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TRANSIT BENEFITS: HOW SOME FEDERAL EMPLOYEES ARE TAKING UNCLE SAM FOR A RIDE

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

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TRANSIT BENEFITS: HOW SOME FEDERAL EMPLOYEES ARE TAKING UNCLE SAM FOR A RIDE

TUESDAY, APRIL 24, 2007

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:39 p.m., in room 342, Dirksen Senate Office Building, Hon. Carl Levin, Chairman of the Subcommittee, presiding.

Present: Senators Levin and Coleman.

Staff Present: Elise J. Bean, Staff Director and Chief Counsel; Mary D. Robertson, Chief Clerk; Zackary I. Schram, Counsel; Mark L. Greenblatt, Staff Director and Chief Counsel to the Minority; Mark D. Nelson, Deputy Chief Counsel to the Minority; Jay Jennings, Senior Investigator to the Minority; Ruth Perez, Detailee, IRS; Clifford C. Stoddard, Jr., Counsel to the Minority; Timothy R. Terry, Counsel to the Minority; Emily T. Germain, Staff Assistant to the Minority; and Thomas Richards (Senator Akaka).

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. The Subcommittee this afternoon looks at the Federal Transit Benefit Program. This fairly little known program, I would say, was established less than 10 years ago. It was designed to encourage Federal employees to use public transportation for the purposes of reducing road congestion, air pollution, gasoline consumption, and our dependence on foreign oil. Nationwide, the program encourages nearly 300,000 Federal employees to commute to work using mass transit systems. More than half of these employees work in our Nation's capitol.

The program is not free, however. Last year it cost about $250 million and there is evidence that tens of millions of those dollars in benefits are the subject of waste, fraud, or abuse.

The program works like this. Each employee who wants transit benefits submits an application to their agency and certifies that they are a Federal employee, that they will use the subsidy for their daily commute on public transportation to and from work, that the amount of the benefit will not exceed their commuting costs, and that they will not transfer the benefit to anyone else. Their agency is supposed to verify the information and then supply the transit subsidy. The maximum benefit is $110 per month.

In the National Capital Region, for example, employees receive vouchers called Metrocheks that can be used to purchase farecards for local transit systems. Each Metrochek states that it is non-transferable.

Last year Senator Coleman, who was then the Chairman of the Subcommittee, asked the Government Accountability Office (GAO) to investigate possible misuse of these transit benefits. The GAO has found that some Federal employees were abusing the program by selling their transit benefits on the Internet or falsely claiming excess benefits, distributing benefits to friends and family, or by receiving benefits while on extended leave or after leaving the Federal workforce.

The GAO identified one employee at the Department of Defense, for example, who sold his transit benefits on eBay taking in $6,000 over several years. The GAO found another individual who received $4,000 worth of transit benefits from the Department of Commerce after she had left the agency. The GAO has found other examples of Federal employees who gave their transit benefits to friends or family, apparently unaware that they are not allowed to transfer their benefits. The GAO estimates overall the waste and fraud in the Federal Transit Benefit Program amounts to tens of millions of dollars a year.

The program is marked by weak internal controls over the distribution of transit benefits. For more than 4 years, agency audits have been identifying this problem. A 2005 inspection of the Transit Benefit Program by the Naval Audit Service, for example, found "important internal control weaknesses that made the Department of the Navy vulnerable to increased waste, fraud, and abuse and expenditure of dollars."

A 2004 audit by the Inspector General of the National Archives wrote that the agency "lacked adequate internal controls to validate that the employees were not abusing the program."

Six agency audits in 4 years have urged the establishment of stronger controls but they have not been implemented. In some cases, agencies are apparently confused as to their responsibilities to prevent misuse of the benefits. Over 100 Federal agencies have entered into contracts with the Department of Transportation to help administer the Transit Benefit Program. In the National Capital Region, depending on an agency's contract with the Department of Transportation, DOT either distributes Metrocheks directly to qualified and registered employees or provides an agency with Metrocheks for further distribution to their employees.

Apparently some agencies thought that the Department of Transportation was also responsible for conducting oversight of the program to prevent abuse. The Department of Defense, for example, which is the largest user of transit benefits and contracts with the Department of Transportation, told the Subcommittee that it thought the Department of Transportation was overseeing the program as well as administering it.

DOT told the Subcommittee, however, that oversight was not part of its contract with the DOD. Today we will hear from both agencies and hopefully resolve that issue.

The problems identified today are ones that can and should be promptly solved. Commonsense solutions to curb the waste, fraud,

and abuse include stronger internal controls and better agency oversight. For instance, program administrators should verify that beneficiaries are still on the agency payroll and not simultaneously receiving parking permits. Another easy improvement would be for the government to standardize across agencies the application process and internal controls to use to monitor the distribution of benefits.

One lead agency could also provide a website with comprehensive information on the Federal Transit Benefit Program. Education should be emphasized. Every employee enrolled in the program should be clearly informed that the transit benefits are not transferable and should not exceed the cost—and may not exceed the cost of their daily commute.

Like many programs with a good purpose, steps need to be taken to prevent waste and abuse in this program's operations. If significant waste and abuse are allowed to continue then the program itself is not sustainable.

I want to commend Senator Coleman for initiating this investigation into the Federal Transit Benefit Program and for working with the agencies involved to identify the problems and possible solutions.

Senator Coleman.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Mr. Chairman, and let me start by thanking you for your active participation in our bipartisan effort to combat waste, fraud, and abuse and assure that American tax dollars are spent wisely.

As you have noted, today we turn our attention to the Federal Transit Benefit Program. As you said, this is a program with good purpose. It is designed to reduce air pollution and traffic congestion by providing Federal employees with an incentive to commute using mass transit rather than driving.

The Federal Government spends $250 million each year on the program and the concept is simple. Eligible employees get subsidies that can be used in their local transit systems to offset commuting expenses. The subsidies are tax-free and do not cost the employee a dime. In exchange the employees must certify that they will use the cards only to commute by mass transit and will not transfer or sell the cards to anyone else. In addition, employees may not receive more in these tax-free benefits than they actually spend commuting. This is, after all, a subsidy rather than a handout.

What I have are some exhibits just to show the application forms that employees must submit to request the benefits.[1]

It is a good thing I had my Lasik vision over here because I think I can see that. [Laughter.]

But they do require in clear language, there is a line I certify I am employed by the U.S. Department of Transportation. I certify that I am eligible. I certify, etc., a series of certifications here. That they are employees, that their requested subsidy does not exceed their actual commuting expenses, and that they will not give, sell,

[1] See Exhibit No. 2a, 2b, and 2c which appears in the Appendix on page 99–101.

or transfer the benefits to anyone else. Employees sign these certifications under penalty of perjury.

Unfortunately, these explicit certifications are not enough to prevent waste and abuse in the program. Our investigation, along with the hard work of the Government Accountability Office, has revealed rampant fraud, waste, and abuse in this program, costing the American tax payer tens of millions of dollars every year.

It is interesting, previous PSI investigations specifically uncovered fraud amounting to the hundreds of millions, cases where individuals owe millions back to the government. We have done that with contractors who have not paid their Federal taxes. We dealt with the Chairman's efforts on offshore tax shelters, lots of dollars.

So when you look at something like this, the maximum benefit of $110 a month, you may ask why are we looking at this? There is an old adage that I heard once from a family in retail, small business, that says watch the pennies and the dollars will take care of themselves. In this case, we have not been watching the pennies and millions of American tax dollars are ultimately being lost.

The Chairman has already described some particularly egregious cases of fraud and abuse, including Federal employees who brazenly sell their transportation subsidies on the Internet using sites like eBay. In just 3 days GAO contacted 20 individuals who were selling Metrocheks on eBay. Every single one of them was a Federal employee.

A couple of other examples in addition to the ones the Chairman has articulated, in one a relatively senior IRS employee received transit benefits since February 2004. This employee also, however, received parking benefits from the IRS and drove to work. As a result, he sold his Metrocheks for nearly $1,000 on eBay. When GAO investigated this seller, they discovered that he had also stolen numerous computers and computer parts from the IRS and sold them on eBay, as well. The employee has been placed on administrative leave indefinitely without pay.

Moreover, our investigation uncovered a seller who admitted he was selling his transit benefits in order to pay for his parking. His eBay auction e-mail is presented in an exhibit.[1] When asked how he obtained the farecards, he said "Oh, I got the cards from the government." He then went one step further and said, "I sold the cards to pay for my parking."

These Federal employees are taking Uncle Sam for a ride. Unfortunately, the problems uncovered by GAO in our investigations are not limited to these examples. GAO examined only one very narrow category of fraud, recipients who obtained the maximum benefits even though they are entitled to a lesser amount. They found that 25 percent of all distributions in Washington, DC alone were abusive.

This program is nationwide. It is not just in Washington. But we focused here, in our investigation, on a very narrow part of the entire program in one geographic locality.

In the Department of Defense, the rate of fraud and waste related to this one narrow category reached 35 percent in just the DC

[1] See Exhibit No. 1 which appears in the Appendix on page 97.

area. Thirty percent of distributions of both the Department of Treasury and the Coast Guard were similarly improper. Common sense dictates this pattern of fraud would extend beyond the narrow scope of this investigation.

The obvious question is how did this happen? The answer is disturbing. No one is minding the store. No governmental entity actually oversees the program in terms of dealing with concerns about waste, fraud, and abuse. This is worth repeating. Despite the fact that this program disburses roughly $250 million each year and nearly 300,000 Federal employees receive the benefits, no agency is tasked with managing the program. No agency is tasked with ensuring that the program runs efficiently. No agency is tasked with preventing waste, fraud, and abuse.

The Department of Transportation administers the program for 75 percent of Federal agencies but views its role as a mere administrative conduit between the agencies and local transit systems. Individual agencies, which are perhaps in the best position to verify individual subsidies, do little to certify whether its employees are eligible for the program or validate the amount of benefits claimed. Inspectors General in most agencies do nothing to audit these programs to uncover waste and fraud. In fact, although more than 100 Federal entities participate in this program, we could only identify six Inspectors General that reviewed the program in any way.

It is not a case of someone being asleep at the switch. It is a case of no one being at the switch at all. For far too many Federal employees, this program is free money.

Americans expect their government to use their tax dollars wisely. As a direct result of poor government oversight, tens of millions of dollars of waste, fraud, and abuse went undetected. While tens of millions of dollars in context of our billion-dollar budgets may seem like a drop in the bucket, no degree of government waste, fraud, and abuse is acceptable. We have a solemn obligation to ensure that every single text dollar is spent wisely.

I do not believe that the government is inherently inefficient. To the contrary, I believe government can work well. The silver lining today is that the fixes should be simple. The Chairman himself talked about what we called common sense solutions. It seems obvious. Before enrolling employees in this program, agencies should check that the employees are, in fact, employed there. We have some instance where folks were receiving benefits and are not employed by the agency, in some instances having left the agency for a number of years but still receiving benefits each and every month. When an employee leaves the agency or is on extended absence, the agencies that administer the transit benefit should be notified. Agencies should confirm that their employees are not receiving parking passes and transit benefits at the same time. There should be an effort to confirm employees' commuting expenses, such as requiring applicants to present records to establish their commuting expenses or using employees' addresses to estimate reasonable commuting costs. Supervisors could be required to approve applications.

Clearly, as the Chairman indicated, employees should be better educated on the proper uses of transit benefits and the penalties

for violating the rules should be made clear. Inspectors General should be encouraged to conduct audits of the program to prevent waste and fraud. And most importantly, there should be greater clarity on precisely which agency or agencies are responsible for running this program.

All in all, these fixes seem relatively easy. I look forward to the witnesses' testimony today to examine how we can tighten this noble program to ensure that we are still encouraging our employees to take mass transit on the one hand, but at the same time preventing the waste of American tax dollars on the other.

In closing, I should mention my sincere appreciation for the hard work of GAO's Forensic Audit and Special Investigations Unit which has consistently provided this Subcommittee with invaluable assistance. I look forward to hearing their testimony today.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you so much, Senator Coleman.

Let me now welcome our first panel and would ask them to stand. All the witnesses before this Subcommittee are sworn in, as our witnesses know.

Our first panel is made up of Gregory Kutz, Managing Director of the Forensic Audits and Special Investigations Unit at the Government Accountability Office and Special Agent John Ryan, an Assistant Director with the Forensic Audits and Special Investigations Unit.

We welcome you back. You have been here before, both of you, and you are welcome and we appreciate your good work, as Senator Coleman has said.

Let me now administer the oath.

Do you swear that the testimony that you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. KUTZ. I do.

Mr. RYAN. I do.

Senator LEVIN. We will be using a timing system today. We would ask that your oral testimony be no more than 10 minutes. Approximately a minute before the red light comes on, you will see the light change from green to yellow, giving you an opportunity to conclude your remarks. Your written testimony will be printed in the record in its entirety.

And we again appreciate the work that you do, not just on this project but on the other projects that the GAO is involved with. We understand, Mr. Kutz, that you are going to be presenting the GAO's testimony. We would ask you to proceed.

TESTIMONY OF GREGORY D. KUTZ,[1] MANAGING DIRECTOR, FORENSIC AUDITS AND SPECIAL INVESTIGATIONS UNIT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, ACCOMPANIED BY JOHN J. RYAN, ASSISTANT DIRECTOR, FORENSIC AUDITS AND SPECIAL INVESTIGATIONS UNIT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. KUTZ. Mr. Chairman and Senator Coleman, thank you for the opportunity to discuss Federal transit benefits. Federal agen-

[1] The prepared statement of Mr. Kutz and Mr. Ryan appears in the Appendix on page 35.

cies are required to provide employees with tax-free transit passes to cover commuting expenses. More than 120,000 Federal employees in the National Capital Region claim over $140 million of benefits annually.

The bottom line of my testimony is that we found substantial fraud and abuse by Federal employees here in the National Capital Region.

My testimony has two parts. First, the results of our investigation; and second, the magnitude of fraud and abuse.

First, our investigations resulted from cases that we identified from three different sources. First, the Internet auction site eBay. Second, Craigslist, a website that is very popular that items are sold on. And third, we used data mining to identify fraud and abuse.

I have in my hand a paper Metrochek, which is also shown on the poster board. Hopefully you will not need your Lasik to see the wording on this.

Metrocheks are issued with a warning that they are to be used only by the individual that they are issued to and that resale is illegal.

Transit passes are issued to Federal employees either in the form of these paper Metrocheks or debit cards called SmarTrip cards. SmarTrip cards now also carry warnings similar to paper Metrocheks.

The next poster board shows an application from a fraud case that we investigated which is similar to applications used by many Federal agencies. Note that this employee certified that she would use the Metrocheks to commute to work and would not transfer them to anyone else. Also note the Title 18 Section 1001 warning for false, fictitious, or fraudulent statements.

For eBay, we investigated 20 of 58 individuals selling Metrocheks during several days in late 2006. We investigated these 20 because we knew for certain that they were Federal employees. These individuals worked for the Departments of Commerce, Defense, Homeland Security, State, Transportation, and Treasury. We found in all 20 eBay cases fraud and false statements made by Federal employees. Examples include an IRS IT specialist with free parking that drove to work; an attorney at Transportation that accumulated excess benefits while on maternity leave; a specialist at Transportation that admitted to slugging or carpooling with another driver, thus incurring no commuting expenses; and a husband and wife team from the Department of Defense that sold $6,000 of Metrocheks on eBay. Note that even though our investigators interviewed these two, they continued to sell their benefits, moving now to Craigslist.

We question the suitability of any of our case studies to hold security clearances. You might say, Mr. Kutz, is this not a bit harsh? My answer is no. My evidence is the IRS IT specialist that I mentioned and Senator Coleman mentioned. In addition to transit benefit fraud, he confessed to selling stolen government property. Specifically, he sold several dozen IRS computers on eBay between November 2004 and September of 2006.

We also executed three undercover buys from Federal workers selling Metrocheks on Craigslist. These individuals worked at Air Force, Commerce and State.

Based on our data mining we found additional transit benefit fraud including individuals admitting that they deliberately falsified their applications, several dozen individuals receiving benefits that did not work for the Federal Government, former Federal employees continuing to receive benefits after leaving the government. For example, the Commerce Department sent $65 a month to an individual that left the government in 2001. They did not stop mailing her benefits until she moved in 2006.

Another Commerce employee picking up $300 of transit benefits on July 3, 2006 and then left the government on July 5, 2006.

Excess benefits were used for personal travel, sold to government contractors, and given to friends and family.

This all leads up to my second point. How many dollars of fraud and abuse are there in this program? Based on our analysis of limited data, we believe that the number is at least $17 million annually for seven large agencies. Note that this is a conservative number as it excludes a substantial portion of this program and many of the types of fraud that I have just discussed.

In conclusion, I believe that the vast majority of Federal employees are honest and do not abuse the Federal Transit Benefit Program. However, our work has shown that thousands of Federal workers here in the Washington, DC area have taken advantage of the opportunity to commit fraud. How has this been allowed to happen? Because of ineffective management oversight and internal controls at Federal agencies.

Mr. Chairman, this ends my statement. Special Agent Ryan and I look forward to your questions.

Senator LEVIN. Thank you very much, Mr. Kutz.

In your testimony at the top of page 20, you indicated that you looked at one agency and looked at the benefits that were claimed and found that $1 million of the transit benefits of the individuals out of $4 million claimed by the 4,000 individuals were potentially fraudulent. That is a 25 percent rate. I think that was at seven agencies. I misspoke.

Mr. KUTZ. That is correct.

Senator LEVIN. Extrapolate that. If that were true for all of the agencies here and for all of the employees here. Is that where you get the $17 million figure?

Mr. KUTZ. Yes. We extrapolated that for the seven agencies which represent about $70 million of program. So that is about half of the total program.

One other point is that the $140 million and the $250 million total for the program, that is the part that the Department of Transportation has records on. Keep in mind the program is bigger than that because there are other agencies that administer their own programs and get their benefits directly from WMATA or their transit programs across the country.

Senator LEVIN. So the $250 million is not the total cost of the Federal employee program?

Mr. KUTZ. That is correct, it is bigger.

Senator LEVIN. What would be the estimate of that?

Mr. KUTZ. We have no idea. We just do not have any other records. So that is the part that the Department of Transportation administers. So the $17 million is low end here. If you extrapolate that, we are talking about $20 million or $30 million or more.

Senator LEVIN. Out of the $250 million, but $250 million is only part of the Federal program?

Mr. KUTZ. Right.

Senator LEVIN. And that does not get into the private program. The private sector has a program, as well.

Mr. KUTZ. No, there are other Federal agencies that administer their own programs outside of——

Senator LEVIN. I understand.

Mr. KUTZ. Yes, the private sector also has programs.

Senator LEVIN. What I am saying is that the $250 million is only part of the Federal program.

Mr. KUTZ. That is correct.

Senator LEVIN. On top of the Federal program the private employers have their own program.

Mr. KUTZ. Yes. And we came across a lot of private sector employees selling their benefits. We could have gone after them, too, but that was not the scope of this job.

Senator LEVIN. That was not the scope. Do we know how much the private sector benefit total cost is to the Treasury?

Mr. KUTZ. No.

Senator LEVIN. And the cost to the Treasury is that the benefit is not part of taxable income; is that correct?

Mr. KUTZ. That is correct.

Senator LEVIN. So there is a cost to the Treasury, but you do not know what it is?

Mr. KUTZ. We do not know what percentage of companies participate in the tax-free transit program.

Senator LEVIN. We asked the—let me see if I got this right, because it just came in. I think we got a figure from the President's 2008 budget and this, I think, was a CRS figure which we just got.

If I am reading this right, the value—and this is our own notes, so I am not reading something from CRS but this is what CRS estimates. The value of Federal income tax revenues foregone as a result of combined Federal and private Transit Benefit Programs was estimated in the President's 2008 budget analytical perspectives as $710 million.

Mr. KUTZ. That is a lot of money.

Senator LEVIN. In 2009, $790 million; 2010, $880 million; 2011, $960 million; and 2012, $1.3 billion. So we are talking here about a significant amount of money. If there is anything close to a 25 percent rate of abuse, if that figure can be used for the rest of the Federal program and for the private program, and if the total cost of all of the programs is $710 million in fiscal year 2008, you are talking about perhaps $150 million to $200 million of waste in 2008.

Now that involves some estimates and extrapolations but that is a very significant problem. We have either got to cure this problem, it seems to me, or forget the program. The question is what will it take to cure the problem? You have given us some of the recommendations on how to cure the problem.

But one way it seems to me, Senator Coleman and I both listed a number of ways of making sure this program is used for the purpose intended, would be to make it clear that it is illegal. It does not say anywhere in a law directly, does it, that this is illegal to transfer these benefits? Are we not relying on an act which says that a false statement to the Federal Government will subject you to a crime? But is there anything in the law that specifically says it is illegal to transfer this benefit?

Mr. RYAN. I think what we have to do, Senator, is on the Metro transit it has that statement. What that statement directly ties into is the application. The application specifically states that they are not supposed to sell or transfer. By selling or transferring, they basically have violated Title 18, 1001.

Senator LEVIN. That is the false statement?

Mr. RYAN. That is the false statement. Also, the pure fact that they sell them, they are converting that into a personal use under title 18, 641.

Senator LEVIN. Both indirect.

Mr. RYAN. Yes, both indirect.

Senator LEVIN. Neither one violates a statement which says it shall be a crime for anybody to take a card and to transfer it to anybody else. That is not, in and of itself, a crime; is that correct?

Mr. RYAN. I would believe that you are correct. I think it is the certification that they are making on their application which is Title 1001, filing of the false statement.

Senator LEVIN. One way or another, if this program is going to continue, since there is obviously a lot of abuse here just from your own estimate, it has got to be corrected. There is no use having a program where anywhere close to 25 percent is abuse. That is not a program we can sustain or should sustain. So we have either got to—assuming that figure is anywhere close, and admittedly that is based on estimates and so forth, there has either got to be some commonsense way of ending the abuse in this program or, as far as I am concerned, we ought to forget the program.

What percentage of Federal employees use this program?

Mr. KUTZ. We do not know.

Senator LEVIN. Give us an estimate. How many in the DC area?

Mr. KUTZ. There was 120,000 that used it, so I do not know how many there are in the DC area. We can respond for the record to that.

Senator LEVIN. I would appreciate that. Is it fair to say that there is probably a greater percentage in the DC area that use the program than in any other area? Would that be a safe statement that there is probably a greater percentage of Federal employees in the DC area that use this program than would be true in any other area that you can think of?

Mr. KUTZ. Certainly this is the biggest part of the program, $140 million out of $250 million managed by the Department of Transportation. So presumably, your conclusion would be correct.

Senator LEVIN. Then the question becomes what percentage of Federal employees in this area, compared to other areas, use this program? And there it would seem to me that a larger percentage of employees here, given the mass transit system we have in this city, would be using this system than would be true in any other

city except perhaps New York or Chicago or Los Angeles, someplace that has a comparable mass transit system. I would think that common sense would tell us that.

Maybe you could give us some statistics for the record on that.

Mr. KUTZ. We can do that.

Senator LEVIN. The final statistic, which is also intriguing to me, gets to the question of what percentage of Federal employees would take mass transit anyway, without the subsidy? Somewhere in my notes here is a figure—it is either your estimate or somebody's estimate—that 10 percent of the people who use this subsidy would be driving by themselves. Is that a figure that has come across——

Mr. KUTZ. We are not aware of that.

Senator LEVIN. You do not know where that figure comes from? I am not sure where it comes from either. Maybe our second panel has that figure.

But is there anyway of you estimating—it is a CRS evaluation. So it is CRS evaluation of April 18, 2007. That is fairly recent.

Mr. KUTZ. Pretty fresh, yes.

Senator LEVIN. It says here that according to a survey done as part of that evaluation—and I will get to that in a moment if I can figure out what they are referring to—11 percent of the participants in the program had switched to transit from commuting in single occupancy vehicles.

Now we are getting down to a pretty small benefit ratio here. My hunch is a fairly small percentage of Federal employees use this.

According to this survey, which was done I think for the Department of Transportation—and we will ask them in a moment—only 11 percent of the participants had switched to transit from commuting in a single occupancy vehicle.

At this point if we are going to be spending $1 billion to help a fairly small percentage of Federal employees switch from single occupancy vehicle to mass transit, and in any event a fairly small percentage of Federal employees period, and if there is a lot of abuse going on in this program it seems to me there is a heavy burden on people who support this program to either clean it up or I do not see how we sustain it. That is my bottom line.

Senator Coleman.

Senator COLEMAN. Thank you, Mr. Chairman.

Gentlemen, some discussion—and by the way, in essence this is free money. In other words, you have the pass, you do not need it to cover any of your costs in the cases that you have examined. You can convert it into cash simply by going on eBay or Craigslist and people give you cash for it, or checks or cash. I presume your investigation did not go this far but would you venture what the odds are that any of the folks you investigated are paying taxes or declaring? Did you look at that?

Mr. KUTZ. We did look at that, actually, and none of the ones that would answer the question had declared it as taxable income but it is taxable income.

Senator COLEMAN. One of the things in the GAO report you had a chart or comparison of written transit benefit controls on page 17. The chart shows the Departments of Transportation, Commerce, Patent and Trademark Office, Treasury, Internal Revenue, State, Defense, Homeland Security, and Coast Guard. What you

have is a series of checks as to what is required on the application, on the verification, and the implementation.

It is fair to say that there is a great deal of inconsistency among the agencies as to what they require so that all of them, by the way, give the false statement warning. I think that is the only one that I see—that and the certification statement. Those are the two uniform requirements.

But everything from home address to work address to commuting cost breakdown to verification of commuting cost to eligibility verified by approving official. That is not uniform. Not each and every agency requires those particular steps; is that correct?

Mr. KUTZ. Yes.

Senator COLEMAN. In terms of implementation, applicants checked against parking benefits record, only three of the nine agencies that you looked at required that.

And then, in terms of removal from Transit Benefits Program including an exit procedure—in other words, you are leaving and if you have this benefit we are going to stop it—actually only two of the nine, Department of Transportation and the Internal Revenue Service, do that. Is that correct?

Mr. KUTZ. Yes.

