiscal years 2010 and 2011. Those estimates, however, were a direct result of DOT's formula, which the FMC was required to use in estimating our projected program participation. We had estimated a lower amount, but DOT mandated that we use the higher figure cited in the report, given our FTEs. DOT has now improved its calculations of historical usage, however, resulting in fiscal years 2012 and 2013 estimates that are now more in line with our actual usage.

The duplicate payments the report notes in finding 3 were not really duplicate payments. They actually reflect DOT's revisions to the program in fiscal year 2010. Starting in fiscal year 2010, DOT provided the option to program participants to either continue receiving Metrocards or to download their subsidies via Smart Benefits. Per DOT, the six participants identified received their subsidies for the month of September 2009 in the form of Metrocards. The transaction date shown for this action was October 1, 2009. Also, during October 2009 each of the six downloaded, via Smart Benefits, the same amount for their October subsidy. Per DOT's records, confirmed by emails of 10/31/2012 and 11/1/2012, none of the six participants specified in the audit report actually received multiple or duplicate payments.

OMS comments with regards to the OIG's recommendations are noted below.

**Recommendation 1. The OIG recommends that transit benefit applicants affix supporting documentation from mass transit calculators on the internet to the transit application when applying for benefits.**

**Response:** OMS will revise the application process to require program applicants to provide documentation to support their requested transit benefit amount, while continuing to verify that the supporting documentation provided is accurate by performing its own analysis. The targeted implementation date for this new procedure is January 31, 2013.

**Recommendation 2. The OIG recommends that the Transit Benefit application be revised to factor in work schedules (AWS, telework) and arrival/departure times for new participants or during the next re-certification for all participating employees.**

**Response:** OMS will revise the current application to obtain more detail from applicants -- to include work hours, whether they have a regular 8-hour day, 9 or 10-hour Alternative Work Schedule, regularly scheduled telework day, etc., thereby accounting for these days to ensure that the proper benefit amount is being allocated to each participant. The target implementation date for this new procedure is January 31, 2013.

**Recommendation 3. The OIG recommends that the TBC monitor program costs closely using DOT monthly reports to calculate the amount of funds to be refunded by DOT at year end to better enable the agency to plan for their optimal use.**

**Response:** Starting in fiscal year 2012, at the end of each month DOT credits back to the agency any unused funds. However, payment is not received until the end of the fiscal year, in the form of a lump sum refund. The TBC/COR will closely monitor participant usage each month via the monthly reports provided by DOT and recommend adjustments to the Inter-Agency Agreement as needed.

**Recommendation 4. The OIG recommends that the COR ensure that all IPAC funds are supported with valid obligating documents.**

**Response:** Effective immediately the TBC/COR will require that all IPAC funds are supported with valid obligating documents before payments are approved.

**Recommendation 5. The OIG recommends that OMS contact DOT to identify the amount of the last download (made by separating employees) to validate that funds are not owed to the agency. This added step could be used for employees separating before the middle of the month.**

**Response:** The TBC/COR currently sends DOT an e-mail at the time of a participant's separation from employment with the FMC. However, OMS will revise the current process and require the TBC, to the greatest extent possible, provide DOT the separation date for participants in advance of their actual separation date. The targeted implementation date for this new procedure is January 31, 2013.

Also, please note that the term "download" no longer applies. Effective December 1, 2011, DOT implemented "autoload." Under the autoload process, all transit purse benefits are now available to participants only for use during the applicable month. Any amount not used by the end of the month is credited back to the FMC.

If you have any questions regarding the above responses, please let me know.

/Michael H. Kilby/