Senator COLEMAN. One of the obvious changes would be if folks are leaving or go on extended leave, you know you are giving this benefit. If you deal with that, you remove that—what did you have, at least two instances of folks getting paid for what, a period of about 4 years, even though they were no longer employed by the agency.

Mr. KUTZ. We had cases just like that, yes. The Commerce Department example I mentioned in my opening statement.

Senator COLEMAN. Of these program controls would you list—do you have a sense of what are the key ones that each and every agency should implement in order to prevent waste, fraud, and abuse in the program?

Mr. KUTZ. I think both of you mentioned in your opening statements just making sure that someone works at your agency, that they have not left your agency, that they are not parking in the basement or in the free parking lot. Those are just very basic things and I do not think it would cost much. You also have to consider cost/benefit in doing fraud prevention controls but certainly there are some very easy things that could be done.

I think your line of questioning also leads to another potential solution, some sort of standardized government policies and procedures that could be used so you would not see these checkboxes here, such inconsistent application across the government.

Senator COLEMAN. I think why we end up with these inconsistencies is the lack of clarity of who is responsible for dealing with the issue of fraud, dealing with the issue of verification. Who is responsible? Is it specified anywhere as to whether the Department of Transportation or another agency is specifically responsible for verifying whether the employees are using this program properly or not? Is there anywhere where it identifies the agency that is responsible for oversight of this program?

Mr. KUTZ. I do not think so. And I think that the reality is the Department of Transportation provides certain services but inter-

nal controls is not one of them. And so the responsibility falls upon the agencies whose budget is getting hit by these charges.

Senator COLEMAN. Did you raise that question with agencies, as to who was responsible?

Mr. KUTZ. Yes, and I think that they would believe that they are. There may be some confusion with the Departments of Defense and Transportation.

Senator COLEMAN. When you say there may be some confusion, what does that mean?

Mr. RYAN. When we started the work, we actually went to the Department of Defense and spoke to them. And there was concern on their part that they were paying a large fee to have the Departmentof Transportation come in and distribute these benefits. It was their impression that the Department of Transportation was more involved in the overseeing of the program than actually the Department of Defense. And that is an issue that——

Senator COLEMAN. Transportation—you said Transportation was more involved than——

Mr. RYAN. The Department of Defense thought the Department of Transportation was more involved in the process and they really were not.

Senator COLEMAN. Do you know if that has been clarified?

Mr. RYAN. I think that the second panel can handle that.

Senator COLEMAN. Which government agency then would be the best to provide oversight? Is the agency where the employee's work? Is that your testimony.

Mr. KUTZ. I think OMB is the place that could help set policy, possibly. But the actual agencies themselves are going to have to implement, is our view.

Senator COLEMAN. Was the lack of implementation simply because it is a small benefit per employee? I am trying to understand how we get a point where if you look at a program, that ultimately if you look at the sum total that it is significant dollars according to the figures the Chairman indicated, perhaps a billion-dollar program in the next 5 years. But were you able to get a sense of why there has not been oversight?

Mr. KUTZ. Not really. Some of the IGs, and some of them coming up to the table here, have done oversight and reported to their management that there are problems. So it is not really surprising. We actually raised, in a predecessor program to this, in 1993 certain issues about controls with respect to a predecessor program that was optional. This program is required, that program was optional.

I think you said it well, that there was no one at the switch. It was not that people were asleep at the switch. There was really no one looking at fraud, waste, and abuse in this except us and IGs. So it is really a lack of management oversight.

Senator COLEMAN. Is that a cost issue? You talked about cost/benefit analysis. To do the oversight here, is this costly? Perhaps more costly than the benefit?

Mr. KUTZ. No, not at all. I think there is certainly some cost to oversight but we are not talking about elaborate types of controls here. We are talking about making sure the people actually work at your agency. I do not see how that can be more than a short

exercise. But we had agencies, surprisingly, that took months to tell us they could not figure out who the people were that they were paying. That, to me, is not a good thing.

Senator COLEMAN. So again, we are looking for solutions here. If OMB were to grab the bull by the horns here and say for this program we are going to perhaps recommend or require agencies to do A, B, C, and D, some sense of uniformity, that would go a long way to providing what I am hearing, what I believe to be after reviewing your report, pretty simple steps that in the end could prevent at least $17 million a year in waste and probably a lot more than that if one looks at all the figures.

Mr. KUTZ. Yes, I think that is part of the solution. If I could just mention one more thing along Senator Levin's line of questioning, is that also the people that are caught cheating here, there has to be consequences for them or people are not going to believe—first of all, there is the risk of detection. If there is no risk of detection, people are going to try to get away with it. But once people are actually detected, something has to happen here, whether it is their security clearances are revoked or they are suspended from work for a month without pay, or are terminated. Something has to happen.

Now certainly the IRS case I mentioned, the stolen computers, that individual has been indicted. Not necessarily for what we found in the transit but for what we found on the computers.

But it really is a matter of can we trust these people and should there be severe consequences? And those should be published, also. People should be told that people were caught cheating in the program, there are certain consequences for those people, and therefore people will maybe think twice about doing this.

Senator COLEMAN. Are you aware of any government-wide policy guideline that addresses the appropriate disciplinary actions for employees inappropriately receiving or selling transit benefits?

MR. Kutz. No, and this is something that we have seen in other programs, too. All of the issues we had with travel cards, purchase cards, and other things like that, oftentimes people that are involved with small frauds, the U.S. attorneys will not take the cases. Nothing ever happens to them.

Senator COLEMAN. Are you aware of any agency that perhaps has a model of administrative disciplinary action for inappropriately receiving or selling transit benefits?

Mr. KUTZ. No.

Senator COLEMAN. So there is no model out there?

Mr. KUTZ. Not that we are aware of.

Senator COLEMAN. There is not a single agency that says we know this is a problem, we want to deal with the problem, we are going to provide for certain penalties for those who are found doing these kind of illegal things? No clear statement of actions, consequences for this kind of action?

Mr. KUTZ. Not that we are aware of. You may ask the second panel if the Departments of Transportation or Defense have that but we are not aware of anything that specific.

Senator COLEMAN. Thank you. Here is just a last thought. I remember, I was a prosecutor for many years and I remember when Mayor Giuliani was Mayor of New York. One of the things that he

did is early on he kind of jumped in and got folks to—forced folks who were going through turnstiles and not paying, to pay. And it was not a lot of money.

But by doing that it did kind of set a standard. And what I am hearing from you is if we make it clear that this kind of conduct is illegal, violates specific conditions that you have agreed to, that if you make that clear and you act on it, then down the road you can prevent a lot of other worse things from happening. Is that a fair statement?

Mr. KUTZ. Yes, we would agree with that.

Senator COLEMAN. And in addition, save the government a lot of money.

Mr. KUTZ. Yes.

Senator COLEMAN. Thank you. Thank you, Mr. Chairman.

Senator LEVIN. This Transit Benefit Program exists in the private sector, as well; correct?

Mr. KUTZ. Yes.

Senator LEVIN. But that was not part of your job?

Mr. KUTZ. No, but it came up a lot. There were a lot of cases but we intentionally tried to limit. So we really cannot speak much to what happens outside the Federal Government.

Senator LEVIN. In the private sector program, the farecards to the employee are deductible as an expense to the employer; is that right?

Mr. KUTZ. I believe it would be, yes.

Senator LEVIN. But it is not income to the employee?

Mr. KUTZ. It depends on how their program is set up. If they follow the Federal program that would be the case. I believe that there are some that would do that. Whether they all do it that way or not, we do not know.

Senator LEVIN. What other way is there?

Mr. KUTZ. There could be a way where you could just use tax-free dollars to buy them versus actually get them for free. So there is a number of possible ways that you could do it and I believe that those are multiple types of programs out there.

Senator LEVIN. If it is the way I describe, where the employer hands out the benefit in the form of farecards—

Mr. KUTZ. That would be deductible as an expense for the employer, that is a legitimate expense, yes.

Senator LEVIN. But it is not income to the employee?

Mr. KUTZ. Because I believe that the law that was passed would apply to private sector people, also.

Senator LEVIN. Can you check with the IRS and ask them what they know about this deduction? How common is it? What is the estimated cost? Just try to give us a feel for that and as to whether or not they feel that, in fact, there is abuse? Can they tell anything about the employees' use of that benefit? How many employees would use that benefit properly? How many evade paying tax if they sell it? Is it illegal to sell a privately dispensed benefit if they, for instance, include the income in their tax return? Would the employee be violating any law?

Mr. KUTZ. We can research that and get back to your staff on that, if you would like us to, yes.

Senator LEVIN. That would be great. Thank you.

Senator COLEMAN. If I could follow up on that because I was trying to figure out—I went on eBay and looked at a bunch of these actions. But it would appear that in order to make any money on eBay, if you use this program the way, Mr. Kutz, you describe with tax-free dollars and the employer has already paid for it, the only benefit the non-government employee has is the tax savings. So it would seem to be improbable that somebody could sell $100 worth of Metro cards for $65 since they do not have a $35 or even a $25 tax benefit. They would have to be in a pretty high—it just does not work out.

So either all of the individuals or most on eBay are Federal employees or there are employees then who have to do this like the Federal program. Otherwise, there would be no benefit for the individual if they paid dollars and the only benefit they are getting is pre-tax, then they could not sell it at a 25 percent or 35 percent discount. Is my math correct?

Mr. KUTZ. Your math is correct because the highest incremental tax rate is in the 30s. So if people are getting 70 cents, 75 cents on the dollar, it would make no sense to buy them and then sell them.

Senator COLEMAN. Like the Chairman, I would be interested to look on the private side to see what the scope of this is and whether there are additional tax issues here.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you so much. We will excuse our first panel with our thanks and call our second panel.

Let me now welcome our second panel of witnesses. We have with us Calvin Scovel, the Inspector General with the Department of Transportation; Linda Washington, the Deputy Assistant Secretary for Administration at the U.S. Department of Transportation; Thomas Gimble, the Acting Inspector General at the Department of Defense; and Michael Rhodes, the Deputy Director of Administration and Management and Director of Washington Headquarters Services at the Department of Defense.

As I mentioned for our first panel, Rule 6 of this Subcommittee requires that all witnesses who testify before the Subcommittee are required to be sworn. So at this time I would ask all of you to please stand and raise your right hand.

Do you swear that the testimony you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. SCOVEL. I do.

Ms. WASHINGTON. I do.

Mr. GIMBLE. I do.

Mr. RHODES. I do.

Senator LEVIN. The same timing system will be used here but because we have a larger panel, we would ask you to limit your oral testimony to no more than 5 minutes and we will have that same yellow light come on that will give you some warning.

Ms. Washington, we are going to have you go first, followed by Mr. Rhodes, then Mr. Scovel, and then Mr. Gimble. And then we will turn to our questions. Ms. Washington.

TESTIMONY OF LINDA J. WASHINGTON,[1] DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Ms. WASHINGTON. Thank you, Mr. Chairman, Ranking Member Coleman, and Members of the Subcommittee for the opportunity to testify on the Department of Transportation's role in implementing the Federal Transit Benefit Program. My statement today will address both the Department's own participation in the Transit Benefit Program and its role as the home agency for TRANServe, the organizations used by 108 Federal entities nationwide to distribute transit benefit fare media.

The Transit Benefit Program is a proven means to help increase the use of mass transit in line with DOT's strategic objective of reducing congestion. Estimates indicate there are 163,000 participants in the National Capital Region accounting for nearly half of the Federal workforce in the area. The Transit Benefit Program's importance is particularly evident when considering specific transportation alternatives in the National Capital Region.

For example, the Virginia Railway Express (VRE), a growing commuter railroad serving the National Capital Region, relies on transit benefits for about 65 percent of its revenue, with fiscal year 2006 average daily ridership of nearly 15,000 people. Federal employee's transit benefits used on the VRE alone are responsible for removing a significant number of motor vehicles off of the highly congested I–95 and I–66 corridors in Virginia.

TRANServe has evolved over the years to offer transit benefit distribution services nationwide to organizations throughout the Federal Government. It now distributes over $200 million in fare media annually, servicing over 230,000 participants nationwide. TRANServe enters into a customer agreement with each of the Federal entities it services, specifying that TRANServe will obtain and distribute transit fare media while it is the customer agency's responsibility to verify the eligibility of its employees to receive the transit benefits.

Participating agencies are responsible for identifying eligible employees, determining the amount of eligibility, and overseeing the participation of their employees in the Transit Benefit Program. TRANServe recognizes that the fare media it distributes is actually cash equivalent and has an extensive system of internal controls to provide oversight for inventory and distribution management. Its internal controls have been tested and strengthened through the years with the help of independent auditors and security experts.

Recently TRANServe hired an internal controls officer specifically responsible for monitoring the organization's internal controls and sharing best practices with customer agencies.

Each time a transit benefit recipient receives his or her fair media, he or she must sign for it. On the form there is an explanation of general requirements for continued participation in the program and recipient responsibility.

In August 2006, TRANServe began distributing to DOT recipients a plain language reminder highlighting requirements that

[1] The prepared statement of Ms. Washington with attachments appears in the Appendix on page 63.

they must not be on a parking permit, the benefit is only for commuting to and from work, the amount does not exceed actual cost, and that it is a violation of law to provide false or fraudulent information to obtain transit benefits or to transfer or sell transit benefits.

Last year DOT initiated the first of what is now an annual recertification requirement to maintain current accurate information on transit benefit recipient commuting costs. In addition, by July 2007 DOT will require its National Capital Region employees using the Metro system to transition to Smart Benefits which will reduce program cost and further improve internal controls.

Mr. Chairman, we recognize that it is in the best interest of the Federal Government, the taxpayer, and commuters, in general, to make the Transit Benefit Program work as effectively as possible. We have initially identified areas for improvement including participant education and administrative remedies. For example, TRANServe is developing an electronic learning package that will be pilot tested with DOT employees. It will reemphasize recipient responsibilities, identify prohibited practices, and enumerate the potential penalties for inappropriate actions. We are working to incorporate this tutorial into DOT's online annual recertification process and will be required to be completed each year before recertification can occur.

We believe that the vast majority of Federal employees who participate in the program do so honestly, responsibly, and with integrity. However, we recognize that there may be individuals who are intent on using the system for personal gain at taxpayers' expense. DOT is prepared to deal with such individuals. I have already met with our Office of Human Resources and our Office of General Counsel to discuss appropriate administrative penalties for proven instances of misuse, and I have instructed them to act swiftly and decisively.

In conclusion, the Federal Transit Benefit Program is an important tool to help address congestion, air pollution, and save fuel. DOT is prepared to deal with any of its employees again who are misusing the program, and we stand ready to work with your Subcommittee to take all appropriate measures within our authority to make this program work as intended for the American people.

I would be happy to answer any of your questions.

Senator LEVIN. Thank you so much. Mr. Rhodes, you are next.

TESTIMONY OF MICHAEL L. RHODES,[1] DEPUTY DIRECTOR, ADMINISTRATION AND MANAGEMENT, DIRECTOR, WASHINGTON HEADQUARTERS SERVICES, U.S. DEPARTMENT OF DEFENSE

Mr. RHODES. Mr. Chairman, Senator Coleman, thank you for the opportunity to discuss transit benefits for Department of Defense personnel in the National Capital Region.

My organization, Washington Headquarters Services, provides a broad range of administrative, infrastructure and support services, and programs for defense personnel and organizations in the National Capital Region.

[1] The prepared statement of Mr. Rhodes appears in the Appendix on page 73.

Washington Headquarters Services has overall responsibility for administering the Transit Benefit Program in the National Capital Region. We execute this responsibility with and through the multiple military components and organizations in the area. We, and the approximately 40 designated points of contacts for these organizations, all have specific roles and responsibilities concerning implementation of the program.

The Department of Defense program in the National Capital Region has 34,000 participants. They average approximately $83 per month in subsidy benefit per participant. In fiscal year 2006, the Department of Defense program was $35.9 million in expenditures in the National Capital Region.

To effectively execute this program we established a partnership agreement with the Department of Transportation. They provide an efficient means of implementing important administrative and logistical functions. Of note among these are acquisition and distribution of the fare media, maintaining the database of program participants, and providing detailed reports for validation and reconciliation by our components and organizations.

If I can just highlight a few steps in our process, when a program application is completed, but before it is forwarded to the Department of Transportation for inclusion in their program database, we first search our Pentagon Force Protection Agency parking roster to ensure the applicant does not have a parking permit. As an ongoing safeguard, our Force Protection Agency parking office also retains an up-to-date database from the Department of Transportation which lists those who are participating in the program. And this is referenced every time someone applies for a parking permit to ensure they are not also enrolled in the transit subsidy program.

Another aspect of the transit subsidy program that you both mentioned in your opening comments is the self-certification. And this, as you stated, is where the employee attests to their eligibility, to the fact that they will only use the benefit for specified and authorized purposes, and that the amount that they received does not exceed their costs. In addition, it has a warning statement that describes the punishment involved for false or fraudulent certification.

I wanted to highlight that in addition to this certification, each time an individual receives their transit benefit on a quarterly basis they sign a roster that restates their self-certification. Further, at the time they receive their benefit, the individual participant must present their Department of Defense identification to confirm their identity and their employment status.

I would also highlight that the Department of Transportation provides detailed reports of participants and these are instrumental. These are instrumental in allowing reconciliation by the military departments and Defense components. We receive these reports monthly and the individual components reconcile those with their employment and payroll records to ensure currency. In addition, they go through other steps to confirm appropriate program and eligibility issues and then they use this reconciliation process to pay the cost of their employees' participation.

Last, I would mention that in 2003 the Department of Defense Inspector General conducted an audit and at that time they did

identify a need to strengthen our reconciliation procedures for a few of the components. Subsequently, we worked with those components to modify the report that they receive in a manner that enhanced their ability to implement reconciliations.

We look forward to the information from the GAO investigation report to determine if there are weaknesses applicable to our Department of Defense National Capital Region program. We are always looking for sound and effective improvements. This program is an important benefit to a significant number of our personnel but at the same time we want to ensure we are prudent stewards of the resources entrusted to us.

I look forward to your questions.

Senator LEVIN. Thank you, Mr. Rhodes. Next will be Mr. Scovel.

TESTIMONY OF HON. CALVIN L. SCOVEL, III,[1] INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. SCOVEL. Chairman Levin, Ranking Member Coleman, Members of the Subcommittee, I am pleased to be here today to testify on opportunities to improve internal controls over the Federal Transit Benefit Program. Of foremost concern of all participating agencies is to maintain the integrity of this important program and to ensure that it remains free of employee fraud and abuse.

The GAO'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 agencies participating in the program. Today, the DOT Transit Office facilitates the distribution of about $200 million in annual benefits for 108 Federal organizations to provide transit incentives to over 230,000 Federal employees nationwide.

An important point 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. 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 two points regarding the Federal Transit Benefit Program. First, the strengths and weaknesses of DOT's internal controls over the program. DOT has implemented internal controls designed to prevent potential fraud or abuse within the program. For example, DOT has established a series of initial controls to ensure that employees are eligible to receive benefits. These include completing an application that includes information about an employee's city of residence, work location, mode of transportation, and commuting costs. A significant weakness in the current process is that DOT has no uniform process to check the accuracy of information provided on an employee's transit benefit application. Instead, DOT employee applications are approved by a transit coordinator who is responsible for approving benefits for an entire agency.

[1] The prepared statement of Mr. Scovel appears in the Appendix on page 80.

We think involving 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 to receive. Supervisors are in a better position to know information about employees such as their home location, commuting methods, and schedule. Our investigations over the last several years have uncovered several cases of this type of abuse and we are currently working several other cases recently referred to us by GAO.

DOT also 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 annually their eligibility for transit benefits. Participants are required to update and verify such items as their mode of transit and monthly commuting costs.

However, other than employee's self-certification, no procedure requires employees to update personal information for changes when they occur. Changes such as commuting method or work schedule affect the amount of benefits an employee is eligible to receive. In our opinion, DOT should require employees to update their information and recertify whenever meaningful changes in their commuting methods or schedules occur. Requiring an employee's supervisor to review and approve this information, too, will help improve this aspect of the process.

Second, opportunities to improve internal controls over the program throughout the Federal Government. Our work at DOT has identified areas where the Department, as well as other Federal agencies, can proactively improve controls over their programs. We see five specific actions that should be taken.

One, include the program in agencies' assessments of their internal controls during the A–123 process. OMB Circular A–123 requires Federal managers to assess the adequacy of internal controls of their programs to include the government purchase and travel card programs. In DOT's case, the Department includes controls over safeguarding paper fare media as part of its A–123 process but it does not include an assessment of other aspects of its Transit Benefit Program, such as the application and distribution processes. Including an assessment of the internal controls over the program in the A–123 process could be an effective means for proactively preventing fraud or abuse.

Two, require employees to recertify annually their eligibility. As I just mentioned, DOT recently initiated an online process to require its employees in the Washington area to update and recertify their enrollment information annually. 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.

Mr. Chairman, I am nearly out of time. If I may ask for another minute to 2 minutes, I will wrap up.

Senator LEVIN. Sure thing.

Mr. SCOVEL. Thank you.

Three, review and apply appropriate lessons learned in other government programs. For example, in 2002 OMB made significant government-wide improvements to both the government purchase

card program and the travel card program. Those programs are also susceptible to fraud and abuse by employees and OMB directed agencies to evaluate their internal controls and develop remedial action plans. In both cases, well developed training programs were key to reducing the risk of fraud and abuse.

For example, all Federal employees must complete a training course before they are authorized to use government purchase cards. We think similar trainings should be established for the Transit Benefit Program.

Four, develop and enforce consistent administrative policies. While potential criminal and civil penalties could result from transit benefit fraud, this type of fraud is unlikely to be 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. The development of uniform recommended penalties including suspension or debarment from the program and consistent enforcement of those penalties will be important steps to prevent this type of abuse.

Five, mandate the use of electronic fare media or SmarTrip cards. These are rechargeable fare cards that have benefit amounts electronically loaded each month. SmarTrip cards reduce the potential for fraud and abuse because it is more difficult to sell or transfer benefits compared to paper fare media.

Let me close, Mr. Chairman, by noting that each of these actions do not require mandates from OMB or legislation and could be taken by agencies today to improve internal controls over their programs.

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

Senator LEVIN. Thanks so much. Mr. Gimble.

TESTIMONY OF THOMAS F. GIMBLE,[1] ACTING INSPECTOR GENERAL, U.S. DEPARTMENT OF DEFENSE

Mr. GIMBLE. Mr. Chairman, Ranking Member Coleman, thank you for the opportunity to appear before the Subcommittee today to discuss the Department of Defense (DOD) National Capital Region Transit Subsidy Program. The DOD Transit Subsidy Program was established in fiscal year 2000 and paid out about $35.9 million in benefits in fiscal year 2006. The work performed by the DOD Inspector General (IG) and the Government Accountability Office (GAO) indicates that the program does not yet have the internal controls needed to limit the susceptibility of transit benefits to fraud, waste, and abuse. My testimony this afternoon will describe the work my office is performing to assess the effectiveness of internal controls for the program.

The DOD Inspector General became aware of the potential abuse of the DOD program through the complaints received through our hotline and these allegations involved employees transferring Metrocheks to friends or selling them through the Internet or to coworkers.

[1] The prepared statement of Mr. Gimble appears in the Appendix on page 90.

In response to a hotline complaint received in January 2003, we conducted an audit on allegations concerning controls over DOD transit subsidies within the National Capital Region. The final report was issued on October 14, 2003. We substantiated allegations that there was no verification of applicants' employment and that DOD employees could be selling or giving away their transit subsidies.

The audit partially substantiated the allegations that controls had not been established to ensure employees do not receive transit subsidies while receiving subsidized parking and that the billing information received from the Department of Transportation (DOT) did not include sufficient detail to facilitate the reconciliation of the quarterly DOD billings.

We recommended that the military departments and the Defense Logistics Agency (DLA) develop procedures to require the reconciliation of all transit subsidy billings received from DOT and that DLA develop a policy to check transit subsidy applications against its parking permit roster.

In early 2005, during the regular meetings between GAO and the DOD IG, we discussed allegations of abuses in the Transit Benefit Program that included the sale of Metrocheks on eBay. In February of 2006, we announced a data mining review to research this issue for DOD within the National Capital Region. We performed tests to determine whether DOD program enrollment data and disbursement data substantiated the individual's eligibility for the Metrochek program and that the amount of the benefit was received by the individual. We identified the following potential issues: That employees were receiving Metrocheks while using subsidized parking; over reliance on the honor system where employees self-certify and submit the program application without review; individuals were receiving benefits in excess of the monthly costs; individuals outside the National Capital Region were receiving the benefits; and there was insufficient data to validate the benefits for over 28 percent of the active participants.

We continue to coordinate and share information with GAO, which has been conducting an investigation into the Transit Benefit Programs in the National Capital Region.

Based on the data mining review we conducted and investigative work by GAO, we announced an audit in November 2006 of the internal controls of the DOD Transit Subsidy Program within the National Capital Region. Specifically, we are reviewing internal control activities over the transit subsidy application process, including the initial enrollment, status changes, and de-enrollment from the program, management of the enrollment database and retention of the supporting documentation to comply with audit requirements.

We have also performed analysis to test the accuracy and completeness of the data elements within the enrollment database, including the calculation of the allowable monthly transit subsidy benefit by the DOD participants. Furthermoe, we have reviewed the transit subsidy policies and procedures. We plan to issue our report in July 2007.

Investigative work by GAO identified potential abuse of the agency Transit Subsidy Programs within the National Capital

Region, including the DOD Transit Subsidy Program. We have recently met with the GAO investors and anticipate receiving information on specific abuses they have identified. The cases will be referred to the appropriate investigative agency within DOD for further investigation. Additionally, we expect to make referrals to our Defense Criminal Investigative Service (DCIS) as a result of our audit work.

The Transit Benefit Program is a valuable program which, if properly administered, can help alleviate traffic congestion and reduce automobile emissions. However, the continuing abuse of the use of the transit benefits make clear the need for additional controls to help prevent fraud, waste, and abuse. We believe that the work that we are performing in our audit will assist the Department in identifying areas needing further improvement.

That concludes my statement.

Senator LEVIN. Thank you, Mr. Gimble.

You made reference to a meeting that you are going to be having with the GAO coming up to review the problems and the need for additional safeguards?

Mr. GIMBLE. Yes, sir. What we also are doing is getting a referral. They have identified, I think, eight or so individuals, DOD employees, that have potential abuses.

Senator LEVIN. In terms of the process used in the Department, you will be meeting with the GAO. Can you give us a report after that meeting as to what steps you will be taking?

Mr. GIMBLE. We can do that.

Senator LEVIN. Ms. Washington, there was a Department of Defense[1] report that I made reference to before that the number of Federal employees participating in the Transit Benefit Program rose from 53,000 prior to an Executive Order, which I believe was 2003, to 114,000 within a year after the order was being signed.

Do you know approximately how many Federal employees now use Metro?

Ms. WASHINGTON. Throughout the Nation?

Senator LEVIN. No, Metro in Washington.

Ms. WASHINGTON. About 106,000.

Senator LEVIN. That would be less than it was a couple of years ago. OK, say 106,000.

Then it said, according to the survey done as part of the DOT evaluation, 11 percent of the participants had switched to transit from commuting in a single occupancy vehicle. What percent of that population was already taking Metro?

Ms. WASHINGTON. I am not sure, sir. I do not know the answer to that question. I am familiar that there was a study done that mentioned 11 percent but I do not have the information on that.

Senator LEVIN. Do you know whether that study identifies what percentage of the Federal employees, which was approximately 114,000 at the time of the survey, what percentage of them were taking Metro anyway?

Ms. WASHINGTON. No, I do not.

Senator LEVIN. So we do not know really what affect this subsidy has had. We can tell what percentage of employees are riding

[1] **DOD 16 Note:** Should be the Department of Transportation.

Metro but we do not know what percentage of employees would have ridden Metro anyway?

Ms. WASHINGTON. That is correct.

Senator LEVIN. That seems to me to be one of the real problems with this program, it is hard to identify what percentage of employees were moved or attracted or given an incentive to leave either a single occupant vehicle or a multiple occupant vehicle or a carpool or whatever, moved to Metro as a result of this subsidy.

If only 10 or 15 percent of the Federal employees who use Metro are using it because of an incentive, and 80 percent or more would have been using Metro anyway, you do not need the incentive for 80 percent of the employees. And then you have got to compare that with what Federal employees may or may not get in other parts of the country who do not have Metro or do not have the access to a mass transit system. And so there is an equity issue in terms of Federal employees, too, that I believe has to be placed on these scales.

Do you have any idea in the Department of Defense what those numbers might be? The number of people that use Metro at the Department of Defense or other mass transit that would otherwise be in a single passenger vehicle or in a multiple passenger vehicle?

Mr. RHODES. No, Senator, I do not.

Senator LEVIN. Is there a way practically to find out without surveying the whole world?

Mr. RHODES. Short of surveying, I do not know, sir.

Senator LEVIN. I think that you made reference, Mr. Gimble, to an audit by the Department of Defense Inspector General back in 2003 which said that "controls over the transit subsidies program within the Army, Navy, Air Force, and the Defense Logistics Agency needed improvement" as the IG said. And then you quoted the following line "that our review substantiated the allegations that there is no verification of an applicant's employment and that DOD employees could be selling or giving away their transit subsidies."

What steps have been taken since that audit to avoid that, to improve internal controls?

Mr. GIMBLE. Several of the Defense components have implemented reconciliation procedures which would be a big step in accomplishing that. The idea of stopping people from selling or moving the card—giving their cards away. That is a little tougher to deal with.

What we did there is initiate a data mining project, but you have to weigh the benefit that you get.

Senator LEVIN. I am not following you. You have to weigh the benefit, what did you say after that?

Mr. GIMBLE. You have to weigh the benefits, the costs versus the benefits.

Senator LEVIN. I got that part, but what came after that I could not follow.

Mr. GIMBLE. Abuse of transit benefits is a fairly low occurrence. Through our data mining we are able to capture some of these occurances. Also, GAO has identified 8 or 10 people that go out on eBay. But in DOD we have not had a widespread occurrence of that. So either that control is there as one that—if you do not identify it by data mining, it is really kind of hit or miss, is the point.

Senator LEVIN. Are you saying that basically the benefits here may not justify the cost of doing that kind of a survey? Is that what you are saying?

Mr. GIMBLE. That, but there is a benefit of doing the reconciliations and the verifications of employment and I think the comparison to the subsidized parking. Those are fairly cheap ways to do things. And I think these are some of the better internal controls that you can have.

Senator LEVIN. That has not yet been done?

Mr. GIMBLE. Many DOD organizations are doing those. It is my understanding the Army has still not formally issued their policy but it has issued draft guidance which is being coordinated with affected Army organizations. But everybody else has issued reconciliation procedures. And also, I think Mr. Rhodes alluded to the parking lot scans.

Senator LEVIN. Back to you, Ms. Washington. You said that there is proven value to this program and you said there are 163,000 participants, nearly half the work force. But you are not able to say what percentage of those participants would have been on mass transit anyway?

Ms. WASHINGTON. That is correct.

Senator LEVIN. Then how do you say there is great proven value to the program when you have no way of assessing how many people were motivated by the program to do something and may have done it the same way anyway?

Ms. WASHINGTON. Well, we are looking at some of the statistics, as I mentioned, on VRE. You are absolutely right, Senator, we cannot empirically say that they may have taken VRE anyway. But we are looking at 65 percent of the riders on VRE or 15,000 people take VRE from outlying areas in Virginia. I would venture to say that WMATA probably has some similar figures, as well.

But you are absolutely right, we cannot say empirically that it has been proven that it is increased. What it has done is taken—into account the earlier study that the Texas Department of Transportation, which did say that there was less congestion on the roads, that there was less fuel emissions and things like that. But you are absolutely right, we cannot empirically say that it has taken more people off of the road.

Senator LEVIN. That study in Texas, is that a recent study?

Ms. WASHINGTON. It was actually conducted in 2003.

Senator LEVIN. Could you furnish that? I do not know if we have that study or not.

Ms. WASHINGTON. Absolutely.

Senator LEVIN. That is one of the intriguing aspects of this matter, it seems to me, is it is kind of hard to state with any confidence as to how many people would be riding Metro or some other form of mass transit who otherwise would not be. We know there are a large number of Metro customers who are using these tickets, these cards. VRE apparently has a whole lot of folks that are riding VRE who use these cards. But we have no idea how many of those folks would be using those cards, would be paying for it themselves.

And that raises the equity issue, it seems to me, because if there are a lot of people who are getting their transportation paid for by

the government, who would have paid for that mass transit from their own pay, where you have other folks in other parts of the country without mass transit who work for the Federal Government who do not have that benefit, it seems to me there is an inequity there. And so there are a lot of intriguing aspects to this program in addition to the question of waste, fraud, and abuse, the misuse of the cards by sale or by transfer to other people.

We will leave my role there and turn this over to Senator Coleman, again with our thanks.

Senator COLEMAN. Thank you, Mr. Chairman.

Let me first get to the question of or the issue of who is responsible for checking into waste, fraud, and abuse. Ms. Washington, what is the Department of Transportation perspective? Who has the responsibility in individual agencies for determining whether, in fact, employees are complying with the rules for this program?

Ms. WASHINGTON. It is the individual agency. We actually order and disburse the fare media, but the individual agencies are to certify and account for the use of the fare media within their organizations.

Senator COLEMAN [presiding]. You do the program for 75 percent of the Federal agencies? Do you receive a user fee from the agencies?

Ms. WASHINGTON. Yes, we do.

Senator COLEMAN. What does that user fee cover?

Ms. WASHINGTON. I will mention what Mr. Rhodes said earlier. We input all of the applications into a database. We provide reports for them to help them administer their program. We also negotiate with fare media organizations so that we can buy in bulk and get discounts for the fare media. So we provide reports to them, we administer it, we go out and we set up the programs within the agencies. So it is administrative oversight.

Senator COLEMAN. Were you aware of any agencies that thought that DOT had the responsibility for oversight and did not understand their own role in managing the program? Has that come to your attention?

Ms. WASHINGTON. It has come to my attention. However, on the statements that we give to the agencies each month, and also on the memorandum of understanding that we have with every agency, it clearly states who is responsible for what.

Senator COLEMAN. So when it comes to your understanding, do you simply refer them to that statement? What do you do?

Ms. WASHINGTON. Yes.

Senator COLEMAN. Mr. Rhodes from the Department of Defense, at least it appeared that GAO, in their investigation, had the belief that Defense thought it was somebody else's responsibility. Can you give me your understanding of who has responsibility for oversight regarding waste, fraud, and abuse in this program?

Mr. RHODES. Sir, my organization has responsibility for implementation, which means, I think we have responsibility for that as well. We partner tightly with the Department of Transportation in that those reconciliations—the reports that they provide to do the reconciliation, as Mr. Gimble referred to, is a critical piece of the process because those are verified every month by each of the military organizations and components to validate that those employ-

ees that drew the benefit are actually on their rolls and somebody that they are paying. Therefore, they reimburse for those costs.

I believe there was some confusion at one of the exit briefings and some of the discussion on who has what role.

From the Department of Defense there was about 5 percent of our costs that went to the administration and distribution fees that covered the services provided by the Department of Transportation. They allow for distribution of the fare media at 30 different locations around the area. Again, they maintain the databases for us. They provide reports that are customized and modified to facilitate some of the reconciliation process that we have there. They also provide a daily download of DOD enrollment data to our Pentagon Force Protection Agency so they can continually cross check against the parking records, whenever anybody is applying for the subsidy, which is another one of the safeguards in the process.

Senator COLEMAN. Ms. Washington one of the concerns that I have as I look at the GAO report, do you have a copy? Could someone give a copy of the report, page 17, comparison of written transit benefit program controls.

Ms. WASHINGTON. Yes, sir, I have it here.

Senator COLEMAN. This document reflects a lack of consistency across the agencies in terms of application requirements verification implementation. Should anyone have the responsibility for ensuring that there is greater consistency in the areas of application requirements verification implementation?

Ms. WASHINGTON. I definitely think that there should be some consistency. For example, in the Department of Transportation there is more that we can do to get additional information. Again, each department should determine what they need to certify their program. But I agree, there should be consistency.

Senator COLEMAN. The concern, though is individually within the departments, as one looks at the state of things as they are today, there is a great deal of discrepancy between what is and what is not required. How do we deal with that?

Ms. WASHINGTON. Well, I think that once we get the recommendations and we have heard the recommendations from the IGs and GAO, then we will work together to have some consistency across the board.

Senator COLEMAN. I am going to suggest, Ms. Washington, since you administer the program for 75 percent of the Federal agencies, since they may or may not have IG audits, apparently just six of the agencies have, that Transportation take the lead in communicating with agencies the list of best practices.

Ms. WASHINGTON. We certainly can do that now that we have our internal controls officer, we can certainly do that.

Senator COLEMAN. Clearly one of them, among the egregious findings are agencies sending payments to folks who have not worked for the agencies for 4 or 5 years. There should be a pretty obvious one that there should be some kind of system of removal from Transit Benefits Program, including exit interviews.

Ms. WASHINGTON. Correct.

Senator COLEMAN. I would ask that you come back to this Subcommittee with some indication of some kind of uniformity and directions provided to the other agencies.

Ms. WASHINGTON. OK.

Senator COLEMAN. Mr. Scovel, Mr. Gimble, I appreciate the very specific recommendations, Mr. Scovel in particular, that you have laid out. Training programs, appropriate disciplinary actions. I am looking for is there a best practice? Is there clearly, as you have indicated, the U.S. Attorneys are not going to prosecute these cases. Individually, they are not rising to the level of fraud. But collectively, they are very significant fraud. But individually they are not going to do that.

What type of disciplinary actions would be appropriate? Do you have any recommendation or does any member of the panel have any recommendations?

Has any agency put in place a disciplinary system that effectively deals with folks who violate the terms and conditions of the use and sale of their Metrocheks or Smart cards?

Mr. SCOVEL. Thank you, Senator Coleman. If I can take first crack at your question, in preparing for today's hearing my staff conducted a quick survey around our Department as well as a few other departments in the Federal Government. We have found that within the Department of Transportation there is no uniform table of penalties or system of punishments to take into account DOT employees who may have violated the Federal Transit Benefit Subsidy program.

It is one of our recommendations that departments give serious thought to that, realizing of course that discussion belongs with the manager and supervisor and, in our Department, the administrator of each operating administration. In past cases that my office has worked, we have seen penalties ranging the gamut from admonishment and counseling, on the one hand, all the way to termination of employment, depending upon the facts of the offense and, frankly, the character of the offender as well. We think those are useful benchmarks.

We think that something that has been lacking, however, is virtually an automatic consideration of suspension or debarment from the transit subsidy program. We think that should be step one, in fact. But both in our Department and elsewhere we have found that that has not been the case.

Senator COLEMAN. Ms. Washington, I am going to kind of put it back on your shoulders. And in part, and I do understand, the agreement that you have with the agencies is very clear. It is the responsibility of the customer to verify eligibility of the recipients. I think it would be helpful, though, to the agencies to have a little direction, again not to provide exact specificity of penalties but to indicate that there needs to be appropriate action.

I would think the comments of the Inspector General here that, at a minimum, if somebody is violating their agreement that they face some sanction regarding participation in the program for at least a period of time, something to say this is wrong.

The case the GAO highlighted was that folks that you investigated, and they were still back on eBay selling the Metrocheks even after they understood that they were subject to investigation. I think you have got to get people's attention.

Ms. WASHINGTON. We agree. At the Department of Transportation, and in fact, we have already initiated meetings with our de-

partmental director of human resources and our general counsel to put in place some guidelines. So we will absolutely do that.

Senator COLEMAN. Thank you.

Mr. Gimble, let me get a little better understanding from the Department of Defense. Does the Department of Defense have a uniform policy or do the various branches have their own? Does the Navy policy on this differ from the Air Force, differ from the Army or any other service branch?

Mr. GIMBLE. You are talking about the reconciliation process?

Senator COLEMAN. Yes.

Mr. GIMBLE. As I understand it, each one develops their own but there are some basic things that they should have in there. Essentially, you would have the controls over the enrollment application process. You would verify the eligibility of the employee for the benefits. And it should have a process and method for reviewing the applications. What we are looking at now, is once you are in the program how often do you go back? If you have a change, is that properly handled, for example, if employees drop out? And that gets back to your point about the folks that have been gone for 4 years and still drawing the Metrocheks.

So these reconciliations we think will accomplish most of that.

I would just tell you, back to your other question, we have a fairly low occurrence of referrals to date in the Department. But to provide a couple of examples: We had one person that got caught up in this and did not receive a promotion. The other paid back all of the monies and got a letter of counseling.

Predating those audits though, when the program first stood up, we in DOD IG discovered one of our junior people who was double collecting for a couple or three quarters, which cost him his job. We removed him from service.

Senator COLEMAN. I would hope, again, that we have some clarity as to what is allowed and what is not allowed, and clearly it is not allowed to sell these, to transfer these. And that there is clarity in terms of action will be taken and some kind of disciplinary action. Again, it may depend on the nature, may depend on a whole range of things regarding the individual. But I think it has to be clear that this is not allowed. This is not legal and there are consequences. Otherwise, I think the behavior continues.

In regard to the Department of Defense, I am just trying to understand the system. In the GAO review, they noted that the Department of Defense does not verify commuting cost by approving official, it does not review or does not have benefits adjusted due to travel, leave, or change of address. And it does not have a removal of benefits program, including exit interviews. Are those things that they do not do, are those across the board or are those simply—again, because you have a decentralized program; is that correct?

Mr. GIMBLE. That is correct. We are specifically looking at those issues in the audit that we are going to be issuing this summer. We are going to deal with the application process to include the initial enrollment, status changes and de-enrollment, also the quality of the data in the database and the retention of the documentation. So we think if we address those issues along with the reconciliation

procedures that are already in place, we will start having pretty good control over the DOD program.

Now I need to say this: We believe that it is the administrator's responsibility to establish those internal controls. And we believe that it is our IG responsibility in the waste, fraud, and abuse area to periodically test. So what we would plan to do is periodically test the controls of the program.

Senator COLEMAN. I would hope, though, that based on your review that you can provide some direction to the administrators so they have a sense of how best to ensure that this does not occur in the future.

Mr. GIMBLE. Based on our audit done in 2003, we got an excellent response to our recommendations. All our recommendations were concurred with and all except one have been completed.

We would expect this new audit to go a little further and establish some additional controls.

Senator COLEMAN. Just to clarify again the state of things, you state DOD verifies active employment status and whether the employee has parking; is that correct?

Mr. GIMBLE. DOD?

Senator COLEMAN. Yes.

Mr. GIMBLE. We are saying that we are working on the verification.

Mr. RHODES. Senator, if I might, for the Department of Defense for our program in the National Capital Region, the individual participants pick up their fare media on a quarterly basis. At that quarterly basis when they pick up their fare media, they have to identify a DOD identification to the—though it is the Department of Transportation that is facilitating the process for us, our requirement that we lay out for them is they have to identify the personal individual identification as they sign for it.

Additionally, when they sign for it on a quarterly basis, there is a reattestation of that certification. So the self-certification happens when they apply and then it also happens each quarter when they pick up their benefits.

Additionally, a third piece of that on the reconciliation that does happen at each of the military organizations and components, they do that on a monthly basis. That is a roster of all the people who were currently enrolled. They compare that against their personnel and employment databases to ensure that they are all active valid individuals. So if somebody were to have departed but for some reason we did not collect their identification badge, within that month we would also get the reconciliation process in there.

Senator COLEMAN. Is anybody aware of anyone ever returning excess benefits upon departure?

Mr. RHODES. Yes, Senator. That has occurred.

Ms. WASHINGTON. Yes.

Senator TESTER. Tell me about that, how that works?

Ms. WASHINGTON. In our system, it is part of our exit process and employees have to go through the Transit Benefit Office; they do indeed turn in their benefits.

Senator COLEMAN. So the key though is, particularly in Transportation, you have that as part of your exit process?

Ms. WASHINGTON. That is correct.

Senator COLEMAN. And agencies that do not, I do not think the Defense has it as part of their exit process. Mr. Rhodes, are you aware of folks turning back any benefits?

Mr. RHODES. Yes, I am, Senator. And in fact, each of the—again, we have 70 military components and organizations that is subdivided down to we use 40 points of contact in those organizations. But in that element we do have requirements that they include that in their out-processing process. So I am not sure of what criteria exactly got you a check on the box. We may not have specifically formed it in the manner that gets a check in the box on the GAO report, but we do have that as a requirement in our processes.

Senator COLEMAN. The GAO indicated, at least the review in the DOT program, they estimated that 35 percent of DOD employees are improperly receiving the maximum amount of transit benefits. Does that number surprise you, Mr. Gimble?

Mr. GIMBLE. It does, frankly, a little bit. But our data mining effort that we ran on the 2005 records indicated about 28 percent of the data was not verifiable at that point in time. So I really do not have an opinion as to whether that is high or low.

Mr. RHODES. Senator, at the last check, about 51 percent of our enrollees have self-certified for the maximum benefit. I am not sure if the 35 percent is of that 51 percent.

Senator COLEMAN. I think of those receiving the maximum. The investigation for GAO only focused on those receiving maximum benefits. It did not include any others. So this whole GAO report really focuses on just a small slice of the universe of folks involved in the program.

Mr. RHODES. I know that we have about 51 percent that are certified for the max benefit, that they have self-certified and identified that amount. So if it is 35 percent of that number, that seems high. It will be interesting to see the information to try to see what we can do to modify.

Senator COLEMAN. The Subcommittee found at least one of the Federal employee unions actually offered to be helpful and work on this issue. They see it as a good program and there is concern about whether the program continues. What role, anybody, either Ms. Washington or Mr. Rhodes, role for the unions in helping to avoid some of the problems that the GAO found in this program?

Ms. WASHINGTON. We will certainly consider that. We had not considered that before. We certainly will consider that.

Senator COLEMAN. I think it would be, again, worth having the discussion.

I think I will conclude my questioning. I do believe again that Transportation can play a more active role in educating the other agencies about their responsibilities and providing them with some understanding of the types of things that should be done in application requirement verification and implementation, to have perhaps a better system of uniform and consistent penalties, again providing some leeway, obviously. But there should be some bottom line in all of this.

I think all of those would help prevent some of the abuse that the GAO report found. So I appreciate the efforts that have been already accomplished. I think there is more work to be done. I

would expect the agencies to file these materials with the Subcommittee and we will go from there. But I want to thank all of the witnesses for their testimony today.

With that, this hearing is now adjourned.

[Whereupon, at 4:18 p.m., the Subcommittee was adjourned.]

APPENDIX

United States Government Accountability Office

GAO

Testimony
Before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

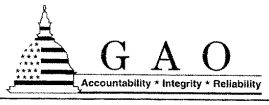
For Release on Delivery
Expected at 2:30 p.m. EDT
Tuesday, April 24, 2007

FEDERAL TRANSIT BENEFITS PROGRAM

Ineffective Controls Result in Fraud and Abuse by Federal Workers

Statement of Gregory D. Kutz, Managing Director
Forensic Audits and Special Investigations

John J. Ryan, Assistant Director
Forensic Audits and Special Investigations



GAO-07-724T

GAO
Accountability·Integrity·Reliability

Highlights

Highlights of GAO-07-724T, a testimony before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Under the federal transit benefits program, federal employees receive transit benefits (e.g., Metrocheks) to encourage them to commute to work via public transportation. Based on information provided by the Department of Transportation, as of July 2006, the National Capital Region had 120,000 participants claiming roughly $140 million in benefits. Recently, inspectors general (IG) of various agencies have found numerous prior instances of fraud, waste, and abuse in this federal program.

Based on both the significance of these IG findings and the amount of federal money spent on transit benefits, GAO was asked to (1) investigate allegations that federal employees in the National Capital Region are involved in fraud and abuse related to the transit benefits program, (2) identify the potential causes of any fraud or abuse that is detected, and (3) estimate the magnitude of fraud and abuse in the National Capital Region in 2006.

To address these objectives, GAO identified federal employees selling their transit benefits on the Internet and obtained additional data from these sellers' employing agencies to determine whether more widespread problems existed. GAO also obtained the policies and procedures governing the transit benefits program at each of the employing agencies.

www.gao.gov/cgi-bin/getrpt?GAO-07-724T

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gregory Kutz at (202) 512-9505 or kutzg@gao.gov.

April 24, 2007

FEDERAL TRANSIT BENEFITS PROGRAM

Ineffective Controls Result in Fraud and Abuse by Federal Workers

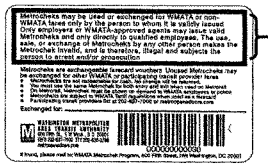
What GAO Found

After investigating just 3 days of sales, GAO confirmed that at least 20 federal employees were fraudulently selling their Metrocheks on eBay. Most of the employees GAO interviewed admitted to falsifying their transit benefit applications and fraudulently selling their benefits. One GS-14 Department of the Treasury employee drove to work, parked for free in agency-provided parking, and was still able to collect $105 per month in Metrocheks—most of which he sold on eBay. Posing as buyers, GAO investigators also purchased Metrocheks from 3 federal employees fraudulently selling their benefits on Craigslist, a popular community Web site.

GAO investigations revealed additional examples of federal employees inflating their transportation expenses on their transit benefit applications. Many of them admitted to intentionally falsifying their benefit applications to receive excess benefits. For example, a GS-11 Department of Transportation employee admitted to claiming the maximum allowable benefit of $105 per month when his actual commuting cost was only $54.

Weaknesses in the design of program controls at the Departments of Commerce, Transportation, State, Homeland Security, Defense, and Treasury, the Internal Revenue Service (IRS), the Patent and Trademark Office, and the U.S. Coast Guard can be associated with the fraudulent and abusive activity we identified. Although GAO did not conduct a comprehensive review of each agency's controls, the results from investigations illustrate flaws in the design of the controls. For example, GAO identified four employees who continued to receive transit benefits even though they were on extended absences from work, but none of the agencies had written policies requiring adjustment of benefits because of leave or travel.

Back of Metrochek with Warning Language



Metrocheks may be used or exchanged for WMATA or non-WMATA fares only by the person to whom it is validly issued. Only employers or WMATA-approved agents may issue valid Metrocheks and only directly to qualified employees. The use, sale, or exchange of Metrocheks by any other person makes the Metrochek invalid, and is therefore, illegal and subjects the person to arrest and/or prosecution.

Source: Federal agencies.

Using transit benefits records from seven of the nine agencies GAO reviewed, GAO determined that the amount of potentially fraudulent transit benefits claimed during 2006 in the National Capital Region was at least $17 million and likely more. This fraudulent amount could be millions more if a similar magnitude of fraud exists in the dozens of agencies GAO did not review, or if the other types of fraud GAO identified in this investigation could be quantified.

United States Government Accountability Office

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss allegations of fraud and abuse related to the federal government's transit benefits program. This program was established by executive order in April 2000, and is intended to reduce federal employees' contribution to traffic congestion and air pollution and to expand their use of public transportation. In the Washington, D.C., National Capital Region,[1] federal agencies are required to offer employees tax-free[2] transit passes for public transportation, to be used exclusively to cover their actual out-of-pocket commuting expenses. In 2006, employees could not receive more than $105 per month in transit passes.[3]

Agencies in the National Capital Region can either distribute these transit passes directly to employees or contract with the Department of Transportation for distribution. Based on information provided by Transportation, as of July 2006, the portion of the program they administer had approximately 250,000 participants who claimed about $250 million worth of benefits. The National Capital Region constituted the largest part of this program, with 120,000 participants claiming roughly $140 million worth of benefits. These numbers do not include agencies that do not contract with Transportation and administer their own programs.[4] As shown in figure 1, the transit passes themselves are issued by the Washington Metropolitan Area Transit Authority (WMATA) in the form of

[1] Executive Order 13150 defines the National Capital Region as "the District of Columbia; Montgomery, Prince George's, and Frederick Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties."

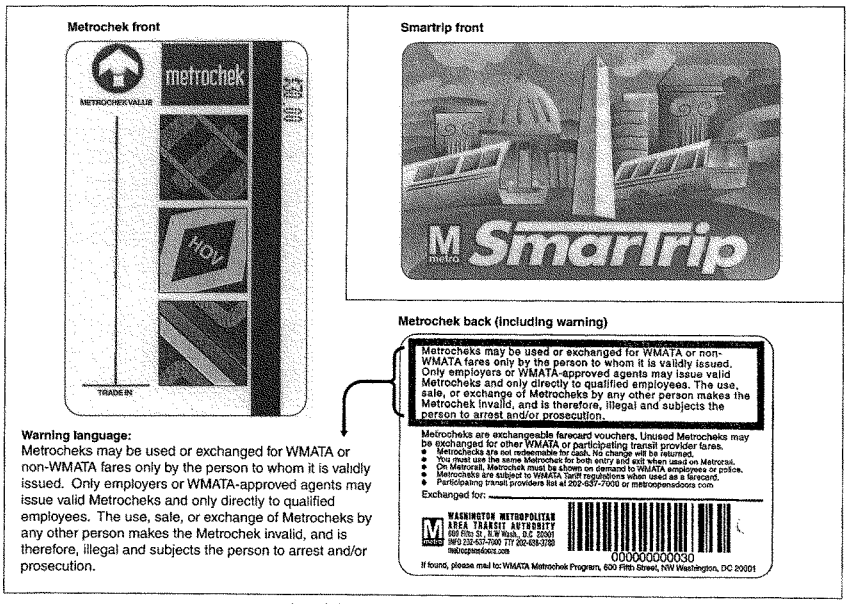
[2] As discussed later in this testimony, transit benefits used for commuting purposes by the intended recipient are tax free. However, income derived from the sale of transit benefits would be considered taxable income; sellers would be required to report these sales as part of their gross income.

[3] Pub. L. No. 109-59, §3049 (Aug. 10, 2005).

[4] Agencies that administer their own programs purchase Metrocheks or SmartBenefits directly from WMATA and manage the distribution in-house. If an agency contracts with Transportation, then Transportation obtains Metrocheks from WMATA and distributes the passes to employees or initiates the SmartBenefits deposit on an employee's SmarTrip card. Transportation charges a fee of nearly 5 percent for each dollar administered, with additional fees charged for in-building distribution, shipping, and vendor fees.

either Metrocheks, which are paper fare cards, or SmartBenefits,[5] which are electronic deposits to a transit debit card (called a SmarTrip card).

Figure 1: WMATA-Issued Metrochek and SmarTrip Card



Warning language:
Metrocheks may be used or exchanged for WMATA or non-WMATA fares only by the person to whom it is validly issued. Only employers or WMATA-approved agents may issue valid Metrocheks and only directly to qualified employees. The use, sale, or exchange of Metrocheks by any other person makes the Metrochek invalid, and is therefore, illegal and subjects the person to arrest and/or prosecution.

Source: GAO

[5] Slightly more than half of federal agencies in the National Capital Region participate in the SmartBenefits Program (i.e. give employees the option of receiving their benefits directly on their SmarTrip cards), and only three federal agencies require enrollment in SmartBenefits as part of the transit benefits program

As shown in the figure, WMATA labels paper Metrocheks with a warning indicating that they may only be issued to qualified employees by approved employers and that resale is illegal; SmarTrip cards are printed with a similar warning. The inspectors general (IG) of various agencies have identified numerous problems related to the transit benefits program, including ineligible employees receiving benefits and a lack of policies and procedures essential to preventing fraud, waste, and abuse.[6]

Based on both the significance of these IG findings and the amount of federal funds spent on transit benefits, you asked us to (1) investigate allegations that federal employees in the National Capital Region are involved in fraud and abuse related to the transit benefit program, (2) identify the potential causes of any fraud or abuse we detected, and (3) estimate the magnitude of fraud and abuse in the National Capital Region during 2006.

To conduct our work, we investigated allegations of Internet sales of transit benefits by federal employees in the National Capital Region. We confirmed selected sellers' federal employment status in consultation with federal IGs or offices of investigation and through Internet payment records. We interviewed a nonrepresentative selection of the sellers, examined their transit benefit applications, and prepared case studies detailing our findings. To determine whether other individuals at the sellers' employing agencies were fraudulently using their benefits, we data mined a nonrepresentative selection of transit benefit records, compared employee home and work addresses, conducted further interviews, and prepared additional case studies. To identify the potential causes of the fraud and abuse we detected, we reviewed the written transit policies and procedures at all the case study individuals' employing agencies. While we were unable to develop a precise estimate of the magnitude of the potentially fraudulent transit benefits claims made by federal employees in

[6]Treasury Inspector General for Tax Administration, *The Administration of the Public Transportation Subsidy Program Can Be Improved*, 2006-10-062, March 2006; Federal Communications Commission Office of the Inspector General, *Report on Audit of the FCC Transit Benefit Program*, 04-AUD-02-02, September 27, 2004; National Archives and Records Administration Office of the Inspector General, *Audit of NARA's Transit Benefit Program*, Audit# 04-07, March 31, 2004; Department of Defense Office of the Inspector General, *Financial Management: Allegations Concerning Controls Over DoD Transit Subsidies Within the National Capital Region*, D-2004-009, October 14, 2003; U.S. Government Printing Office of the Inspector General, *Report on Improving Controls over the Administering of GPO's Transit Benefit (Metrochek) Program*, 03-07-156, September 30, 2003.

the National Capital Region, we used available data to develop an order of magnitude estimate. Specifically, we analyzed limited data from the case study individuals' employing agencies and records from the National Finance Center. For more information on the data used to develop our calculations, see appendix I. It is important to note that we did not conduct a comprehensive audit of the federal transit benefits program. Rather, our investigation of allegations concerning individuals selling their benefits over the Internet led us to conduct limited investigations at specific agencies. Although we conducted corrective actions concerning our investigative findings with these agencies, as discussed later in this testimony, we are not issuing recommendations. We conducted our investigative work in accordance with standards prescribed by the President's Council on Integrity and Efficiency and conducted our audit work in accordance with generally accepted government auditing standards and conducted.

Summary

Our investigation confirmed allegations that federal employees in the National Capital Region committed fraud by deliberately requesting benefits they are not entitled to and then selling or using these benefits for personal gain.[7] These employees could be subject to prosecution for unlawful conversion under 18 U.S.C. §641. In addition, because the employees we investigated signed certifications[8] stating that they will only use their transit benefits to cover actual out-of-pocket commuting costs, they could be subject to criminal prosecution under the False Statements Act, 18 U.S.C. §1001. As described below, our case studies demonstrate abusive and potentially fraudulent activity by individuals employed at the Departments of Commerce, Transportation, State, Homeland Security, Defense, and the Treasury and at the Internal Revenue Service (IRS), the Patent and Trademark Office, and the U.S. Coast Guard.[9]

[7] The Association of Certified Fraud Examiners defines occupational fraud as "the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets."

[8] As discussed later in this testimony, four Transportation employees who we investigated claimed that they *did not* sign transit benefit certifications.

[9] IRS, Patent and Trademark, and the Coast Guard are subcomponents of Treasury, Commerce, and Homeland Security, respectively, but we investigated them separately because they administer their transit benefits programs separately.

- After investigating just 3 days of sales on the Internet auction site eBay, we identified 58 individuals selling Metrocheks,[10] selected 20 for investigation, and determined that these 20 were in fact federal employees. Collectively, these 20 federal employees have fraudulently sold more than $21,000 worth of Metrocheks on eBay over the past 2 years. In subsequent interviews with 13 of the 20 eBay sellers, we found cases where federal employees received parking benefits in addition to Metrocheks, were on extended leave from work, or did not even use public transportation to commute to work. One GS-14 information technology specialist for IRS drove to work, parked for free in agency-provided parking, and was still able to collect $105 per month in transit benefits—most of which he sold on eBay. In addition, none of the 13 individuals we interviewed reported income earned from Metrochek sales on their federal tax returns.

- Posing as buyers, our investigators purchased $840 worth of benefits from three federal employees fraudulently selling their Metrocheks on Craigslist, a popular community Web site. For example, one of our investigators purchased $420 worth of Metrocheks for $350 from an Air Force captain who advertised on the site. The captain corresponded with our investigator using his military e-mail address and told our investigator that he would show up at the designated meeting spot in his "Air Force service dress uniform." Our investigator tried to get the captain to sell him the benefits for less money, but the captain refused and told our investigator that his wife had gotten angry at him for accepting less than the agreed-upon fee the last time he sold his transit benefits. After our investigator completed the purchase, the captain explained that he usually "slugs" (i.e., rides for free with another driver, thus incurring no commuting costs) to work and therefore does not use his transit benefits. He indicated that this was not the first time he had sold his benefits and he offered to enter into an ongoing "partnership" with our investigator to sell his benefits on a quarterly basis.

- Further investigation at the agencies where the eBay and Craigslist sellers worked also demonstrated that federal employees are not using their transit benefits to cover actual out-of-pocket commuting costs. Through data mining of information submitted on transit benefit records, we found many employees who appeared to provide inaccurate and inflated commuting cost information on their transit benefit applications and we developed case studies on 23 of these

[10] This number includes individuals identified by the subcommittee.

individuals. Specifically, based on a comparison of their home and work addresses, these 23 individuals claimed more benefits than they needed to commute to work. During our interviews, 11 admitted to deliberately falsifying their applications in order to obtain excess transit benefits for personal use. One GS-11 associate director at Transportation admitted to claiming the maximum transit benefit of $105 per month when his actual commuting cost was only $54 per month. This individual, who received his benefits on a SmarTrip card under the SmartBenefits program, admitted to using the excess $51 per month for personal travel.

- Although our objective was to investigate allegations related to federal employees, our data mining revealed other troubling information related to the abuse of the transit benefit program by nonfederal employees. For example, we identified 28 individuals who have received transit benefits from federal agencies even though they do not appear to work for these agencies, 9 individuals who separated from the agencies but did not return their unused benefits, and 4 former federal employees who continued to receive benefits after leaving their respective agencies. For example, one Commerce employee left the department in 2001, but records indicate that Commerce mailed her $65 per month in transit benefits until she moved to a new address in 2006.

Weaknesses in the design of program controls at Commerce, Transportation, State, Homeland Security, Defense, Treasury, IRS, Patent and Trademark, and the Coast Guard can be associated with the fraudulent and abusive activity we identified. Each of these agencies has its own process for management and oversight; there are no governmentwide policies or standards establishing internal controls for the federal transit benefits program. Although we did not conduct a comprehensive review of each agency's controls, the results from investigations illustrate flaws in the design of the controls. For example, we developed case studies on four employees who admitted that they continued to receive transit benefits even though they were on extended absences from work. However, none of the agencies adjust benefits because of leave or travel. In addition, we developed case studies on two employees who admitted that they receive both parking and transit benefits, but only three agencies established control procedures intended to ensure that transit benefit recipients were not also receiving parking benefits.

Finally, using transit benefits records from seven of the nine agencies[11] reviewed, we determined that the amount of potentially fraudulent transit benefits claimed during 2006 in the National Capital Region was at least $17 million and likely more. This fraudulent amount could be millions more if a similar magnitude of fraud exists in the dozens of agencies we did not review, or if the other types of fraud we identified in this investigation could be quantified.

Case Studies Illustrate Fraudulent and Abusive Activity Associated with Federal Transit Benefit Program

Despite signing certifications stating that they will only use their transit benefits to cover actual out-of-pocket commuting costs, federal employees in the National Capital Region are committing fraud or violating the False Statements Act[12] by requesting benefits they do not need and then selling or using these benefits for personal gain. Specifically, we developed case studies on individuals employed at Commerce, Transportation, State, Homeland Security, Defense, Treasury, IRS, Patent and Trademark, and the Coast Guard.[13] These case studies illustrate how federal employees fraudulently sold Metrocheks on eBay and Craigslist. Our case studies also illustrate how federal employees requested benefits in excess of their actual commuting costs, based on a comparison of their home and work addresses. In addition, during the course of our investigative work, we found evidence indicating that a number of individuals are in possession of federal transit benefits even though these individuals do not appear to work for the federal government.

Federal Employees Must Certify That They Are Eligible for Benefits and Will Not Sell Benefits or Overstate Commuting Costs

Employees at all of the agencies at which we conducted our investigative work are required to sign a certification statement as part of the transit benefit application process. As shown in figure 2, this certification typically confirms that the employee is eligible for benefits, will not sell or transfer the benefits, and is not requesting more than the needed amount of benefits. Some certifications also require employees to confirm that they do not have federally subsidized parking permits. In addition, the applications contain a false statement warning to inform employees that any false, fictitious, or fraudulent statements on their signed applications and may subject them to criminal prosecution.

[11] Commerce, Transportation, Homeland Security, Defense, Treasury, IRS and the Coast Guard.

[12] 18 U.S.C §1001.

[13] IRS, Patent and Trademark, and the Coast Guard are subcomponents of Treasury, Commerce, and Homeland Security, respectively, but we investigated them separately because they administer their transit benefits programs separately.

Figure 2: Examples of Transit Benefit Certifications and False Statement Warning

Federal transit benefit certification statements

False Statement Warning
All transit benefit applications contain a false statement warning.

WARNING: This certification concerns a matter with the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under Title 18, United States Code, Section 1001, Civil Penalty Action, providing for administrative recoveries of up to $10,000 per violation, and/or agency disciplinary actions up to and including dismissal.

"...making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under Title 18, United States Code, Section 1001..."

Statement of employment at organization
All employees are asked to certify that they are employed by the organization which provides transit benefits.

"I certify that I am a (name of federal agency) employee."

Statement of eligibility/Warning against transfer or sale
All employees are asked to certify that they are eligible for benefits and will not transfer or sell benefits.

" I hereby certify that I am eligible for a transit subsidy for use on public transportation, am obtaining it as my primary means of commuting to and/or from work, and will not transfer, give, sell, or trade it to anyone else."

"I hereby certify that I...will not transfer, give, sell, or trade it to anyone else."

Statement of accurate benefit amount
All employees are asked to certify that the benefits that they receive do not exceed the communting costs they incur.

"I certify that the monthly transit benefit I am receiving does not exceed my monthly commuting cost."

"I certify that the monthly transit benefit I am receiving does not exceed my monthly commuting cost."

Statement of commuting costs
All employees are asked to certify the amount of monthly commuting costs incurred.

"I certify that I usually spend $_____ PER MONTH for my commute to and from work."

Other statements
Some employees may certify these statements:

"I am not named on a federally subsidized workplace-parking permit."

"If I cease to use public transportation on a regular basis, I will notify the administrator of the program no later than 5 days after the change..."

Federal employee's signature

_____
Signature

Source: Federal agencies

If requesting SmartBenefits, employees must provide the serial number of their WMATA-issued SmarTrip card so that their benefits can be directly deposited to the card. If employees receive paper Metrocheks, they are required to sign another document when they pick up the Metrocheks. This form reiterates that the employee will not sell or transfer the Metrocheks and will not claim excess benefits. In addition, as shown in figure 1, Metrocheks are labeled with a warning indicating that they may only be issued to "qualified" employees and that resale is illegal. SmarTrip Cards feature a similar warning.

Case Studies Illustrate Fraudulent Sale of Metrocheks on eBay

We identified 58 individuals[14] selling Metrocheks on eBay on July 24, August 7, and August 23, 2006, and confirmed that at least 20 of these individuals were in fact federal employees. Collectively, these 20 employees fraudulently sold more than $21,000 worth of Metrocheks over the last 2 years and could be subject to prosecution for unlawful conversion under 18 U.S.C. §641. In addition, because the employees we investigated signed certifications[15] stating that they will only use their transit benefits to cover actual out-of-pocket commuting costs, they could be subject to criminal prosecution under the False Statements Act, 18 U.S.C §1001. In subsequent interviews with 13 of the 20 eBay sellers, we found instances where federal employees received parking benefits in addition to Metrocheks, were on extended leave from work, or did not even use public transportation to commute to work. In addition, none of the individuals we interviewed reported the income generated from the illegal sale of Metrocheks on their tax returns and they would be required to report these sales as part of their gross income. Table 1 highlights the information we obtained on 8 of these individuals through eBay, PayPal (an Internet payment service), and our interviews. More detailed information on 4 of the cases follows the table. For a list of all 20 federal employees selling Metrocheks on eBay, see appendix II.

[14] This number includes individuals identified by the subcommittee.

[15] As discussed later in this testimony, four Transportation employees who we investigated claimed that they *did not* sign transit benefit certifications.

Table 1: Case Studies of Federal Employees Who Fraudulently Sold Metrocheks on eBay

Case	Seller's employing agency	Salary level	Number of sales over the past 2 years	Face value of Metrocheks sold	Case details
1	Transportation	GS-14	12	$1,080	Does not always use public transportation
2	Treasury	GS-14	6	1,380	Does not always use public transportation
3	IRS[a]	GS-14	3	930	Receives parking benefits
4	CG[b]	GS-12	3	900	Uses public transportation, but claims more benefits than needed for commute to work
5	Transportation	GS-14	6	789	Received benefits while on maternity leave
6	State	GS-12	10	1,500	Received benefits while on travel; does not always use public transportation
7[c]	Defense	E-6	61	6,000	Do not always use public transportation
8[c]	Defense	GS-7			

Source: GAO.

[a]IRS administers its own transit program and has different processes for management and oversight than Treasury as a whole.

[b]The Coast Guard administers its own transit program and has different processes for management and oversight than Homeland Security as a whole.

[c]Cases 7 and 8 are a married couple selling their Metrocheks from the same eBay account. See details below.

Case 1: Seller has been employed as a GS-14 specialist at Transportation's Federal Motor Carrier Safety Administration since 1990. Seller has received the maximum amount of transit benefits since he first entered the transit benefit program in November 2004. Seller explained that he accumulated excess benefits over time by using other means of transportation to and from work, including "slugging," riding with a neighbor, and driving his motorcycle. Seller readily admitted to selling his transit benefits on eBay on multiple occasions for personal gain (12 lots of Metrocheks valued at a total of $1,080), but stated that he did not know it was illegal to sell his transit benefits—despite the warning printed on every Metrochek and the certification statement he signed on his application and each time he picked up his benefits.

Case 3: Seller is a GS-14 information technology specialist and has been employed by IRS since 2003. Seller has received the maximum amount of transit benefits since he first entered the transit benefit program in February 2004. Seller also receives parking benefits from IRS and accumulated excess benefits over time by driving to work and parking in an agency-owned parking space for free. Seller admitted to selling his transit benefits on eBay for personal gain on multiple occasions (three lots

of Metrocheks valued at a total of $930). Seller's eBay account history also reflected the sale of computers, and after some questioning by investigators, seller confessed that he had stolen numerous computers and computer parts from IRS, which he subsequently sold on eBay. We referred the case to the Treasury Inspector General for Tax Administration. The employee has since been placed on administrative leave indefinitely and without pay and was indicted for theft of government property on February 7, 2007.

Case 5: Seller is a GS-14 attorney for the Federal Highway Administration and has been employed at Transportation since 1990. Seller confirmed that she has received the maximum benefit since first entering the program in 1999. She explained that she accumulated excess benefits in two ways: (1) she continued to claim transit benefits while on maternity leave and (2) she works from home at least 1 day a week. Although she has recently been working from home more frequently, she still claims the maximum benefit. Seller admitted to selling her transit benefits on eBay on multiple occasions (six lots of Metrocheks valued at a total of $789), but stated that she did not know it was illegal to sell her transit benefits—despite the warning printed on every Metrochek and the certification statement she signed on her application and each time she picked up her benefits.

Cases 7 and 8: These sellers are a married couple both working for Defense. The wife, an administrative leading petty officer, has been receiving almost $100 per month since first entering the program in September 2005. The husband, a financial technician, has been receiving the maximum benefit since first entering the program in March 2003. Both sellers acknowledged that they accumulated excess benefits over time by driving to work. The husband admitted to selling his transit benefits on eBay on multiple occasions (61 lots of Metrocheks valued at a total of $6,000). The wife, although she admitted she used her transit benefit for personal travel, denied selling her benefits on eBay. However, the names of both spouses appear on the eBay account selling Metrocheks.

Investigations Show Federal Employees Fraudulently Sold Metrocheks on Craigslist

Posing as buyers, our investigators purchased $840 worth of benefits from three federal employees fraudulently selling their Metrocheks via Craigslist, a popular community Web site. First, investigators purchased $210 worth of Metrocheks for $160 from a GS-12 State Department employee who posted on the site. The seller also asked to be paid with cash because she wanted to buy Christmas presents for her friends. After purchasing the Metrocheks, investigators identified themselves as a federal agents conducting investigation and reminded the seller that she

had signed certifications stating that she would not sell transit benefits. The seller insisted that she did not know it was illegal to sell benefits and also stated that she was selling extra Metrocheks left over from a previous government job. However, in e-mail correspondence prior to the sale, the seller told one of our investigators that she would be able to sell him benefits on a continuing basis, four times per year. We confirmed that she receives $255 in Metrocheks four times a year from the State Department.

Investigators next purchased Metrocheks from an Air Force captain who advertised on the site. The captain corresponded with our investigator using his military e-mail address, as shown in figure 3.

Figure 3: E-mail Correspondence from Air Force Captain

<[redacted]@pentagon.af.mil>

I'll hold all $450 worth of MetroCheks for you at a price of $360.

I did not bring them to work with me today. I'll bring them tomorrow. As far as the hand-off goes, I have to be in the Reagon Building at 4:30 for a presentation. I should be done with that at 5:00. I will go to the L'Enfant Metro and then Metro to where you want to meet.

So, let's meet between 5:15 and 5:30 at a Metro of your choosing tomorrow. I will be in my Air Force service dress uniform. It is the Air Force's version of a business suit, but it has all the awards and everything on it. You should be able to spot me pretty easily.

Source: GAO

When our investigator arrived at the meeting spot, he told the captain that he only had $350 and asked if that would be enough to purchase the entire $450 worth of Metrocheks. The captain said no, and told our investigator that his wife had gotten angry at him for accepting less than the agreed-upon fee the last time he sold his transit benefits. Ultimately, our investigator purchased $420 worth of benefits for $350. After the exchange, the captain explained that he usually "slugs" to work and therefore does not use his transit benefits. He also offered to enter into an ongoing partnership with our investigator to sell his benefits on a quarterly basis. Our investigator did not identify himself as a federal agent because the Air Force Office of Special Investigations indicated that it would like to continue to develop a case against this seller.

Finally, our investigator purchased $210 worth of Metrocheks for $190 from a former GS-11 international trade specialist with Commerce. This employee resigned from Commerce on and then arranged to sell her

benefits to our investigator one week later. After our investigator purchased the Metrocheks, the seller explained that she was moving overseas and would no longer be collecting benefits. She also explained that she had typically walked to work at Commerce, so she did not really need the benefits in the first place. Our investigator did not identify himself as a federal agent because the IG at Commerce wanted to pursue further action against this seller by withholding her final paycheck.

Other Investigative Case Studies Illustrate How Federal Employees Abuse the Transit Benefit Program

Further investigation at the agencies where the eBay and Craigslist sellers worked also demonstrated that federal employees are not using their transit benefits to cover actual out-of-pocket commuting costs. Through data mining of information submitted on transit benefit applications, we found many employees who appeared to provide inaccurate and inflated commuting cost information on their transit benefit applications. We developed case studies on 23 of these individuals. Specifically, based on a comparison of their home and work addresses, these 23 individuals claimed more benefits than they needed to commute to work. Eleven of these individuals admitted to deliberately falsifying their applications in order to obtain excess transit passes for personal use. Table 2 highlights the information we obtained on 10 of these cases through our data mining and interviews. More detailed information on 3 of the cases follows the table. For a list of all 23 individuals, see appendix III.

Table 2: Case Studies of Federal Employees Providing Inaccurate and Inflated Commuting Cost Information on Their Applications

Case	Applicant's employing agency	Salary level	Excess benefits claimed per year	Case details
1	Commerce	GS-5	$480	Refused to tell investigators what excess benefits were used for
2	IRS	GS-13	612	Used benefits for personal travel
3	Treasury	GS-8	660	Purchased transit tokens for son; sold benefits to contractors and friends
4	Treasury	GS-14	540	Gave benefits to visiting friends
5	Transportation	GS-13	444	Stored excess benefits at home
6	Transportation	GS-11	612	Used benefits for personal travel
7	Defense	Not available	660	Used benefits for personal travel; received parking benefits
8	Defense	Not available	660	Used benefits to pay for transportation of her children to daycare
9	Coast Guard	GS-9	228	Gave benefits to family and friends; used benefits for personal travel; accumulated excess benefits during extended absences from work
10	Homeland Security	Not available	228	Refused to tell investigators what excess benefits were used for

Source GAO.

Case 3: Employee is a GS-8 secretary at Treasury. She has participated in the transit benefits program since September 2000 and admitted to knowingly providing false information on her transit benefit application by claiming the maximum benefit of $105 per month when her actual commuting cost is $50 per month. As provided on the application signed by the employee, this false statement may constitute a violation of 18 U.S.C §1001 and renders the employee subject to criminal prosecution. She further admitted to using her $55 in excess Metrocheks each month to purchase transit tokens for her son to use to travel to school. Employee also admitted to selling her excess benefits to Treasury contractors (who are not eligible to receive federal transit benefits) and to friends in her community. Employee stated that she deliberately overestimated the amount of money she needed to commute to and from work on her transit benefit application in order to have excess benefits to sell to friends.

Case 4: Employee is a GS-14 deputy director at Treasury. Employee has participated in the transit benefits program since 2003 and admitted to knowingly providing false information on his transit benefit application by claiming the maximum benefit of $105 per month when his actual

commuting cost is $60 per month. As provided on the application signed by the employee, this false statement may constitute a violation of 18 U.S.C §1001 and renders the employee subject to criminal prosecution. Employee stated that he distributed some of his excess Metrocheks to friends visiting Washington D.C.

Case 9: Employee is a GS-9 working in the Health and Safety Division at the Coast Guard. Employee has participated in the transit benefits program since 1996 and admitted to knowingly providing false information on her transit benefit application by claiming the maximum benefit of $105 per month when her actual commuting cost is $86 per month. She also admitted that she accumulated excess benefits by continuing to receive benefits even though she has been taking extended amounts of leave. As provided on the application signed by the employee, this false statement may constitute a violation of 18 U.S.C §1001 and renders the employee subject to criminal prosecution. She also acknowledged that she intentionally abused her benefits by using them for personal travel and distributing them to her sister and friends.

Nonfederal Employees in Possession of Transit Benefits

Although our objective was to investigate allegations related to federal employees, our data mining revealed other troubling information related to the abuse of the transit benefit program by nonfederal employees. Specifically, through our data-mining efforts, we were able to identify employees at Commerce, Coast Guard, Treasury, IRS, and Homeland Security who may have collected transit benefits even though they did not currently work for the federal government. We requested additional identification information on these individuals from the agencies and subsequently found 28 individuals who have received transit benefits even though they do not appear to work for the agencies, 9 individuals who left their agencies but did not return their unused benefits, and 4 former federal employees who continued to receive benefits after leaving their respective agencies.

- Commerce confirmed that one of the individuals we identified continued to receive transit benefits after separating from the agency. Records indicate that this employee left the department in 2001, but Commerce continued to mail her $65 per month in benefits until she moved to a new address in 2006. Commerce also confirmed that three of the other individuals we identified separated from the agency, but did not return their unused transit benefits. For example, one Commerce employee picked up $300 worth of benefits on July 3, 2006, and then left the agency on July 5, 2006.

- The Coast Guard confirmed that one employee we identified picked up transit benefits after separating from the agency. In addition, one of the individuals we asked the Coast Guard to identify has never worked there; the agency could find no employment records on this individual even though he picked up transit benefits under Coast Guard's transit program.

- Treasury confirmed that one employee we identified picked up benefits at least five times after separating from the agency. In addition, Treasury confirmed that another employee picked up benefits and then separated from the agency the very next day, and another picked up benefits and left the agency 9 days later. Neither of these individuals returned any of their unused benefits to Treasury. Finally, 25 of the individuals we asked Treasury to identify have never worked there; the agency could find no employment records on these individuals even though they picked up transit benefits under Treasury's transit program.

- IRS confirmed that four of the employees we identified picked up benefits and left the agency shortly thereafter without returning benefits. For example, one employee picked up the $315 worth of benefits on July 6, 2006, and then left the agency on August 4, 2006. In addition, one of the individuals we asked IRS to identify has never worked for IRS; the agency could find no employment records on this individual even though he picked up transit benefits under IRS's transit program.

- We did not receive a response from Homeland Security by the close of our investigation.

Weaknesses in Program Controls May Contribute to Fraud and Abuse

Weaknesses in the design of program controls at Commerce, Transportation, State, Homeland Security, Defense, Treasury, IRS, Patent and Trademark, and the Coast Guard can be associated with the fraudulent and abusive activity we identified. Each of these agencies has its own process for management and oversight; there are no governmentwide policies or standards establishing internal controls for the federal transit benefit program. Although we did not conduct a comprehensive review of each agency's controls, the results from our interviews and data mining illustrate flaws in the design of the controls. Figure 4 details the critical elements included in each agency's written policies and procedures.

Figure 4: Comparison of Written Transit Benefit Program Controls

	Dept of Transportation	Dept of Commerce	Patent and Trademark Office	Dept of Treasury	Internal Revenue Service	Dept of State	Dept of Defense	Dept of Homeland Security	Coast Guard
Application requirements									
Home address		✓	✓		✓			✓	✓
Work address	✓	✓			✓		✓	✓	✓
Commuting cost breakdown		✓	✓		✓				
Certification statement	✓	✓	✓	✓	✓	✓	✓	✓	✓
False statement warning	✓	✓	✓	✓	✓	✓	✓	✓	✓
Verification									
Commuting cost verified by approving official									
Eligibility verified by approving official	✓				✓	✓			
Implementation									
Applicants checked against parking benefits records	✓						✓	✓	
Benefits adjusted due to travel, leave, or change of address									
Removal from transit benefits program included in exit procedures	✓				✓				

Source: GAO.

Note: State, in its protocols, indicates that supervisors have the option of requesting additional information from employees to verify their commuting costs (but this is not a requirement). Defense, in its protocols, indicates that component agencies should set up offices to establish and implement internal controls, but we did not receive any documentation indicating that these offices were set up or that internal control procedures were set at the component-agency level.

The following are examples of our investigative findings illustrating weaknesses in the design of agencies' transit benefit controls.

- We interviewed 23 individuals who provided inaccurate commuting costs on their applications, based on a comparison of their home and work addresses. However, none of the agencies had written policies in place at the time of our review requiring an approving official to verify that employees provided accurate commuting costs. Transportation, Treasury, State, and Defense do not even require employees to provide their home addresses on their applications, which may make it even more difficult to determine whether commuting costs are valid. Furthermore, only three agencies (IRS, Commerce, and Patent and Trademark) require employees to provide a commuting cost breakdown to demonstrate that they are entitled to the benefits they are requesting.

- Four employees admitted to us that they continued to receive transit benefits even though they were on extended absences from work. However, none of the agencies use information that employees provide in the normal course of working for the government—such as changes of address on their W-2 forms, taking annual leave, or traveling on business—to adjust benefits because of leave or travel. In addition, only three agencies (Transportation, IRS, and State) have an approving official review employees' eligibility to receive benefits.

- Two employees admitted to us that they received both parking and transit benefits, but only three agencies (Transportation, Homeland Security, and Defense) had a process in place to ensure that transit benefit recipients were not also receiving parking benefits.

- We identified four former federal employees who continued to receive transit benefits even after they left their agencies. However, only two agencies (Transportation and IRS) ensure that employees who leave the agencies are removed from the transit benefits distribution list.

- We found 28 individuals who have received transit benefits from federal agencies even though they do not appear to work for these agencies. However, only three agencies (Transportation, IRS, and State) verify employee eligibility.

- As discussed earlier in this testimony, figure 4 shows that all the agencies required applicants to sign a written certification stating that they are eligible to participate in the transit benefits program, that they do not receive parking benefits, and that their transit benefits will be used for their work commute only. However, during the course our investigations, we interviewed four employees at Transportation who all claimed that they were only asked to provide an oral estimate of their commuting costs. None of the employees recall filling out or signing an application form. We

asked Transportation to provide us with copies of these applications in order to validate the employees' claims. In response, the department provided us with electronic copies of the applications in question, but these applications do not contain employee signatures.

Federal Employees Likely Made More than $17 Million in Potentially Fraudulent Transit Benefit Claims

Using limited employee data and transit benefit records, we determined that the amount of potentially fraudulently transit benefits claimed during 2006 in the National Capital Region was at least $17 million and likely millions more. This magnitude is based on the roughly $70 million in transit benefits claimed by employees at Commerce, Transportation, Homeland Security, Defense, Treasury, IRS, and the Coast Guard.[16] The total amount of fraud could be millions more if a similar magnitude of fraud exists in the dozens of agencies that we did not review, or if the other types of fraud GAO identified in this investigation could be quantified.

Our investigations and audit work revealed that many of the employees at these seven agencies provided inaccurate commuting cost information on their transit benefit applications. We determined this by examining transit benefit data for about 4,000 individuals working at the headquarters offices of these seven agencies and claiming roughly $4 million worth of benefits. Specifically, we identified a set of zip codes for each of the seven agency headquarters buildings and found that employees living within these zip codes could not legitimately claim the maximum allowable benefit of $105 per month, no matter what combination of Metrobus and Metrorail they used to commute to their places of employment. Based on this analysis, we determined that the 4,000 individuals we examined were not entitled to the maximum transit benefit amount. However, we found that hundreds of these individuals did in fact request this maximum amount, claiming more benefits than they needed to commute to work. Although these individuals may have been eligible for a portion of the transit benefits they requested, their applications should not have been approved because they signed certifications stating that they would not request benefits in excess of their monthly commuting costs (see figure 2). As provided on the applications submitted by these employees, such overstated requests constitute a potential violation of the False Statements

[16] We could not include State or Patent and Trademark in this part of the investigation for the following reasons: (1) State does not provide adequate data to either Transportation or the National Finance Center databases and (2) Patent and Trademark does not use Transportation to administer its transit benefit program.

Act, 18 U.S.C. §1001. Because of these overstatements, we found that $1 million of the transit benefits that these individuals claimed were potentially fraudulent. This $1 million represented about 25 percent of the $4 million claimed by the 4,000 individuals we examined at these seven agencies. We then applied this fraudulent claim rate to the roughly $70 million claimed by employees participating in the transit benefits program at the seven agencies in the National Capital Region during 2006.

Based on this collective audit and investigative work, we found that employees at the seven agencies could have made fraudulent claims totaling more than $17 million. Given the number of agencies not covered by our analysis, it is likely that this amount is significantly understated and could be millions more. In particular, the $17 million in potentially fraudulent claims does not include the other agencies that contract with Transportation for distribution or the agencies that administer their own transit benefits programs. Moreover, this order of magnitude only includes individuals who work at the headquarters offices of the aforementioned seven agencies and who claimed the maximum benefit per month. It does not include individuals who work at offices other than headquarters or who have potentially made fraudulent claims for less than the maximum amount. The order of magnitude also excludes many of the other types of fraud and abuse we reported in our case studies, such as individuals who claim benefits but do not use them because they use agency parking or "slug" to work, or individuals who received federal transit benefits even though they do not work for the federal government. For more information on the data used to develop our calculations, see appendix I.

Corrective Actions

During the course of investigation, we communicated the results of our work to the IGs and/or the offices of special investigation at Commerce, Transportation, State, Homeland Security, Defense, Treasury, IRS, Patent and Trademark, and the Coast Guard. At the close of our investigation, we referred the individuals we identified as fraudulently selling Metrocheks on eBay and Craigslist to the appropriate agency IG and/or office of investigation for criminal and/or administrative action. We similarly referred the individuals who provided inaccurate and inflated commuting cost information on their applications, the individuals who have received transit benefits from federal agencies even though they do not appear to work for the agencies, the individuals who left their agencies but did not return their unused benefits, and the former federal employees who continued to received benefits after leaving their respective agencies. In addition, we held corrective action briefings on April 4, April 17, and April

18, 2007, to provide the agencies with an overview of our investigation and our findings.

Conclusion

WMATA now plans to eliminate the Metrochek program and offer only SmartBenefits by January 2008. Because SmartBenefits are less negotiable than paper Metrocheks, this action may stop some federal employees from fraudulently selling their transit benefits. But a switch to SmartBenefits will not prevent the other types of fraud and abuse we identified. As shown by our investigation, federal employees have taken advantage of the lack of effective management, oversight, and control of the program. For example, unless commuting costs are verified, employees may still request and receive more benefits than they need. Moreover, as demonstrated by individuals we interviewed who admitted to deliberately falsifying their applications for benefits, federal workers can commit transit benefit fraud without suffering any adverse consequences. Agencies should take aggressive actions against employees who we identified as committing fraud, and look to put reasonable controls in place that can minimize fraud and abuse in this program.

Mr. Chairman and members of the subcommittee, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

Contacts and Acknowledgments

For further information about this testimony, please contact Gregory D. Kutz at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. In addition to the individual named above, Valerie Blyther, Shafee Carnegie, Jennifer Costello, Paul Desaulniers, Craig Fischer, Janice Friedeborn, Dennis Fauber, Matthew Harris, Adam Hatton, Jason Kelly, John Kelly, Barbara Lewis, James Madar, Andrew McIntosh, Richard McLean, Gertrude Moreland, Crystal Lazcano, Jennifer Leone, John Ryan, Viny Talwar, Walter Vance, and Tami Weerasingha.

Appendix I: Potential Magnitude of Fraudulent Claims

To provide an order of magnitude of the employees fraudulently claiming transit benefits within the National Capital Region, we identified a selection of federal employees who met a specific set of criteria and evaluated the validity of their transit benefit application data. First, we narrowed our scope to seven agencies—Commerce, Treasury, IRS, Defense, Homeland Security, Coast Guard, and Transportation—where we identified employees selling their transit benefits on the Internet and for whom we had sufficient data.[1] We further narrowed our scope by limiting our analysis to federal employees working at the headquarters buildings of these seven agencies. We then identified a set of zip codes for each of the seven agency headquarters buildings. Employees living within these zip codes could not legitimately claim the maximum allowable benefit of $105 per month, no matter what combination of Metrobus and Metrorail they used to commute to their places of employment. We identified approximately 4,000 federal employees at the seven agencies that lived within these zip codes, and determined that approximately 19 percent of them may have fraudulently claimed the maximum benefit by providing false statements on their applications in violation of 18 U.S.C. § 1001. These potentially fraudulent claims represent about 25 percent of the $4 million claimed by the total selection of 4,000 employees. We then applied this fraudulent claim rate to the roughly $70 million claimed by employees participating in the transit benefit program at the seven agencies in the National Capital Region during 2006 and determined that the possible magnitude of potentially fraudulent transit benefit claims was more than $17 million.

In this analysis, public transportation costs were calculated as the actual costs incurred as a result of utilizing a combination of Metrobus and/or Metrorail to commute to and from a place of employment. We used peak fares (as opposed to nonpeak fares) for our calculations, because we assumed that transit benefit participants were working during normal business hours. We also assumed that the employees did not take any sick or annual leave and worked at their headquarters offices five days per week. In other words, we assumed that the employees did not have alternative work schedules (i.e., they did not work four 10 hour days) and they did not telecommute.

[1] We could not include State or Patent and Trademark in our analysis for the following reasons: (1) State does not provide adequate data to either Transportation or the National Finance Center databases and (2) Patent and Trademark does not use Transportation to administer its transit benefit program.

We used information from the Department of Transportation (which is responsible for administering the program for the selected agencies) and the National Finance Center to identify employees from the seven selected agencies whose homes of record are located within our defined area and who were also claiming the maximum benefit. To confirm our conclusions concerning these individuals, we tested a nonrepresentative selection of our potentially fraudulent cases, identified their home address, and used the Washington Metropolitan Area Transit Authority's online Trip Planner to determine the participant's actual daily, and then monthly, public transportation costs. We interviewed these participants and confirmed that the individuals we selected were not entitled to the maximum benefit.

Appendix II: Federal Employees Fraudulently Selling Metrocheks on eBay

The table below provides a complete listing of information on all the 20 eBay sellers we identified as federal employees. Note that we did not interview sellers 14-20.

Table 3: Federal Employees Fraudulently Selling Metrocheks on eBay

Case	Seller's employing agency	Salary level	Number of sales over the past 2 years	Face value of Metrocheks sold	Case details
1	Transportation	GS-14	12	$1,080	Does not always use public transportation
2	Treasury	GS-14	6	1,380	Does not always use public transportation
3	IRS[a]	GS-14	3	930	Receives parking benefits
4	Coat Guard[b]	GS-12	3	900	Uses public transportation, but claims more benefits than needed for commute to work
5	Transportation	GS-14	6	789	Received benefits while on maternity leave
6	State	GS-12	10	1,500	Received benefits while on travel; does not always use public transportation
7	Defense[c]	E-6	61	6,000	Does not always use public transportation
8	Defense[c]	GS-7			
9	Commerce	GS-14	11	420	Claims that Metrocheks sold on eBay were purchased from a third party and not obtained from the federal government; we could not validate these claims
10	Patent and Trademark[d]	GS-9	4	417	Received parking benefits in addition to transit benefits
11	Defense	E-6	8	2,370	Does not always use public transportation
12	Defense	GS-12	12	1,090	Does not always use public transportation
13	Patent and Trademark[d]	GS-7	1	400	Claims that Metrocheks sold on eBay were purchased from a third party and not obtained from the federal government; we could not validate these claims
14	Defense	We did not obtain this information.	2	230	We did not interview this seller
15	State	We did not obtain this information.	4	120	We did not interview this seller
16	Defense	We did not obtain this information.	7	825	We did not interview this seller

Case	Seller's employing agency	Salary level	Number of sales over the past 2 years	Face value of Metrocheks sold	Case details
17	Labor	We did not obtain this information.	10	1,180	We did not interview this seller
18	Defense	We did not obtain this information.	4	600	We did not interview this seller
19	IRS[a]	We did not obtain this information.	4	360	We did not interview this seller
20	Defense	We did not obtain this information.	3	378	We did not interview this seller

Source: GAO.

[a]IRS administers its own transit program and has different processes for management and oversight than Treasury as a whole.

[b]Coast Guard administers its own transit program and has different processes for management and oversight than Homeland Security as a whole.

[c]Cases 7 and 8 are a married couple selling their Metrocheks from the same eBay account.

[d]Patent and Trademark administers its own transit program and has different processes for management and oversight than Commerce as a whole.

Appendix III: Federal Employees Providing Inaccurate Commuting Costs on Transit Benefit Applications

Through data mining of information submitted on transit benefit applications, we found many employees who appeared to provide inaccurate and inflated commuting cost information on their transit benefit applications. The following table provides a complete listing of the 23 individuals we interviewed.

Table 4: Federal Employees Providing Inaccurate and Inflated Commuting Cost Information

Case	Applicant's employing agency	Salary level	Excess benefits claimed per year	Case details
1	Commerce	GS-5	$480	Refused to tell investigators what excess benefits were used for
2	IRS	GS-13	612	Used benefits for personal travel
3	Treasury	GS-8	660	Purchased transit tokens for son; sold benefits to contractors and friends
4	Treasury	GS-14	540	Gave benefits to visiting friends
5	Transportation	GS-13	444	Stored excess benefits at home
6	Transportation	GS-11	612	Used benefits for personal travel
7	Defense	Not available	660	Used benefits for personal travel and received parking benefits
8	Defense	Not available	660	Used benefits to pay for transportation of her children to daycare
9	Coast Guard	GS-9	228	Gave benefits to family and friends; used benefits for personal travel; accumulated excess benefits during extended absences from work
10	Homeland Security	Not available	228	Refused to tell investigators what excess benefits were used for
11	Commerce	GS-9	228	Claimed to use a more expensive route to avoid traffic; investigators could not confirm this explanation
12	Commerce	GS-9	660	Claimed to use a more expensive route to avoid traffic; investigators could not confirm this explanation
13	Commerce	GS-9	228	Refused to tell investigators what excess benefits were used for
14	IRS	GS-14	540	Used benefits to pay for parking;
15	IRS	GS-12	240	Gave benefits to wife, daughter and girlfriend
16	IRS	GS-14	492	Refused to tell investigators what excess benefits were used for
17	Treasury	GS-11	492	Purchased transit tokens for daughter
18	Treasury	GS-8	540	Gave benefits to friends and relatives
19	Treasury	GS-14	612	Gave benefits to husband, siblings and daughter
20	Transportation	GS-8	228	Used benefits for personal travel
21	Transportation	GS-6	324	Used benefits for personal travel
22	Coast Guard	GS-11	660	Used benefits to pay for parking
23	Coast Guard	GS-6	60	Used benefits for personal travel

Source: GAO.

Statement of
Linda J. Washington, Acting Assistant Secretary for Administration
Office of the Secretary
United States Department of Transportation (DOT)
Hearing on the Transit Benefit Program
Before
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs

United States Senate
April 24, 2007

Thank you, Mr. Chairman, Ranking Member Coleman, and members of the Subcommittee for the opportunity to testify today on the Department of Transportation's role in implementing the Federal Transit Benefit Program. My statement today will address both the Department's own participation in the transit benefit program as a Federal agency and its role as the home agency for TRANServe, the organization utilized by 108 Federal entities nationwide to obtain and manage the distribution of transit benefit fare media.

Reducing Highway Congestion is a Priority for DOT

According to its 2003 study of 85 urban areas in the US, the Texas Transportation Institute estimated that highway congestion is imposing a high cost on the national economy. The study estimated that highway congestion causes 3.7 billion hours of travel delays and potentially wastes $63 billion per year. For example, in the 10 most congested areas, which include the National Capital Region, congestion has been estimated to cost individual commuters between $850 and $1,600 in lost time and fuel each year. To address this growing concern, last May, the Department of Transportation announced the Bush Administration's National Strategy to Reduce Congestion on America's Transportation Network, a comprehensive new national initiative to reduce congestion across our entire transportation system. Increasing transit ridership nationwide is an important component of the National Strategy for reducing congestion. The Transit Benefit program is a proven means to help increase the use of mass transit.

Background on the Transit Benefit Program

The program was established in 1991 when the Department's Federal Transit Administration (FTA) began pilot testing a transit benefit program, which provided up to $21 per month in transit fare media to its employees. The Energy Policy Act of 1992 raised the monthly tax-free limit to $60 and linked the limit to changes in the Consumer Price Index. The Federal Employees Clean Air Incentive Act, signed into law in 1993, permanently authorized Federal participation in this program, resulting in its expansion throughout the Department of Transportation and other Federal agencies. In April 2000,

President Clinton signed Executive Order 13150, which sought to reduce Federal employees' contribution to traffic congestion and air pollution and expand their commuting alternatives. The executive order called upon DOT, the Environmental Protection Agency, and the Department of Energy to implement a nationwide pilot program, and ascertain its effectiveness in reducing single occupancy vehicle travel and local area traffic congestion. In a 2003 final report to the Office of Management and Budget, DOT reported that the interagency group found transit benefits to be successful in reducing Federal employees' contribution to traffic congestion and air pollution, and expanding their commuting alternatives. The report estimated that the transit benefit program resulted in over 15,000 fewer single occupancy vehicles on the roads of the National Capital Region, saving over 8 million gallons of gasoline, and eliminating emissions of almost 40,000 tons of carbon dioxide from the air, as well as reducing other tailpipe emissions. In 2005, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) required Federal agencies to implement transit benefit programs for all eligible employees in the National Capital Region.

Today, participation in the transit benefit program has increased considerably, and its impact on the National Capital Region, in terms of congestion mitigation and air quality has grown. The transit benefit program's importance is particularly evident when considering specific transportation alternatives in the National Capital Region. For example, the Virginia Railway Express (VRE), a growing commuter railroad serving the National Capital Region relies on transit benefits for about 65 percent of its revenues. With FY 2006 average daily ridership of nearly 15,000 people, Federal employees' transit benefits used on VRE alone are responsible for removing a significant number of motor vehicles off the highly-congested I-95 and I-66 corridors in Virginia.

Overall the Federal transit benefit program now has extensive participation in the National Capital Region. Benefit recipients are eligible to receive a maximum of $110 of fare media per month, with the amount received dependent on their actual mass transit commuting costs. Many of the Federal agencies offering the transit benefit program are utilizing the distribution services of the organization within DOT, known as TRANServe.

TRANServe Offers Transit Benefit Distribution Services

As the transit benefit program took shape in its early years, the Department of Transportation decided that it would be most efficient to centralize the distribution services for its operating administrations, rather than replicate the resources necessary to obtain and safeguard fare media, and manage the distribution program. This organization has evolved over the years, to offer transit benefit distribution services nationwide, to organizations throughout the Federal government. It now distributes over $200 million in cash equivalent fare media annually, servicing over 233,000 participants employed by 108 Federal organizations nationwide. Within the National Capital Region, during FY 2006, this organization distributed about $102 million in Federal transit benefits to 81 Federal employer organizations and over 106,000 Federal employees.

From the perspective of providing an efficient, economical means to distribute transit benefits, TRANServe enables agencies to make use of a single established distribution system, with extensive and effective internal controls over the receipt, maintenance, and distribution of the fare media provided to Federal employees under the program. It eliminates the need to establish multiple systems duplicating these functions at agencies and individual offices throughout the country. It also offers some unique advantages due to its size and experience. For example, transit operators in some localities offer discounts for volume purchases of fare media, and these savings are then passed on to the participating agencies. There is no mandate to make use of TRANServe for transit benefit distribution, rather, each of the agencies now making use of its services, including the Government Accountability Office (GAO) and the US House of Representatives, decided it was in their interest to use TRANServe for transit benefit distribution. Participating agencies, TRANServe, and transit benefit recipients all have specific responsibilities to help ensure that the transit benefit program functions effectively and that individuals participating in the program receive only the fare media they are eligible for, and use it appropriately.

Participating Agency and TRANServe Responsibilities

TRANServe enters into a customer agreement with each of the Federal entities it services. A sample customer agreement is shown in Attachment 1. The customer agreement specifically states that TRANServe will order, purchase, verify, maintain, and safeguard fare media prior to disbursing them to participants, and shall have full responsibility for any fare media that is in its possession prior to disbursement. It also states that it is the responsibility <u>of the Customer</u> (i.e., the participating Federal entity) <u>to verify the eligibility of its employees to receive the transit benefits.</u> This means that participating agencies are responsible for identifying, determining the amount of eligibility, and overseeing the participation of their employees in the transit benefit program. Agency and TRANServe responsibilities are further reinforced in the monthly activity statements provided to TRANServe customers, a sample of which is included in Attachment 2. The key point is that TRANServe is only a distribution agent for providing the fare media. Its role in distributing transit fare media is analogous to the role of the four Federal payroll centers and agencies throughout the Federal government. In both cases, the servicing organizations use data provided by agencies to make disbursements, while the customer agency remains responsible for its internal controls over its employees' eligibility and the amount each receives.

DOT's Implementation of the Transit Benefit Program

Inasmuch as the Department of Transportation is both a participant in the transit benefit program and home to the TRANServe organization, we are seeking to maintain a program with extensive participation and use of mass transit, in line with our strategic goals for congestion reduction, while having effective and useful controls in place to ensure the program accomplishes its intended results. Each time a transit benefit recipient receives his or her fare media, the recipient is required to sign for it. On the form, there is an explanation of general requirements for continued participation in the

program and recipient responsibility. Because recipients may not take the time to read the requirements on the signature form, in August 2006, TRANServe produced, and began distributing to DOT recipients, the plain language reminder reproduced in Attachment 3 to this testimony. With this action, TRANServe was seeking to help ensure that transit benefit recipients are fully aware of the requirements associated with their receipt and use of the fare media. TRANServe has also been seeking agreement from the agencies it services to provide the plain language reminder to their recipients, each time fare media is distributed. Thus far it has gained written agreement from 14 agencies who have agreed to use the plain language reminder.

DOT also believes that it is important to have current accurate information on transit benefit recipient commuting costs, and last year initiated the first round of what is now an annual recertification requirement. In order for DOT employees to continue receiving transit benefits, they must recertify each year. Finally, to reduce program costs and further improve internal controls, DOT is moving to require all of its employees in the National Capital Region that receive transit benefits and use only the Metro system to commute to work, to transition to the use of SmartCards®. These cards enable users to download monthly benefits directly from Metro FareCard machines onto permanent cards equipped with special microchips. TRANServe expects to achieve significant reductions in its inventory needs and program costs, once the SmartCard® is fully implemented. These SmartCards® also include a reminder on the back that transit benefits downloaded to the cards are only for employees' commute to work.

Making the System Work Better

Mr. Chairman, we recognize that it is in the best interest of the Federal government, the taxpayer, and commuters in general to make the transit benefit program work as effectively as possible. We are here today to express our commitment to the program and to gain additional insight from this Committee and the GAO that could help to make it work better. We have been coordinating with GAO in the ongoing investigation, and we are concerned by the results we understand the GAO will be reporting here today. As a result, we are working to ensure the Department of Transportation is prepared to take swift and appropriate action to address any instances of wrongdoing by DOT's benefit recipients. Furthermore, we have initially identified three areas that could benefit from improvements -- participant education, internal controls, and administrative remedies. I would like to take a moment to discuss each of these areas and identify actions that are already underway.

Participant Education

Preliminary indications from GAO relating to its ongoing investigation show that some of the issues it has identified may be due to program participants who are not fully aware of their responsibilities under the transit benefit program. There are a number of actions now underway to address these issues. First, to ensure that there is no misunderstanding by participating agencies with regard to their role in the program, TRANServe is preparing to update all customer agreements to more extensively

delineate the services provided by TRANServe, and those responsibilities that remain with the customer agency.

To better educate transit benefit recipients, TRANServe will continue to distribute the plain language written explanation of responsibilities and requirements. It intends to make use of them at all distribution points, and expand acceptance to all its customers in the near future. TRANServe is also considering new means to convey this message, and is now experimenting with printing the warning on small envelopes, and inserting the fare media in the envelopes, so that the message stays with the fare media.

TRANServe is also developing an electronic learning package that would be implemented through the electronic Learning Management System or eLMS. This package will initially be pilot tested with DOT employees and will reemphasize recipient responsibilities, identify prohibited practices such as unauthorized use by ineligible employees and inappropriate transfer of fare media. It will also enumerate the potential penalties associated with inappropriate actions, which range from admonishment through dismissal depending on the circumstances. We are working to incorporate this tutorial through eLMS into DOT's on-line annual recertification process, so that it will be necessary for recipients to complete the training course each year, before recertification can occur.

Internal Controls

TRANServe recognizes that the fare media it distributes is a cash equivalent and has an extensive system of internal controls that provide oversight for inventory maintenance and distribution activities. This system has been independently reviewed by security experts and auditors. TRANServe uses various types of internal controls that range from weekly independent inventory counts to full quarterly audits to ensure effective inventory control. Recently, TRANServe created an Internal Controls Officer position which is specifically responsible for monitoring and reviewing the organization's internal controls and ensuring that all requirements are effectively fulfilled. In addition, the Internal Controls Officer will design related training classes and materials to serve as a resource for training TRANServe employees and DOT transit benefit participants. These training materials will be offered as a recommended resource to Federal entities using TRANServe

Administrative Remedies

We believe that the vast majority of Federal employees who participate in the program do so honestly, responsibly, and with integrity. With the implementation and increasing deployment of TRANServe's efforts to ensure program participants are aware of the restrictions on obtaining, and using the benefits provided, it is our hope to eliminate any inappropriate use of the fare media. However, we recognize that there may be individuals intent on using the system for their own personal gain at taxpayers' expense. We at DOT are prepared to deal firmly and expediently with any individual found to be intentionally deceptive in obtaining more benefits than they are due, using them

inappropriately, or selling the fare media. We await the final results of GAO's investigation, and any subsequent investigation undertaken by DOT's Office of Inspector General, to determine whether there have been any instances of misuse or misstatements made by DOT participants in the Transit Benefit Program. DOT will take fast, appropriate, and meaningful action to address any wrongdoing identified. I have already met with representatives from DOT's Office of Human Resources and our Office of General Counsel to discuss appropriate administrative penalties for proven instances of misuse and have instructed them to act swiftly and decisively.

Conclusion

The Federal Transit Benefit program is an important tool to help address the congestion and air pollution issues affecting the National Capital Region and cities across the Nation. When implemented properly, it helps to get commuters out of their single occupancy vehicles and onto mass transit, saving fuel while reducing congestion and air pollution. DOT is pleased to make its TRANServe organization available to other Federal agencies, to provide them with an effective and efficient means to distribute transit benefits to their eligible employees. At the same time, DOT is dismayed to learn that some employees through either ignorance or avarice have made inappropriate use of the privilege afforded by the transit benefit program. As described above, TRANServe is already working to help ensure the program serves its intended purpose. We also stand ready to work with your committee to take all appropriate measures, within our authority, to make sure this program works as intended for the American people.

I would be happy to answer any questions the committee may have.

Attachment 1 – Sample TRANServe Customer Agreement (Highlight Added)

OST CUSTOMER AGREEMENT	AGREEMENT NUMBER

PARITIES TO THE AGREEMENT

a. CUSTOMER CONTACT / BILLING ADDRESS	b. OST CONTACT / ADDRESS
AGENCY: Attn: ADDRESS: Phone: Fax: Email:	U.S. Department of Transportation Attn: Cheri Johnson M-71, Room 0327, P2 Level 400 7th Street, SW Washington, D.C. 20590 Phone: 202.366.1227 Fax: 202.493.2436 Email: cheri.johnson@dot.gov
APPROPRIATION / ACCOUNT CODE CHARGEABLE	**COST ACCOUNT PROGRAM ELEMENT CODE** 14X4520000.2007.0000000000.1103006000

EFFECTIVE DATE	COST (ESTIMATED)	
10/01/2006 – 09/30/2007	a. FY 2007	b. Amount $

DESCRIPTION OF SERVICES: This Customer Agreement between the XX [make sure to include agency and any subagency] and the U.S. Department of Transportation (DOT) Office of the Secretary -Transportation Services (TRANServe), is entered into under the following statutory authorities (please check all that apply):

_____ The Administrative Working Capital Fund (49 U.S.C. 327) and/or [For Intra-agency agreements within DOT)

___X___ The Economy Act of 1932 as amended (31 U.S.C. 1535) [For Inter-agency agreements with agencies other than DOT]

This Customer Agreement provides a written understanding of the Transit Benefit Program Services TRANServe will provide to the customer. TRANServe will act as the liaison between the Customer and the Washington Metropolitan Area Transit Authority and regional transit providers and will order, purchase, verify, maintain, and safeguard fare media prior to disbursing to participants. TRANServe shall bear full responsibility for any fare media that is in its possession prior to disbursement to participants.

It is the responsibility of the Customer to verify eligibility of recipients.

TRANServe will provide disbursing agents to cover distribution hours agreed upon by the Customer and TRANServe. A copy of the annual distribution schedule is attached for review and confirmation. In the regional offices, fare media will be sent via courier to representatives designated by the Customer for distribution. Each disbursing agent will be billed at $28.75 per hour for either mailing or on-site distribution. Estimated distribution hours include preparation, balancing and travel time. All expenditures made on behalf of the Customer except for distribution services (e.g., fare media, fare media voucher fees, shipping, travel costs, etc.) will be subject to the 4.95% financial management fee.

FUNDING / REPORTING: The DOT Office of the Secretary Working Capital Fund (DOT/OST-WCF) will take an advance as required by 49 U.S.C. 327 "Administrative Working Capital Fund" not earlier than 30 days prior to the commencement of each Federal fiscal quarter. Advances will be processed through the IPAC system. These quarterly advances will be adjusted throughout the year as necessary. Actual monthly expenses will be applied to the quarterly advance amounts, and the Customer will be provided account activity reports by the 25th of each month detailing the amount applied to the estimated quarterly advance. DOT-OST Finance will also provide the Customer's point of contact, identified on this agreement, a copy of the account activity reports along with the SF-1081s which document the IPAC payments. If an increased or decreased level of services is required, this

agreement may be modified with the approval of both the Customer and OST. Changes may be made by a modification to the original agreement with the signature of both parties. Estimated costs for the Customer's transit benefit program are shown on page two.

FULL COST RECOVERY: By law, both Economy Act agreements (31 USC 1535) and those authorized by DOT's WCF (49 USC 327) must achieve full cost recovery. Full cost recovery includes direct and indirect costs. Further, neither statute permits DOT to receive a profit when providing goods or services. Accordingly, all TRANServe agreements will correspond with the Federal Fiscal year. After each Fiscal Year has closed, DOT-OST will determine the final financial Over / Under recovery for the TRANServe program. In accordance with the above stated quote, a determination will be made whether to refund or collect additional funds from the Customer to balance out the annual program. TRANServe will monitor the financial status of the program throughout the year to bring the final balance as close to zero as possible. This may result in rate adjustments during the year. TRANServe will work with each Customer to keep program costs as low as possible while still providing the requested services.
CONTINUED ON PAGE 2:

OST FORM VER 1.9 WKAUTH9.FRP for Form Flow 1.1 (26 SEP 96) w/Customer Agreement

Attachment 2 – Sample TRANServe Account Activity Statement (Highlight Added)

SAMPLE

TRANServe Account Activity Statement for NON-DOT AGENCY NAME

February, 2007

(This is not an official bill. Your servicing account office will receive the official bill within 30 days.)

03/22/2007-L

APPROP CODE: 0000000000
ALC CODE: 000000000000

CUSTOMER ID: 07-TFC-0000000000-0000

BPAC NUMBER: 0000000000

FARE MEDIA BILLED:		**$XXX, XXX.**
OTHER COSTS:		**$XX.**
SHIPPING:	**$16.00**	
SUB TOTAL:		**$XXX,XXX.**
FINANCIAL SERVICES FEE:		**X.XX%**
SUB TOTAL:		**$X,XXX.**
DISTRIBUTION SERVICES FEE:		**$XX,XXX.**
SUB TOTAL:		**$XXX,XXX.**

CREDITS:

FARE MEDIA(INDIVIDUAL):			
FARE MEDIA(BULK):	**DC**	**ADMIN CODE**	

TOTAL: **$XXX,XXX.**

To Our Valued Customers: This message is being sent each month as part of our billing process. The U.S. Department of Transportation (DOT), Transportation Services (TRANServe) works to provide transit benefits to eligible federal employees as requested by your agency. The Transit Benefit program represents an employee benefit and we strongly urge you to take all measures necessary to protect it. We do our part by ordering, obtaining, verifying, and safeguarding fare media prior to its distribution. We also maintain a database that identifies all agency participants based on information provided by you. We use this information to distribute the appropriate amount of transit benefits to authorized employees. We ask that you do your part by carrying out the following responsibilities. All transit benefit enrollment applications should be thoroughly reviewed by your agency's authorizing official prior to submission to DOT for processing. Utilizing a self-certification process, it is the agency's responsibility to ensure all employees are instructed that they are certifying under U.S.C. Title 18 that they will not transfer this benefit to anyone else, they are not named on a federally subsidized parking permit, and the benefit received does not exceed their monthly commuting costs. If employees collect more than they use, are on extended sick leave or are on temporary duty elsewhere, they should be instructed to return the unused benefit or receive an appropriately reduced benefit amount at the next distribution. If you have questions regarding these responsibilities, please contact your TRANServe account representative or the TRANServe office at 202-366-0064.

Attachment 3 – Sample TRANServe Participant Reminder

To All Transit Benefit Participants

Reminder: Every time you pick-up Transit Benefits and sign the accompanying certification, you are legally bound to abide by the terms of the transit benefit program.

This includes certifying that:

- You are not named on a worksite parking permit at any Federal agency, nor otherwise participating in a carpool.
- You are using transit benefits only for your regular home to work transportation, and will not transfer the fare media to anyone else.
- The amount of transit benefits you receive do not exceed your actual monthly commuting cost by public transportation.

It is a violation of law to provide false or fraudulent information to obtain transit benefits, or to transfer or sell transit benefits.

The benefits must only be used for your home to work transportation. Any misuse of your transit benefits may be grounds for disciplinary action up to and including dismissal, along with civil and criminal penalties and other criminal action.

If you have any questions about these or any other aspects of the transit benefit program, contact Tony Allen at 202-366-1398.

NOT RELEASABLE UNTIL RELEASED
BY THE COMMITTEE

Statement of

Mr. Michael L. Rhodes
Director, Washington Headquarters Services
Department of Defense

before the

Permanent Subcommittee on Investigations
Senate Committee on Homeland Security and Governmental Affairs

April 24, 2007

Chairman Levin, Senator Coleman, and distinguished members of the Committee:

Thank you for the opportunity to address the Federal Transit Benefit Program and its implementation for Department of Defense personnel within the National Capital Region. I am the Director of Washington Headquarters Services and my organization is responsible for administering the program in the National Capital Region for the Department of Defense. The Military Services administer the program outside the National Capital Region.

Background.

As you are aware, Executive Order 13150, dated April 21, 2000 ordered Federal agencies to implement a transportation fringe benefit program to qualified Federal employees. In response to the Executive Order, the Department of Defense directed implementation of transportation incentive programs for all Department of Defense personnel – active duty military, reserve component personnel serving on active duty, and civilian employees, to include non-appropriated fund personnel. Currently the transit subsidy program provides eligible employees with fare media equal to their commuting costs, not to exceed $110 per month.

The Executive Order differentiates between employees working inside the National Capital Region (NCR) and those outside the NCR with respect to the kind of transportation incentives that must be offered by Federal agencies. However, as the largest Federal employer in many metropolitan areas around the Nation, we believe that the Department of Defense (DoD) should be a model employer and take appropriate action necessary to reduce the traffic congestion and air pollution that affect so many areas. The same incentive is offered to all DoD personnel regardless of location inside or outside the National Capital Region. The Department's policy for the Federal Transit Benefit Program requires DoD Components to

develop and budget for a comprehensive program that implements the DoD transportation incentive program for members/employees outside the National Capital Region. The policy also requires each Component to appoint an Office of Primary Responsibility (OPR) to manage its transportation incentives program. The program OPR is responsible for: (a) developing the method for processing requests for participation; (b) making determinations of eligibility, including performing a review of the application forms and certifying that applicants are eligible to participate in the transportation incentives program; (c) purchasing and distributing the transportation vouchers to eligible participants; (d) establishing internal controls for the program; (e) revalidating employee information to ensure the accuracy of the information for program execution; and (f) performing periodic reconciliation to ensure employee accounts are correct.

Washington Headquarters Services, a Field Activity of the Department of Defense, administers the program in the National Capital Region through a partnership agreement with the Department of Transportation. Under the terms of our agreement, we reimburse the Department of Transportation for administrative and program services. Program administration provided by the Department of Transportation includes processing employee applications, distributing the fare media, maintaining records of DoD participants and their distribution history, and producing detailed participation and cost reports.

The Department of Defense program in the National Capital Region included 34,000 participants at the end of fiscal year 2006. Benefits are distributed on a quarterly basis at approximately 30 locations in the National Capital Region. The program cost for fiscal year 2006 was $35.9 million which includes administration and distribution fees equaling 5.1% of the program costs. The transit subsidy benefit averaged approximately $83 per month per participant.

I will now respond to the four areas identified in your letter inviting the Department to testify.

Department of Defense program administration in the National Capital Region.

Transit subsidy program administration in the National Capital Region involves multiple entities. Washington Headquarters Services has the responsibility to administer the program for Department of Defense civilian employees and military service members in the National Capital Region. To accomplish this, Washington Headquarters Services contracts with the Department of Transportation to provide key program services. Of note among these administrative and logistical services: Department of Transportation maintains the database of program participants, acquires and distributes the fare media, and provides detailed reports used to account for and validate participant eligibility and costs. Given the numerous military organizations in the National Capital Region, referred to as DoD Components, while Washington Headquarters Services provides overall program coordination we partner with and rely on the Components in the implementation. Monthly reports provided by the Department of Transportation list current program participants allowing the Components to verify eligibility and accuracy and to reconcile and reimburse Washington Headquarters Services the costs for the participants from that Component.

Department of Defense program procedures and internal controls in the National Capital Region.

To participate in the program, the first step in the process requires the employee to complete a Department of Defense application, providing necessary information for the Department of Transportation and in which employees self certify that: 1) they are employed by the Department; 2) they do not have a Federally subsidized workplace parking permit (or that they have relinquished the permit); 3) they are eligible for the benefit, will use it for their daily commute, and will not transfer it to anyone else; 4) that the benefit they receive does not exceed their monthly commuting costs; and 5) the amount claimed is an accurate estimated amount of their monthly commuting cost (excluding parking). Prominently displayed on the application form is notification that under Title 18, United States Code, Section 1001, making false, fictitious, or fraudulent certification is subject to criminal prosecution, administrative recovery of up to $10,000 per violation, and/or disciplinary action up to and including dismissal.

The next step is that each application is submitted to the Pentagon Force Protection Agency for them to check the Pentagon parking database and ensure that the employee does not possess a Pentagon parking permit, or is not a member of a carpool arrangement that possesses a Pentagon parking permit. If the employee is listed in the Pentagon parking database, the applicant is notified that the parking permit must be relinquished prior to processing the transportation incentive benefit. The Department of Transportation is also notified to flag its system so that an individual in possession of a Pentagon parking permit cannot receive transit benefits until the individual obtains a receipt for turn-in of the parking permit from the Pentagon Force Protection Agency. Conversely, if an active transit benefit participant applies for a Pentagon parking permit, a permit will not be issued until and unless the employee dis-enrolls from the Federal Transit Benefit Program. The Pentagon parking database is refreshed daily

with the names of current transit benefit enrollees to ensure that a parking permit is not issued while the individual is enrolled in the transit benefit program. If the employee's name is not found in the Pentagon parking database, the application is "cleared" for enrollment in the transit benefit program. The Department of Transportation retrieves and processes applications from the Pentagon Parking Office daily, and enters them into their Department of Transportation program participant database.

Following this, the individual participant may receive the fare media, on a quarterly basis, at any of 30 locations in the National Capital Region. Department of Transportation agents visually verify the employee's Department of Defense identification card, ensure the employee is listed in the Department of Transportation program participant database, and issue the fare media. Before the benefit is distributed, the employee must again sign a certification affirming that they are in compliance with the program eligibility requirements.

Lastly, the Department of Transportation provides a monthly report of all distributions which we in turn send to the DoD Components for verification. The Component verifies the active employment status, reconciles costs to be paid for its employees' participation, and then reimburses the costs.

In 2003 the Department of Defense IG responded to a Defense Hotline allegation and conducted an audit and reviewed the management controls of the Department of Defense transit subsidy program in the National Capital Region. The audit found that controls in some Components needed improvement, and specific recommendations were made to and accepted by the Components. One aspect of the Hotline allegation involved the potential that employees could receive fare media and then give them to family, sell them, etc. The report stated that "although there is some risk that individuals could sell, give away, or transfer their transit subsidy, we believe that implementing controls to prevent that type of misuse would not be cost-

effective." Though recommendations were not made concerning the Washington Headquarters Services management of the program, we were able to view the final report and we did refine our procedures.

Since we implemented the program in fiscal year 2001, from the thousands of individuals participating during these years, there have been six incidents of impropriety that we are aware of among our serviced Components. In these incidents, in addition to restitution to the Government, resultant actions included letters of reprimand, notice of suspension, and resignation in lieu of dismissal. There may be other incidents of personnel disciplinary action taken within the various Components following audits and investigations of alleged abuse of which we do not have visibility.

Who is responsible for ensuring the integrity of the Federal Transit Benefit Program.

Everyone involved is responsible for ensuring the integrity of programs. We are all stewards of the resources entrusted to us. The Federal Transit Benefit Program in the National Capital Region is a large program with many dimensions. We are all responsible for implementing efficient and effective controls, making reasoned checks on processes, and ensuring proper response to any questionable activity.

Internal controls that should be implemented to address weaknesses identified by the Government Accountability Office.

When the GAO report is released, if there are weaknesses identified that are applicable to the Department of Defense National Capital Region program, we will absolutely be proactive in working with the DoD Components and the Department of Transportation to implement sound, appropriate improvements.

Conclusion.

Again, thank you for the opportunity to discuss the Department of Defense implementation of the Federal Transit Benefit Program in the National Capital Region. More importantly, thank you for the support you provide to our men and women – military and civilian, the deployed forces and those who support them. I look forward to your questions.

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.

April 24, 2007

Hold for Release
Expected 2:30 p.m.

Statement
of

Mr. Thomas F. Gimble
Acting Inspector General
Department of Defense

before the

Permanent Subcommittee on Investigations
Senate Committee on Homeland Security and
Governmental Affairs

on

Department of Defense Transit Benefit Program

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before this committee to discuss the Department of Defense National Capitol Region (NCR) Transit Subsidy Program.

The DoD Transit Subsidy Program was established in October 2000 as directed by Executive Order 1350. Work performed by the DoD IG as well as by the Government Accountability Office (GAO) indicates that the program does not yet have the controls needed to limit the susceptibility of transit benefits to fraud, waste, and abuse. My testimony this morning will describe the work my office is performing to assess the effectiveness of internal controls for this program.

DoD NCR Transit Subsidy Program

The NCR Transit Subsidy Program allows eligible employees to receive "transit passes" in amounts equal to their commuting costs, not to exceed $110/month. The Washington Headquarters Services (WHS) manages this program for DoD in the National Capitol Region and is assisted by the Department of Transportation (DoT) in its implementation. As of September 30, 2006, 33,750 DoD employees were enrolled in the Transit Subsidy Program and $35.9 million in benefits were paid out in FY 2006.

To participate in the DoD NCR Transit Subsidy Program, employees must complete an application that requires an employee to self certify:

- That he is employed by the U.S. Department of Defense;

- That he is not using Federally subsidized workplace parking;
- That he will use the benefit for his daily commute and will not transfer the benefit to anyone else;
- That the monthly benefit received does not exceed monthly commuting costs; and
- The amount of usual (or estimated) monthly commuting costs.

The form also includes a warning that individuals making a false, fictitious or fraudulent certification are subject to criminal prosecution under Title 18 of the United States Code, Section 1001, Civil Penalty Action, and/or agency disciplinary action up to and including dismissal.

Employees submit the applications to the Pentagon Force Protection Agency (PFPA) which checks the Pentagon parking database to determine whether employees are currently listed in that database. If PFPA determines the employee is not in the Pentagon parking database, it sends the application to DoT. The Department of Transportation processes the application to enroll employees into the program, maintains the enrollment database, orders and maintains fare cards (known as Metrocheks) and distributes Metrocheks to employees on a quarterly basis.

DoD Transit Subsidy Abuse

The DoD Inspector General became aware of potential abuse of the Transit Subsidy Program through complaints received through the DoD Hotline. These allegations involved employees transferring Metrocheks to friends and selling

Metrocheks on the internet or to coworkers. The allegations were referred to the agency within DoD for whom the employee worked.

In response to a Hotline complaint received in January 2003, we conducted an audit on "Allegations Concerning Controls Over DoD Transit Subsidies Within the National Capital Region." We issued the final report (Report number D-2004-009) on October 14, 2003. We substantiated allegations that there was no verification of an applicant's employment and that DoD employees could be selling or giving away their transit subsidies. We partially substantiated allegations that controls had not been established to ensure employees do not receive transit subsidies while receiving subsidized parking and that billing information received from DoT did not include sufficient detail to facilitate the reconciliation of quarterly DoD billings. We recommended that the Military Departments and the Defense Logistics Agency develop procedures to require the reconciliation of all transit subsidy billings received from DoT, and that DLA develop a policy to check transit subsidy applications against its parking permit roster.

DoD Management concurred with the audit finding and recommendations. We have monitored the followup actions taken in response to the audit recommendations and, as of today, the only open action is for the Department of the Army to develop policies and procedures for reconciling transit subsidy billings. Draft guidance is currently being coordinated within the Army.

We have been meeting regularly with GAO on data mining issues. During a meeting in early 2005, we discussed allegations of abuses in the transit benefit program, including Metrocheks being offered for sale on eBay and Craigslist. We then initiated a preliminary review of a sample universe to assess the risk of misuse. Based on the results of this preliminary review, in February 2006, we announced a data mining review to research this issue on a DoD-wide basis.

The data mining review looked at DoD program enrollment and disbursement databases, in addition to DoD parking databases. The data included 47,357 individuals enrolled in the program and $31 million in benefits paid in 2005. We performed tests to determine whether the data substantiated the individual's eligibility for the Metrochek program and the amount of the benefit received by the individual.

The data mining review identified areas of vulnerability in the DoD Transit Subsidy Program as well as potential abuses by program users. Specific issues identified for further review include:

- Employees receiving Metrocheks while using subsidized parking;
- Over reliance on the honor system – employees self-certify and submit the program application without review;
- Individuals receiving benefits in excess of monthly costs;
- Individuals outside the NCR receiving NCR benefits; and

- Insufficient data to validate benefits
  -- Benefits for over 28% of active participants are not verifiable

We have continued to coordinate and share information with the Government Accountability Office which has been conducting an investigation of Transit Benefit Programs in the National Capital Region.

Audit of Internal Controls over the DoD Transit Subsidy Program within the National Capital Region

Based on the data mining review we conducted and investigative work by GAO, we announced an audit in November 2006 of internal controls over the DoD transit subsidy program within the NCR. The audit will examine further the vulnerabilities identified by the data mining review as well as provide additional information on potential cases of fraud which can then be referred to the Defense Criminal Investigative Service, the criminal investigative arm of the DoD IG.

Specifically, we are reviewing internal control activities over:

- the transit subsidy application process, which includes processing of initial enrollment application, status changes, and de-enrollment from the program;
- management of the enrollment database used by the Department of Transportation to verify participant eligibility and make distributions to DoD participants as part of a contractual agreement with DoD; and
- retention of supporting documentation to comply with audit requirements.

We have also performed analyses to test the accuracy and completeness of data elements within the enrollment database, including calculation of the allowable monthly

transit subsidy benefit by DoD participants. Further, we have reviewed transit subsidy policies and procedures. We are currently writing our draft audit report and plan to issue the final report in July 2007.

Follow-on Investigative Referrals

As discussed above, we have been coordinating with GAO on investigating abuses of transit benefits by federal employees in the National Capital Region. The GAO has identified participant abuse of Government agency transit subsidy programs, including abuse by participants in the DoD Transit Subsidy Program. We have met recently with GAO investigators and anticipate receiving information on specific abuses they have identified as a result of their investigation. These cases will be referred to the appropriate investigative agency within DoD for further investigation. Additionally, we also expect to make referrals to the DCIS as a result of our current audit work. If the allegations are substantiated, appropriate corrective actions will be taken which could include criminal prosecution under Title 18, Section 1001, as well as administrative action.

Conclusion

The Transit Benefit Program is a valuable program that, if properly administered can help alleviate traffic congestion and reduce automobile emissions. However, continuing abuses in the use of transit benefits make clear the need for additional controls to help prevent fraud, waste and abuse. We believe the work we are performing will assist the Department in identifying areas where further improvements can be made.

Search Advanced Search Buy Sell My eBay Community Help

Sign out Site Map

eBay Categories eBay Motors eBay Express

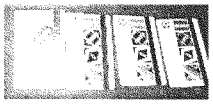
$200 MetroChek farecard Washington DC subway metrocard

$200 MetroChek farecard Washington DC subway metrocard

Item number: 320105651332

You are signed in

Watch this item in My eBay



View larger picture

Current bid: US $72.00 Place Bid >

End time: Apr-26-07 13:36:53 PDT (6 days 5 hours)

Shipping costs: FREE
Standard Flat Rate Shipping Service
Service to United States

Ships to: United States

Item location: Miami, Florida, United States

History: 2 bids

High bidder: [redacted]

You can also: Watch This Item

Get alerts via Text message, IM or Cell phone
Email to a friend

Meet the seller

Seller: [redacted]

Feedback: **100% Positive**

Member: since Jan-18-04 in United States

Read feedback comments
Ask seller a question
Add to Favorite Sellers
View seller's other items

Buy safely

1. **Check the seller's reputation**
   Score: 5 | 100% Positive
   Read feedback comments
2. **Check how you're protected**
   PayPal Up to $200 in buyer protection.
   See eligibility

Returns: Seller accepts returns.
7 Days Exchange

Listing and payment details: Show

Make no payments for 3 months

I am selling these because I receive them monthly as part of my benefits at work, and I now have too many.

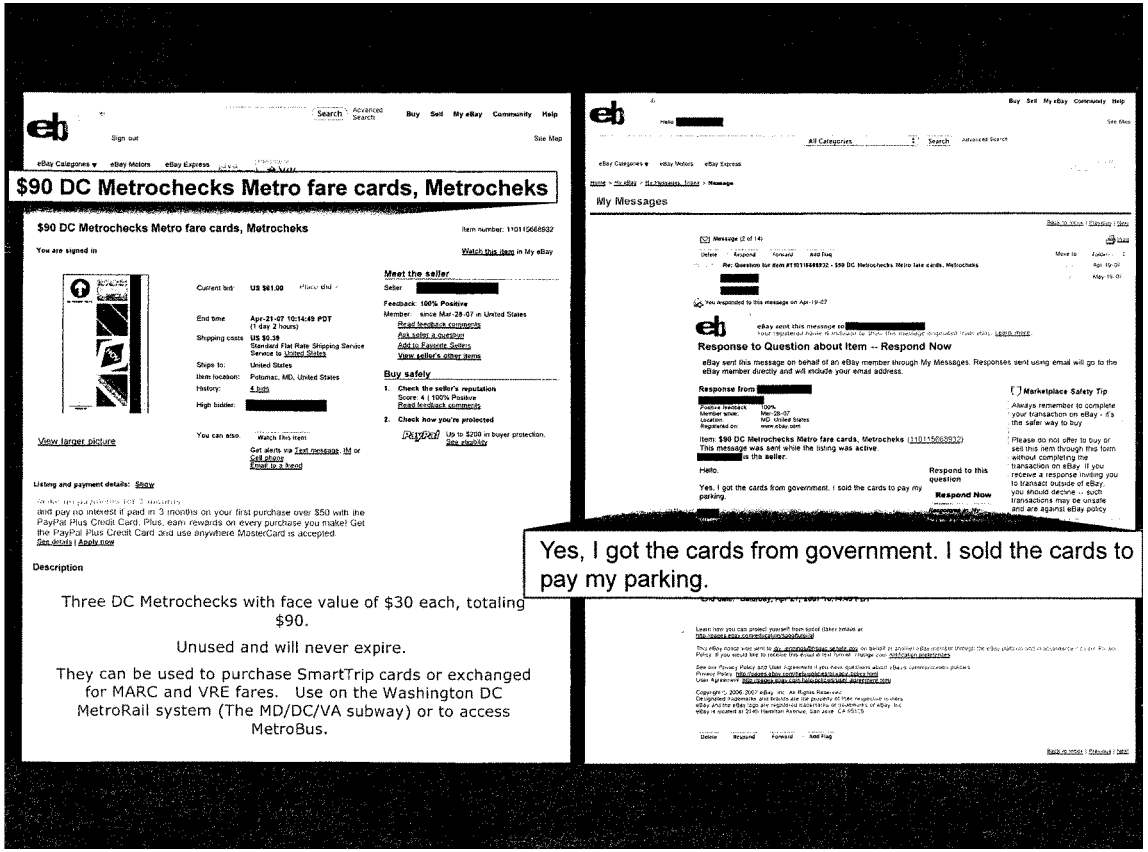
The metro cards are brand new, never used, and do not expire.

I am selling these because I receive them monthly as part of my benefits at work, and I now have too many.

Metrochecks can be used on Washington DC's subway system or uploaded to the SmarTrip electronic card, exchanged for Metrobus tokens, and are accepted by other transportation systems (including MARC, VRE, RideOn, DASH, Fairfax Connector, OmniRide and ART) in the Washington D.C., Virginia, and Maryland areas.

For more information about Metro and the farecards, including maps, fares, stations, and accessibility, visit http://www.wmata.com/

Permanent Subcommittee on Investigations
EXHIBIT #1



Yes, I got the cards from government. I sold the cards to pay my parking.

PUBLIC TRANSPORTATION BENEFIT PROGRAM APPLICATION
(See Privacy Act statement on reverse)

INSTRUCTIONS: Please print or type all information. Complete, sign and submit this form to the Subsidy Program Coordinator in your region.
NOTE: Contract personnel are ineligible to receive program benefits.

APPLICANT INFORMATION

NAME			ORGANIZATION	CORRESPONDENCE SYMBOL
LAST	FIRST NAME	MI		
HOME ADDRESS			DUTY STATION *(City and State)*	
STREET			OFFICE TELEPHONE NUMBER	
CITY	STATE	ZIP CODE	AREA CODE / NUMBER	EXT.
LAST FOUR DIGITS OF YOUR SOCIAL SECURITY NUMBER			MONTHLY COMMUNTING COSTS *(Based on a 20-day month commute by public transportation)*	
ARE YOU A SUMMER INTERN? ☐ NO ☐ YES *(If "YES" enter starting and ending dates of appointment)*			DATE APPOINTMENT STARTED	DATE APPOINTMENT ENDED

MODES OF TRANPORTATION USED TO AND FROM THE WORKPLACE
(Check as many as apply)

☐ BUS ☐ LIGHT RAIL ☐ SUBWAY ☐ TRAIN ☐ FERRY ☐ AUTHORIZED VANPOOL ☐ OTHER *(Explain)*:

REGIONAL CODE *(Check one)*				ORGANIZATIONAL CODE *(Check one)*			
☐	CENTRAL OFFICE (00)	☐	THE HEARTLAND (06)	☐	FEDERAL TECHNOLOGY SERVICE (FT)	☐	OFFICE OF GOVERNMENTWIDE POLICY (OG)
☐	NEW ENGLAND (01)	☐	GREATER SOUTHWEST (07)	☐	PBS PROPERTY DISPOSAL (PD)		
☐	NORTHEAST AND CARRIBEAN (02)	☐	ROCKY MOUNTAIN (08)	☐	PBS ALL OTHER (PB)	☐	FEDERAL CONSUMER INFORMATION CENTER (XC)
☐	MID-ATLANTIC (03)	☐	PACIFIC RIM (09)	☐	FEDERAL SUPPLY SERVICE (FS)		
☐	SOUTHEAST SUNBELT (04)	☐	NORTHWEST/ARCTIC (10)	☐	OFFICE OF INSPECTOR GENERAL (IG)	☐	GENERAL MANAGEMENT AND ADMINISTRATION (GM)
☐	GREAT LAKES (05)	☐	NATIONAL CAPITAL (11)	☐	FORMER PRESIDENTS (FP)		

EMPLOYEE CERTIFICATION

WARNING: I understand that it is a Federal crime under United States Code, Title 18, section 1001, to make a false statement on this form. If I make a false statement, I may be subject to criminal prosecution and punishment including a fine of up to $5000 and/or administrative punishment, which may result in the termination of my federal employment.

I certify that the above information is true and correct to the best of my knowledge and that:

I am an employee of the General Services Administration (GSA).

I am not named on a worksite parking permit with GSA or any other Federal agency.

I am eligible for a public transportation fare benefit.

I will use the fare media for my regular daily commute to and/or from work.

I will not transfer fare media to anyone else.

The monthly transit benefit I will receive does not exceed my average monthly communting cost.

I will not use the Government-provided transit benefit in excess of the statutory limit in any given month.

If my commuting costs per month exceed the statutory limit, I will supplement the cost with my own funds.

I will not use a transit benefit designated for use in a future month.

I will return all unused fare media upon leaving GSA.

SIGNATURE OF APPLICANT		DATE
NAME AND TITLE OF SUBSIDY COORDINATOR	SIGNATURE OF SUBSIDY COORDINATOR	DATE

GENERAL SERVICES ADMINISTRATION — GSA FORM 3675 (9-2000)

Permanent Subcommittee on Investigations
EXHIBIT #2a

U.S. DEPARTMENT OF DEFENSE (NATIONAL CAPITAL REGION)
PUBLIC TRANSPORTATION BENEFIT PROGRAM APPLICATION

IMPORTANT: To process this application, you must select one of the following. Are you *(X only one)*:

☐ **ENROLLING** ☐ **WITHDRAWING** ☐ **MAKING A CHANGE**

☐ **X here if you have been previously enrolled in the DoD NCR Program.**

PRIVACY ACT STATEMENT

AUTHORITY: Public Law 101-509.
PRINCIPAL PURPOSE(S): To facilitate timely processing of your request, to ensure your eligibility, and to prevent misuse of the funds involved.
ROUTINE USE(S): This information will be matched with lists at other Federal agencies to ensure that you are not listed as a carpool or vanpool participant or a holder of any other form of vehicle worksite parking permit with DoD or any other Federal agency.
DISCLOSURE: Voluntary; however, failure to furnish the information on this form may result in disapproval of your request for a public transit fare benefit.

INSTRUCTIONS

Step 1: Determine if you are eligible at website: http://www.dtic.mil/ref/html/NCRTransitpass.html
Step 2: Application must be complete and legible in order to be processed.
Step 3: Block 1.j. - If you are a military employee working for a Defense Agency, indicate your Branch of Service as your Organization.
Step 4: Apply - Fax your application to (703) 614-4211.
Step 5: There is a five (5) business day processing timeframe. Check your enrollment status at website: http://www.dtic.mil/ref/html/NCRTransitpass.html
Step 6: For pickup locations, check http://www.dtic.mil/ref/html/PickUp-Scheduled-Distributions.html

GENERAL INFORMATION

- Benefits are administered on a quarterly basis at various NCR locations. See website for dates and locations.
- The Department of Transportation (DoT) or Department of Defense (DoD) does not confirm receipt of application.
- GOVERNMENT CONTRACTORS are not eligible for this program.
- Parking passes MUST be turned in prior to the processing of application.

1. APPLICANT INFORMATION

a. LAST NAME	b. FIRST NAME	c. MIDDLE INITIAL
d. CITY *(Residence)*	e. STATE	f. ZIP CODE
g. WORK TELEPHONE NUMBER *(Include Area Code)*	h. E-MAIL ADDRESS	i. LAST 4 DIGITS OF YOUR SSN

j. ORGANIZATION CODE *(Listed on reverse)* ☐ ☐ OTHER *(If not listed, specify)*: _____ k. LOCATION/BUILDING

l. ARE YOU: *(X one only)*	m. ARE YOU: *(X one only)*	n. ARE YOU: *(X one only)*	o. FOR NAF EMPLOYEES ONLY *(X one only)*
☐ CIVILIAN *(Go to 1.p.)*	☐ OFFICER	☐ AIR FORCE ☐ NAVY	☐ AIR FORCE ☐ OTHER
☐ MILITARY			☐ ARMY
☐ NON-APPROPRIATED FUNDS (NAF) *(Go to 1.o.)*	☐ ENLISTED	☐ ARMY ☐ MARINE CORPS	☐ NAVY
☐ RESERVIST *(31 days or more)*			☐ MARINE CORPS

p. ARE YOU ISSUED A FEDERALLY SUBSIDIZED PARKING PASS?
☐ YES ☐ NO IF YES, WHERE DO YOU PARK? _____

q. BEFORE APPLYING FOR THIS TRANSIT BENEFIT, DID YOU: ☐ DRIVE TO WORK ☐ USE SOME FORM OF MASS TRANSIT

2. MODES OF TRANSPORTATION TO BE USED TO AND FROM WORKPLACE *(X all that apply)*

☐ METRO BUS ☐ METRO RAIL ☐ COMMUTER BUS ☐ COMMUTER TRAIN ☐ VANPOOL

3. EMPLOYEE CERTIFICATION

WARNING: This certification concerns a matter within the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under Title 18, United States Code, Section 1001, Civil Penalty Action, providing for administrative recoveries of up to $10,000 per violation, and/or agency disciplinary actions up to and including dismissal.

I certify that I am employed by the U.S. Department of Defense and am not named on a Federally subsidized workplace parking permit with DoD or any other Federal agency, or that I will relinquish my permit before or upon receiving the fare benefit.

I certify that I am eligible for a public transportation fare benefit, will use it for my daily commute to and from work, and will not transfer it to anyone else.

I certify that the monthly transit benefit I am receiving does not exceed my monthly commuting costs.

I certify that my usual (or estimated) monthly commuting costs, **excluding parking**, are: $ _____. **(This item must be completed.) (As a general rule, calculate your monthly commuting costs, multiply your daily costs by 21 work days per month.)**

a. EMPLOYEE SIGNATURE	b. DATE SIGNED *(YYYYMMDD)*

DD FORM 2845, JUL 2006

Adobe Professional 7.0

Permanent Subcommittee on Investigations
EXHIBIT #2b

U. S. Department of Transportation
NATIONAL CAPITOL REGION PUBLIC TRANSPORTATION TRANSIT BENEFIT PROGRAM APPLICATION

A. **Applicant Information** (Please Print or Type):

Last 4 Digits of Your SSN: _____

Last Name: _____ First Name: _____ MI: ____

Home Address: _____

City: _____ State: _____ Zip Code: _____

DOT Agency / Mode (BTS, FRA, etc.)_____ Routing Symbol (i.e. JA-10)_____

Work Address: _____

City _____ State: _____ Zip Code: _____

Work Telephone Number: _____

Please identify the name of the transit company/system that you use. _____

B. **Employee Certification:**

WARNING: This certification concerns a matter with the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under Title 18, United Stated Code, Section 1001, Civil Penalty Action, providing for administrative recoveries of up to $10,000 per violation, and/or agency disciplinary actions up to and including dismissal.

I certify that I am employed by the U. S. Department of Transportation
I certify that I am eligible for a public transportation fare benefit, will use it for my daily commute to and from work, and will not give, sell, or transfer it to anyone else.
I certify that the monthly transit benefit I am receiving does not exceed my monthly commuting costs.
I certify that in any given month, I will not use the Government-provided transit benefit in excess of the statutory limit. If my commuting costs per month on public transit exceed the monthly statutory limit, then I will supplement those additional costs with my own funds rather than use a Government-provided transit benefit designated for use in a future month.

I certify that my usual **monthly commuting costs** are: $ _____

Employee Signature: _____ Date: _____

C. **Transit Subsidy Coordinator/Accounting Official:**
Employee Accounting Code:

_____ / _____ / _____ / _____ / _____

Name (print): _____ Title: _____

Signature: _____ Date: _____

Routing Symbol (i.e. JA-10): _____

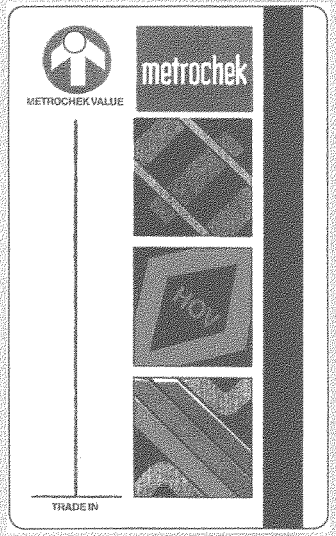
PRIVACY ACTSTATEMENT: This information is solicited under authority of Public Law 101-509. Furnishing the information on this form is voluntary, but failure to provide all or part of the information may result in disapproval of your request for a public transit fare benefit. The purpose of this information is to facilitate timely processing of your request, to ensure your eligibility, and to prevent misuse of the funds involved. This information may be disclosed to the Department of Transportation to perform its duties under an interagency agreement. Making a false, fictious, or fraudulent certification may render you subject to criminal prosecution under Title 18; Unites State Code. Section 1001, Civil Penalty Action; providing for administrative recoveries up to $10,000 per violation; and/or agency disciplinary action up to and including dismissal.

Permanent Subcommittee on Investigations
EXHIBIT #2c

1664-A

GAO

Example of Metrochek and Warning Statement Excerpts



"The use, sale, or exchange of Metrocheks by any other person... is...illegal and subjects the person to arrest and/or prosecution."

Source: WMATA.

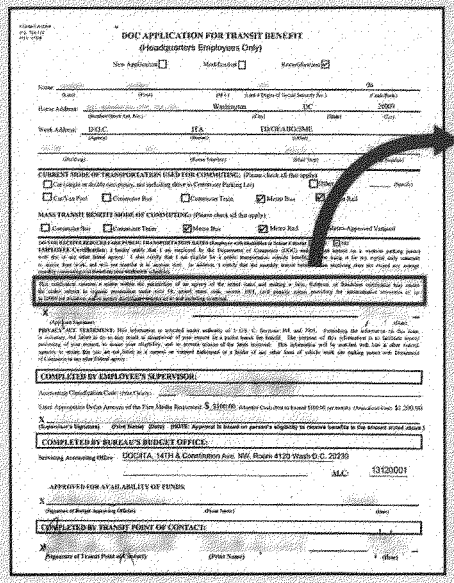
Permanent Subcommittee on Investigations

EXHIBIT #3

GAO
Accountability * Integrity * Reliability

Excerpts from Department of Commerce Transit Benefits Application

Permanent Subcommittee on Investigations
EXHIBIT #4



DOC APPLICATION FOR TRANSIT BENEFIT
(Headquarters Employees Only)

New Application ☐ Modification ☐ Recertification ☑

Name: (Last) (First) (MI) (Last 4 Digits of Social Security No.) (Date of Birth)

Home Address: (Number/Street Apt. No.) Washington (City) DC (State) 20009 (Zip)

Work Address: DOC (Agency) HA (Bureau) ID/OF/BO/SMI (Office)

(Building) (Room Number) (Mail Stop) (Telephone)

CURRENT MODE OF TRANSPORTATION USED FOR COMMUTING: (Please check all that apply)

☐ Car (single or double occupancy, not including drive to Commuter Parking Lot) ☐ Other _____ (Specify)

☐ Car/Van Pool ☐ Commuter Bus ☐ Commuter Train ☑ Metro Bus ☑ Metro Rail

MASS TRANSIT BENEFIT MODE OF COMMUTING: (Please check all that apply)

☐ Commuter Bus ☐ Commuter Train ☑ Metro Bus ☑ Metro Rail ☐ Metro-Approved Vanpool

[illegible]

EMPLOYEE Certification: I hereby certify that I am employed by the Department of Commerce (DOC) and [illegible] to receive a monthly parking permit with this or any other federal agency. I also certify that I am eligible for a public transportation subsidy benefit [illegible] using it for my regular daily commute to and from work, and will not transfer it to anyone else. In addition, I certify that the monthly transit benefit [illegible] exceed my average monthly commuting cost [illegible] schedule.

[illegible] a crime within the jurisdiction of an agency of the United States and making a false, fictitious or fraudulent statement may render the maker subject to criminal prosecution under title 18, United States code, section 1001, and/or penalty action provided for administrative violations of law or Department of Commerce and other federal agency rules and regulations governing [illegible]

X _____ / (Date)
(Applicant Signature)

PRIVACY ACT STATEMENT: This information is solicited under authority of 5 U.S. C. Sections 301 and 7905. Furnishing the information on this form is voluntary, but failure to do so may result in disapproval of your request for a public transit fare benefit. The purpose of this information is to facilitate timely processing of your request, to ensure your eligibility, and to prevent misuse of the funds received. This information will be matched with data in other records systems to verify that you are not listed as a current or former participant or a holder of any other form of vehicle mass transit benefit with Department of Commerce or any other Federal agency.

COMPLETED BY EMPLOYEE'S SUPERVISOR:

Accounting Classification Code: (Fiscal Year) (Office Symbol) (Activity Code) (Object Class)

Total Appropriate Dollar Amount of the Fare Media Requested: $ 1100.00 (Monthly Cost, Not to Exceed $100.00 per month) (Annualized Cost) $1,200.00

X _____ (Supervisor's Signature) (Print Name) (Date) (NOTE: Approval is based on person's eligibility to receive benefits in the amount stated above.)

COMPLETED BY BUREAU'S BUDGET OFFICE:

Servicing Accounting Office: OOCHTA, 14TH & Constitution Ave. NW, Room 4120 Wash D.C. 20230

_____ MAC: 13120001

APPROVED FOR AVAILABILITY OF FUNDS:

X _____ (Signature of Budget Approving Official) (Print Name) (Date)

COMPLETED BY TRANSIT POINT OF CONTACT:

X _____ (Signature of Transit Point of Contact) (Print Name) (Date)

"...making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under title 18, united states code, section 1001..."

Source: Department of Commerce Inspector General.

Response of The Honorable Calvin L. Scovel III,
Inspector General, Department of Transportation,
to Supplemental Questions for the Record

Permanent Subcommittee on Investigations
Hearing on Transit Benefits
April 24, 2007

Question 1:

During the hearing, the Government Accountability Office (GAO) identified several instances of abuse by federal employees of the transit benefit program and stated that, in general, greater oversight is necessary to curb and deter abuse in this program. Some of the abuse identified consisted of federal employees improperly selling their benefits on the internet. In order to monitor this type of abuse, periodic inspections should be conducted of these internet sales to identify any potential federal employees selling their benefits.

Because the Department of Transportation (DOT) administers this program for approximately 75% of all government agencies, would your office be capable of conducting periodic inspections of internet websites to identify federal employees and then referring those employees to their respective federal agencies for further investigation? Do you believe a different government entity would be more appropriate to be responsible for conducting such periodic reviews of internet websites? If so, please identify that entity and articulate why it would be more suitable for that responsibility.

Response:

The abuse of the Transit Benefit Program by federal employees selling their benefits on the internet deserves the attention and best efforts of agencies and Inspectors General to detect and prevent such abuse.

As we noted in our testimony, we expect that the change from the current system that primarily distributes paper fare cards to one that requires use of an electronic SmarTrip card, a change that DOT recently announced, will significantly reduce the trafficking in transit benefits. Also, the development and implementation of stronger controls will prevent the improper accumulation of benefits by federal employees, thereby further reducing the selling of transit benefits.

Permanent Subcommittee on Investigations
EXHIBIT #5

We view monitoring internet websites to identify possibly fraudulent activity as an internal control that agency program officials can implement. This would be analogous to agencies that hire or assign someone to review a workers' compensation program for indications of fraud and refer those cases to the Inspector General. The Inspector General can then use its authority to further investigate those cases, including issuing any necessary subpoenas. While DOT's transit office administers the Transit Benefit Program for other agencies, it is the responsibility of each agency to establish controls and procedures to ensure that its programs are managed in an efficient and effective manner.

However, we recognize and appreciate the Subcommittee's concern that if each agency undertakes the task of monitoring sales on the internet, it could result in the unnecessary duplication of effort and wasted resources. At this time, we are not in a position to know what resources may be required or make recommendations as to the best division of responsibility for monitoring and investigating this type of fraud.

Given the results of the investigation by the Government Accountability Office (GAO), as well as the concerns expressed by your Subcommittee, the Office of Management and Budget and the Department of Transportation, my office intends to undertake a six-month initiative concerning the sale of transit benefits over the internet. During this time we will monitor the internet sites GAO identified and investigate suspected abuses, coordinating with the appropriate agency Inspector General in the case of non-DOT employees. We will confer with the Government Accountability Office (GAO) and expect to build on the experience already accumulated by GAO in this area. We will then be in a position to gauge the extent to which this practice is continuing and whether the improved internal controls are having their desired effect. We will also be able to determine whether significant cost is involved in maintaining monitoring and investigative efforts.

At the end of six months we will develop recommendations for the Department and this Subcommittee as to the level of monitoring that is required, in our opinion, to discourage and identify internet sales of transit benefits. Our recommendations will advise as to the appropriate division of responsibility between agencies and Inspectors General in that monitoring effort.

Question 2:

DOT imposes a user fee on each agency for which it administers this program, which amounts to approximately 4.95% of the benefit amount plus expenses. Would these user fees provide sufficient resources for DOT to monitor internet web sites and identify potential federal employees as indicated in Question 1,

above? If not, what additional resources are necessary for your agency to undertake these periodic reviews and making referrals to other agencies for further development and investigation?

Response:

The user fee of 4.95% may not provide sufficient resources for DOT to monitor internet websites and identify abuse by Federal employees of the Transit Benefit Program. This user fee is calculated to cover the administrative costs currently incurred by the DOT transit office to purchase, store, safeguard, and distribute fare media for other federal agencies. If internet monitoring is included in the administrative services provided by the DOT's transit office, DOT will need to determine whether the user fee is sufficient to cover the costs of these additional services.

As to the six-month initiative that our office has proposed to undertake, we are not seeking additional funds. As part of the recommendations resulting from that effort, we will identify the resources required to continue monitoring internet sites for transit benefit sales.

Question 3:

In your testimony, you indicated that a consistent penalty structure for disciplinary actions against employees who inappropriately receive or sell transit benefits should be developed. What type of penalty structure or disciplinary actions would you suggest could be used on a government-wide basis that would serve to deter abuse in this area and ensure that all federal employees are treated uniformly? Which agency should be responsible for developing a consistent policy and guidelines for disciplinary actions in this area?

Response:

In our testimony, we noted both that there are no recommended disciplinary actions for transit benefit fraud and that there are no procedures for denying future transit benefits to those who have abused the benefit. In particular, it is important to develop a policy that automatically suspends participation in the program if fraud is discovered. The length of the suspension could vary depending on the nature and extent of the fraud. The suspension should be in addition to other disciplinary actions determined to be appropriate by the employee's supervisors.

On May 14, 2007, in response to GAO's report on Transit Benefit Program fraud, the Office of Management and Budget (OMB) issued a memorandum requiring all

agencies to institute specific internal controls for transit benefits. Given its responsibilities over government-wide management issues, OMB would be the most appropriate entity to issue written policy and guidelines for disciplinary actions against employees who engage in transit benefit fraud. OMB has played a similar role in the strengthening of disciplinary action against employees who engage in government charge card misuse. OMB requires agencies to develop and maintain a policy that ensures that administrative or disciplinary actions are initiated in the event that cardholders misuse a government charge card. OMB could do the same with respect to misuse of transit benefits.

Response of Linda J. Washington
Assistant Secretary for Administration
U.S. Department of Transportation
To Supplemental Questions for the Record

Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs

Hearing on Transit Benefits Program
April 24, 2007

1. Testimony from witnesses at the hearing established that additional oversight of the transit benefit program is necessary to curb and deter abuse. In particular, GAO testified that the sales of transit benefits on the internet by federal employees requires periodic monitoring. Do you believe the DOT Inspector General is the appropriate entity to monitor this activity and refer federal employees found on the internet to their respective agency for further investigation? If not, what agency would you recommend for this investigatory work? Do you believe it would be necessary for each agency to reimburse DOT's Inspector General's office on a fee-for-service basis for cases they identify of potential transit benefit abuse?

   Response: The Department of Transportation (DOT) Office of Inspector General (OIG) is the appropriate entity to assist DOT management in providing independent oversight and investigative capabilities relating to DOT employee participation in the transit benefit program. Based upon preliminary consultation with the DOT OIG, it agrees that some form of centralized monitoring and initial follow-up of transit benefit sales on the internet makes sense to avoid unnecessary duplication of effort around the government. However, it lacks the jurisdiction to investigate potential inappropriate use of transit benefits by employees of Federal agencies beyond DOT. As agencies implement transit benefit guidance, including transit benefit internal controls required by the Office of Management and Budget (OMB), take appropriate actions against those identified by the Government Accountability Office for misuse of transit benefits, and step up their efforts to ensure that employees are fully aware of their responsibilities as participants in the transit benefit program, the extent of sales on the internet are expected to diminish. To help ensure that progress is achieved during the intervening period over the next 6 months, while agencies fully implement additional internal controls, DOT OIG has indicated it will

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consider leading an effort to monitor transit benefit sales on the internet, seek to identify the sellers, and share information with other agency inspectors general, as appropriate.

2. In your testimony, you discussed the annual recertification requirement, which requires employees to recertify every year that they remain eligible to receive the transit subsidy. How does your agency administer the annual recertification requirement for DOT employees? Has DOT uncovered cases of employees receiving improper payments even after executing the recertification documentation?

   Response: DOT employees were notified of the annual recertification process and its deadline through a Departmental broadcast e-mail message. Continued participation in the program requires employees to complete a new transit benefit online application that includes detailed information to update and verify their means of transportation and monthly commuting costs. Per OMB guidance on implementing transit benefit internal controls, DOT has started independent verification of this information by an authorizing official. Employees are also asked to confirm specific information such as their city, state, and zip code as well as their permanent duty station location. Prior to submitting their application they are prompted with a certification statement describing the requirements of the program. By accepting the certification statement, employees are entering into a contract with the U.S. Government which states that they will abide by the program requirements and that violations can result in administrative, civil and/or criminal penalties. Employees who fail to recertify by the deadline are withdrawn from the program and are ineligible to receive transit benefits.

   The DOT TRANServe Program Office works very closely with the Department's Office of the Inspector General (OIG). Any suspected cases of fraud, waste or abuse are forwarded to the OIG for review. Our recertification and review processes have to date identified an additional case in which we sought OIG review and for which investigation is underway.

3. During the hearing, a witness referred to the use of SmarTrip cards as a potential means to curb some of the abuse identified by GAO. When does DOT plan to require use of the electronic SmarTrip cards system for distribution of transit benefits to its employees and those agencies on whose behalf it administers the program? Will this system apply to all transit

benefit recipients in the National Capital Region, including those recipients using mass transportation other than the Metrorail system?

Response: Effective July 1, 2007, electronic SmarTrip cards will become mandatory for all DOT employees in the National Capital Region that use only the Metro system to commute to work. Public transportation service providers other than Metro are unable to accommodate SmarTrip cards at this time. As transit providers convert their fare system technology to accept SmarTrip cards, DOT will require its employees to receive transit benefits using the SmartBenfits Program.

Transit benefit policies are set by participating agencies and the Office of Management and Budget. While DOT TRANServe strongly encourages its Federal agency customers to mandate SmartBenefits technology for their employees receiving transit benefits, the decision remains with the participating agencies. We understand that the Metro system is planning to begin phasing out Metrochecks in January 2008. TRANServe is working with its customers by providing SmartBenefits briefings and presentations, to help them prepare for the transition.

4. Of all of the federal employees currently commuting on public transportation, and receiving transit benefits through TRANServe, approximately what percent would switch to private transportation if the transit benefit program was discontinued? Is the Department of Transportation willing to lead a government-wide survey to obtain this information?

   Response: At present DOT TRANserve has not developed any data or any analytical tools necessary to estimate the extent of modal switching that might occur if the transit benefit program were discontinued. Due to the large number of participants in the program, even within the National Capital Region, efforts to obtain the data would require significant staffing and other resources. At present the Department has neither the staffing to accomplish such a government-wide study nor the budgetary resources to contract for one.

RESPONSES TO SUPPLEMENTAL QUESTIONS FOR THE RECORD
FROM THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
to
THOMAS F. GIMBLE
Acting Inspector General
U.S. Department of Defense

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
TRANSIT BENEFITS:
HOW SOME FEDERAL EMPLOYEES ARE
TAKING UNCLE SAM FOR A RIDE
April 24, 2007

Question 1. During the hearing and in its written testimony, GAO estimated that approximately 35% of the Department of Defense employees receiving the maximum benefit amount are improperly receiving the claimed amount. That estimate does not include other categories of fraud and abuse related to transit benefits, such as those individuals improperly receiving both parking and transit benefits. In light of these statistics, what specific internal controls should be implemented by the Department of Defense to identify those employees receiving improper benefits?

Answer. We believe the following internal controls will help to identify individuals in the DoD transit subsidy program who are receiving improper benefits and should be implemented:

1. Approval Controls - ensure that transit subsidy applications are duly authorized and executed by persons acting within the scope of their authority. This will help prevent the number of individuals who attempt to obtain duplicate benefits.

2. Verification Controls – ensure that all application data is accurately and completely recorded. These controls in conjunction with approval controls will help to identify individuals who overstate their monthly benefits or apply for dual or duplicate benefits with slight variations in application data.

3. Reconciliation Controls – periodically performed comparisons of information between transit subsidy and parking databases to identify and investigate anomalies. This will help to identify individuals who unintentionally or fraudulently applied to obtain dual benefits.

4. Documentation Controls – to support enrollment database entries and applicant calculation of monthly benefits and establish an audit trail. Support must be readily available. Enrollment application form (Form 2845) must have controls built in, to include approving official acknowledgment, and support for calculations.

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Question 2. The DOD controls in place for the transit benefit subsidy program are decentralized at the individual components or agencies of DOD. For example, the Department of the Navy and the Department of the Army implement their own internal controls. Do you believe that a more centralized control process for the Transit Benefit Program would provide a more efficient and effective manner to monitor the distribution of DOD transit benefits?

Answer. We believe a more centralized control process would provide a more efficient and effective manner to monitor the distribution of DOD transit benefits. In our audit of the DoD transit subsidy program[1], we identified and reviewed the following processes:

- application;
- change management (status changes, withdrawals);
- database management; and
- distribution of benefits.

We identified internal control deficiencies in the application, change management, and database management processes, and identified insufficient audit trails to meet audit requirements for the Program. We also identified that DoD components were verifying eligibility of employees after (and not before) benefits were distributed. In this control environment, there is a high risk that individuals can: obtain dual benefits; overstate monthly benefit amounts; maintain outdated enrollment information; become ineligible and yet still qualify for benefits. Thus, it is highly likely that the enrollment database used in the distribution of benefits to DoD employees has been populated with outdated, incomplete, and incorrect information.

The DoD transit subsidy program would be improved by implementing formalized policies and procedures to promote a positive control environment in the Program, specifically to ensure that:

- All personnel understand the importance of developing and implementing good internal control within their areas of responsibility in the Program (as noted in the response to the previous question).

- Detailed procedures and practices are developed to fit the Program's operations and to enable personnel to accomplish their assigned duties.

- Key areas of authority and responsibility within the Program's organizational structure are clearly defined.

- Authority and responsibility are appropriately delegated throughout the Program.

[1] Our report will be released during the fall of 2007. The draft report findings have been communicated to the Office of the Undersecretary of Defense for Personnel and Readiness, and to the Washington Headquarters Services.

Question 3. In a 2003 audit conducted by the DOD Inspector General's office, several areas were identified as lacking the appropriate internal controls that would identify fraud and misuse of transit benefits. Weak internal controls included, for example, inappropriate parking verifications and lack of reconciliations of billings received from the Department of Transportation in order to verify employment status of individuals. Please detail the status of the implementation of all follow-up actions identified in the 2003 audit report. In addition to the follow-up actions detailed in the 2003 audit, what other procedures or controls would you recommend in order to have the appropriate level of oversight for this program and prevent the type of abuse identified by GAO during its investigation?

Answer. The status of the implementation of follow-up actions identified in the 2003 report are as follows:

Recommendation 1: The Assistant for Administration to the Under Secretary of the Navy; the Administrative Assistant to the Secretary of the Army; the Assistant Secretary of the Air Force (Financial Management and Comptroller); and the Director, Defense Logistics Agency develop policies and procedures requiring the reconciliation of all transit subsidy billings received from the Department of Transportation.

Corrective Action:

Navy Implementation Complete: Prior to the issuance of the final report, the Navy documented its transit subsidy reconciliation process in desk guides and included the transit subsidy as an assessable unit in its Management Control Plan.

Army Implementation Ongoing: The Army concurred with the recommendation and developed draft policy and procedural guidance in the form of a Headquarters, Department of the Army (HQDA) letter. The coordination of the draft HQDA letter through affected Army organizations is ongoing. The Army Resources and Programs Agency is also working with Army Knowledge Online (AKO) to develop an automated process to validate Army employees within the program.

Air Force Implementation Complete: The Air Force developed Standard Operating Procedures to reconcile the subsidy billings received from Department of Transportation. These procedures are described in the "Mass Transit Subsidy Benefit Participant Report Process" also used by WHS.

Defense Logistics Agency Implementation Complete: The DLA developed a system to compare monthly subsidy billings to a listing of participants and their status with Security. Corrections are reported to the Department of Transportation so that their records can be reconciled with the proper organizations.

Recommendation 2: The Director, Defense Logistics Agency develop a policy requiring that all transit subsidy applications be checked against the Defense Logistics Agency parking permit

roster before being approved.

Corrective Action:

DLA Implementation Complete: The DLA issued a policy memorandum requiring all transit subsidy applications be checked against the DLA parking permit register before being approved. In addition, the DLA created a database to register mass transit participants and issues monthly reports to identify participants of the program who drive on to the facility.

Washington Headquarters Services Implementation Ongoing: Although not required to comment, the Deputy Director, Washington Headquarters Services issued supplemental budget guidance to all DoD Components clarifying that each component is responsible for verifying monthly participation reports and paying periodic bills. In addition, WHS is working with the DoD Components to facilitate report reconciliations. WHS is also researching the use of the DoD Common Access Card as identification for the distribution of transit subsidy benefits to increase the accuracy of employee organization information and to reduce the risk of ineligible persons receiving transit benefits.

Additional controls

As mentioned previously, relevant control procedures we recommend include:

1. Approval Controls - ensure that transit subsidy applications are duly authorized and executed by persons acting within the scope of their authority.

2. Verification Controls - ensure that all application data is accurately and completely recorded.

3. Reconciliation Controls - periodically performed comparisons of information between transit subsidy and parking databases to identify and investigate anomalies.

4. Documentation Controls - to support enrollment database entries and applicant calculation of monthly benefits and establish an audit trail. Support must be readily available.

Question 4. What actions has the Department of Defense taken, if any, against the employees that the Government Accountability Office identified as having committed fraud on the transit benefits program?

Answer. The interview reports from GAO were reviewed. The subjects are a mixture of military members and military civilian employees. The Defense Criminal Investigative Service is in the process of sending referrals, including GAO's interviews, to the Military Criminal Investigative Organizations for appropriate action.

RESPONSES TO SUPPLEMENTAL QUESTIONS FOR THE RECORD
FROM THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
to
MICHAEL L. RHODES
Deputy Director, Administration and Management
Director, Washington Headquarters Services
U.S. Department of Defense

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
TRANSIT BENEFITS:
HOW SOME FEDERAL EMPLOYEES ARE
TAKING UNCLE SAM FOR A RIDE
April 24, 2007

1. In your testimony you state that primary responsibility for oversight of the transit benefit program within the Department of Defense (DOD) is decentralized within each component or agency of DOD. Based on an audit conducted by the DOD Inspector General in 2003, these components do not have consistent policies and procedures to monitor or identify fraud and abuse in the transit benefit program. Would the administration of this program be strengthened if DOD Washington Headquarters Services established the internal controls and procedures to be followed agency-wide? Would a more centralized program contribute to better oversight and enforcement of this program? If so, please explain why.

   Answer: To clarify, with my testimony, I intended to explain that DoD policy for the transit benefit program distinguishes between implementation in the National Capital Region (NCR) and Outside the National Capital Region (ONCR). Outside the NCR, the program is decentralized to the Components to administer. Washington Headquarters Services (WHS) centrally administers the program for the NCR only, and we do this with and through multiple military components and organizations in the region. WHS has been moving forward with implementing additional controls within the NCR program. These include augmenting the program application to include: the four digit extension on the home zip code (allows for more specific location without jeopardizing personal information); location where the applicant's mass transit commute begins; work address, commuting cost calculator, and revised certification statement with additional language on penalties for false statements.

   The Under Secretary of Defense for Personnel and Readiness (USD P&R) recently established a Department-wide working group, with representatives from the Components, the Department of Transportation (DoT), and the DoD Inspector General's Office to provide input on needed revisions to the Department's mass transit policy. The current policy requires that controls be in

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place to properly manage the program and that Components exercise responsibility for program oversight. The policy, however, will be strengthened to provide for internal controls suggested by both the Government Accountability Office (GAO) and the Office of Management and Budget (OMB), additional accountability, and, wherever possible, standardization of Department forms and procedures. The Working Group members are also sharing their current procedures so that best practices can be identified and shared among the Components. This new policy initiative will provide for consistent oversight; strengthened accountability; more clearly defined roles and responsibilities; and more effective use of the program toward its intended goals.

The USD P&R is also implementing near-term initiatives to ensure the proper operation of the mass transit program. All Components, NCR and ONCR have been tasked to review their current internal controls to determine if they meet the criteria suggested by OMB. WHS, for NCR and Army, Navy, and Air Force for ONCR, have completed this review and are implementing the controls.

In addition, WHS continues on-going sessions with the DoT and is engaged on guidance given to DoT during testimony.

2. You stated at the hearing that DOD performed certain verifications prior to approving an employee to receive transit benefits. Please enumerate the information that is verified by DOD prior to approving an employee to receive transit benefits. In addition, please provide a list of all verifications performed on a periodic basis after a DOD employee has been approved for transit benefits. For example, please indicate whether DOD performs any of the following reviews:

   a. Do you receive the names of employees who are going on extended leave or temporary duty for longer than one month so that their transit benefits can be suspended for such time?
   b. When an employee submits a change of address, is any verification conducted to determine whether the transit benefit subsidy amount needs to be revised pursuant to the change of address?
   c. Does DOD verify the commuting expense reported by the employee based on the employee's residence and office location?

   Answer: As referenced in testimony, all program applications for the Department of Defense (DoD) National Capital Region (NCR) program first come to the Pentagon Force Protection Agency, who checks the application against the parking roster. This is to ensure the applicant is not named on a Pentagon Reservation parking permit. The application is then forwarded to the Department of Transportation (DoT), our Federal transit benefit service provider, for processing and entry into the DoT database. The applicant must present a valid DoD identification card verifying employment and sign a re-attestation of their certification to the program requirements every time benefits are issued.

Following issuance of benefits, DoT provides monthly detailed participant reports and the DoD Components reconcile the participation reports with their employment and payroll records.

DoD Program (Outside the National Capital Region (ONCR)), Component program administrators report that they also verify parking information respective to their installation or location to the extent that information is available. There are a number of controls in place by the ONCR program administrators. Verification is made on the personal information provided in the application as well as unit or organization information and the type of transportation system or mode of travel. Other examples of verification include quarterly validation of employees assigned to commands based on transit reports provided by DoT and re-certifications performed on participants after each benefit increase. Some components do require checking leave and temporary duty status; however, the method is determined by the point-of-contact for the program at the installation. The methods for conducting this verification are being discussed by the Component mass transit working group to identify and share best practices among the Components. Most ONCR programs do not pay cost of the fare from home, but rather reimburse based on a point of origination to the place of employment, i.e., the roundtrip cost from the media point (subway, bus, rail, ferry, van pool) to the place of work. Thus, a change of address would not be relevant to reimbursement cost as privately owned vehicle commute time and cost are not considered. Component verification of benefits is accomplished through employee self-certification, as well as cross-checking personnel rosters to ensure applicants are Government employees. Quarterly and annual re-certifications are performed utilizing personnel databases to audit continued eligibility for benefits. For vanpool participants, ridership is verified with vanpool operators.

At Washington Headquarters Services, for the NCR program, we do not currently receive a list of the employees going on extended leave, verify changes in commuting costs due to changes of address, or verify the commuting costs. However, we are modifying our program application certification statement to include that employees are responsible for adjusting their benefit claim for extended leave and/or temporary duty. In addition, we will be adding a commuting expense worksheet for employees to complete and we will be randomly verifying information on these worksheets.

3. Of all of the Department of Defense (DOD) employees currently commuting on public transportation, approximately what percent would switch to private transportation if the transit benefits program was discontinued? Is DOD willing to participate in a survey to determine this information?Would the administration of this program be strengthened if DOD Washington Headquarters Services established the internal controls and procedures to be followed agency-wide?

Answer: Washington Headquarters Services (WHS) does not presently oversee the transit program Outside the National Capital Region (ONCR), it is managed by

the Services/Agencies. The Department has a Department of Defense (DoD) mass transit policy, that sets forth guidelines for managing the program nationwide. The policy tasks the Components with ensuring controls are in place to ensure the program is properly administered. The policy is in the process of being updated and strengthened. Strengthening this policy is preferred as opposed to adding another layer in the oversight.

Components report that it would be impossible to estimate whether or not discontinuance of the program would cause current program participants to switch to private transportation. Some would still be forced to use public transportation due to heightened parking restrictions enforced after 9/11. In addition, due to the rising gas prices, it still may be more cost effective to use public transportation than switch. In the majority of the cases, $110 subsidizes rather than covers the total commuting cost. There is no way of knowing whether employees could afford private transportation if the benefits were discontinued.

WHS does not have data concerning the current propensity of employees to convert from mass transit to private transportation, although increases in gasoline prices have coincided with increased participation in mass transit in the last couple of years. WHS and the Components are willing to participate in Department-wide survey to determine the disposition of the DoD National Capital Region (NCR) participants as are the Components, in consultation with Labor Unions. WHS does not determine DoD-wide policy; the Office of the Under Secretary of Defense for Personnel and Readiness has this responsibility. The Under Secretary of Defense for Personnel and Readiness recently established a Department-wide working group to update and enhance the Department's mass transit policy and to share best practices; WHS is participating in this group. In addition, WHS continues on-going sessions with the Department of Transportation (DoT) and is engaged on guidance given to DoT during testimony. As Federal modifications to the mass transit program are developed, these changes will be incorporated into the Department's policy.

RESPONSES TO SUPPLEMENTAL QUESTIONS FOR THE RECORD
FROM THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
to
GREGORY D. KUTZ
Managing Director
Forensic Audits and Special Investigations Unit
U. S. Government Accountability Office

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
TRANSIT BENEFITS:
HOW SOME FEDERAL EMPLOYEES ARE
TAKING UNCLE SAM FOR A RIDE
April 24, 2007

1. Approximately what percentage of federal employees nationwide receive transit benefits? Approximately what percentage of federal employees in the National Capital Region receive transit benefits? Approximately what percentage of federal employees in other major metropolitan areas receive transit benefits?

   RESPONSE ATTACHED

2. Approximately what percentage of federal employees currently commuting on public transportation would switch to private transportation if the transit benefits program was discontinued?

   GAO ADVISED THAT THEY WERE UNABLE TO ANSWER THIS QUESTION AS IT WAS NOT COVERED IN THE SCOPE OF THE WORK DONE BY GAO.

3. Please describe the nature and size of the private sector transit benefits program. What are the tax benefits for private employers who participate in the transit benefits program? How common is the deduction, and what is the cost to the U.S. Treasury of this deduction?

   GAO ADVISED THAT THEY WERE UNABLE TO ANSWER THIS QUESTION AS IT WAS NOT COVERED IN THE SCOPE OF THE WORK DONE BY GAO.

4. If possible, please estimate the extent of the fraud in the private sector transit benefits program.

   GAO ADVISED THAT THEY WERE UNABLE TO ANSWER THIS QUESTION AS IT WAS NOT COVERED IN THE SCOPE OF THE WORK DONE BY GAO.

5. Is it illegal for a private sector employee to sell his transit benefits if he reports the income on his tax return?

   RESPONSE ATTACHED

Permanent Subcommittee on Investigations
EXHIBIT #9

**Supplemental Questions for the Record
from the Permanent Subcommittee on Investigations
Hearing on Transit Benefits: How Some Federal Employees Are
Taking Uncle Sam for a Ride**

Most of the submitted questions were not covered by the scope of our original work. However, we were able to provide some information in response to question 1. GAO's Office of the General Counsel provided the response to question 5.

1) Approximately what percentage of employees in the National Capital Region receives transit benefits?

Although we can not provide a definitive answer to this question, the following information may be useful in estimating a percentage:

- According to the Office of Personnel Management (OPM), as of December 2006, there were **280,883** full and part-time federal civilian employees working in the Washington, D.C., area. This number does not include military personnel. OPM defines the Washington, D.C., area as the U.S. Census Core Based Statistical Area, including Washington, D.C.; the Maryland counties of Calvert, Charles, Frederick, Montgomery, and Prince George's; the Virginia counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, and Warren; and Jefferson County in West Virginia.

- According to records from the Department of Transportation (DOT) and the Washington Metropolitan Area Transit Authority (WMATA), approximately **105,484** federal employees in the National Capital Region (NCR) received transit benefits as of July 2006. This number includes military personnel stationed in the NCR. Executive Order 13150 defines the NCR as "the District of Columbia; Montgomery, Prince George's, and Frederick Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties."

- We did not use the above information to calculate a percentage because

    - The **280,883** full and part-time federal civilian employees working in the Washington, D.C., area provided by OPM does not include military personnel. The **105,484** transit records from DOT and WMATA include military personnel.
    - In addition, the Washington, D.C., geographical zone as defined by OPM is larger than the geographical area included in NCR. Specifically, employees included in the OPM number could live in parts of Virginia and Maryland not included in the NCR.

5) Is it illegal for a private sector employee to sell his transit benefits if he reports the income on his tax return?

Federal employees who sell their transit benefits could be subject to prosecution under the False Statements Act (18 U.S.C. § 1001) or for unlawful conversion of government property under 18 U.S.C. § 641. As discussed below, the False Statements Act may apply to private employees under limited circumstances; however, 18 U.S.C. § 641 is not applicable to them. Nevertheless, the sale of transit benefits by private employees may violate company policy if, for example, employee standards of conduct set forth in employee handbook or manuals prohibit such sales.

Many federal agencies require employees to sign a certification that they will only use their transit benefits to cover actual out-of-pocket commuting costs; employees who sell their benefits thus may violate the False Statements Act. However, no such certification is required of private sector employees who receive a transit pass from their employer. 26 C.F.R. 1.132-9(b) Q/A-18. Therefore, unless the employee selling transit benefits has certified that he will only use the transit benefit to cover commuting costs, the False Statements Act is not applicable.

The sale of transit benefits by federal employees could also be considered an unlawful conversion of government property, in violation of 18 U.S.C. § 641. This statute is not applicable to private sector employees because the transit benefits are paid for by the employer and thus are not government property.

Finally, the statute authorizing the exclusion of transit benefits from gross income does not require the employee to actually use the benefit for personal use. 26 U.S.C. § 132(f). In addition, the associated Treasury regulations specifically state that there are no substantiation requirements and that an employer can distribute transit passes with a value not more than the statutory month limit without requiring any certification from the employee regarding the use of the pass. 26 C.F.R. § 1.132-9. However, this would not preclude a private employer from prohibiting such a sale through a written agreement with the employees.

Therefore, assuming the employee reported any income realized from the sale of the transit benefit, there appears to be no federal statute that would prohibit their sale by private sector employees.