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Office of Inspector General

Office of Audits

Audit of Public Transportation Benefit Program



March 27, 2009
Report No. 456



OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

MEMORANDUM

March 27, 2009

To: Jeffrey Risinger, Associate Executive Director, Office of Human Resources

From: H. David Kotz, Inspector General *HDK*

Subject: *Audit of Public Transportation Benefit Program*, Report No. 456

This memorandum transmits the U.S. Securities and Exchange Commission Office of Inspector General's (OIG) final report detailing the results of our audit on the Commission's Public Transportation Benefit program (transit benefit program). The audit was conducted by the OIG as part of our continuous effort to assess the management of the Commission's programs and operations and was based on our audit plan.

The final report contains 10 recommendations that were developed to strengthen the Commission's transit benefit program internal controls. The Office of Human Resources concurred with all of the recommendations.

Should you have any questions regarding this report, please do not hesitate to contact me. We appreciate the courtesy and cooperation that you and your staff extended to our auditor during this audit.

Attachment

cc: Kayla J. Gillan, Deputy Chief of Staff, Office of the Chairman
Diego Ruiz, Executive Director, Office of the Executive Director
Teresa Ellison, Assistant Director, Office of Human Resources
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Audit of Transportation Subsidy Program

Executive Summary

Background: The U.S. Securities and Exchange Commission's (SEC or Commission) Public Transportation Benefit Program (transit benefit program) was established in 1992 to encourage employees to commute to and from work by means other than single occupant vehicles. To achieve this goal, the transit benefit program provides financial incentives to employees who regularly commute via public transportation, not to exceed the lesser of the Federal tax-excludable amount (currently \$120 per month for 2009), or the actual commute cost. Executive Order 13150, "*Federal Workforce Transportation*," was issued on April 21, 2000, and mandated all Federal agencies in the national capital region (Washington, D.C. metropolitan area) to implement a "transit pass" benefit program by October 2000.

The SEC's transit benefit program is administered by the Office of Human Resources (OHR). The Commission spent approximately \$1.3 million on the transit benefit program in Fiscal Year 2007 and \$1.6 million in Fiscal Year 2008. As of July 18, 2008, approximately 1,655 headquarters employees and 1,067 regional office employees participated in the transit program.

Objectives: The Office of Inspector General conducted this audit in accordance with our annual audit plan. The objectives of the audit were to:

- (1) Determine if the Commission has sufficient policies and procedures (i.e., management controls) in place to ensure compliance with applicable laws, regulations, and other requirements and to prevent and detect waste, fraud, and abuse in the transit benefit program, and
- (2) Assess whether employees are complying with transit benefit program participation requirements.

Results: The audit found that the Commission has established some management controls over the transit benefit program. However, there are several areas in which significant improvements are needed.

Specifically, the transit benefit application form and application process need to be strengthened to ensure compliance with the Office of Management and Budget (OMB) internal control guidelines. In addition, we found that transit benefit program participants were not always timely removed from the Department of Transportation's (DOT) transit database based upon when they separated from the Commission. As a result, the audit found that some employees inappropriately collected benefits after leaving the Commission.

While we generally found that transit benefit program participants were complying with the program requirements, we also found that some participants did not adjust benefits when teleworking or taking extended leave. Further, OHR was unable to provide complete transit application data for nearly 50 percent (24 of 50) of the transit benefit program participants in our sample that we selected to test compliance with program requirements.

Summary of Recommendations

To strengthen management controls, OHR should:

- (1) Finalize its revised transit application by April 30, 2009, and ensure that the application requires transit benefit program participants to provide a breakdown of commuting costs in accordance with OMB guidelines and includes a certification below the Administrative Officer's signature line that clearly states that the application has been reviewed for verification of eligibility and commuting costs;
- (2) Conduct periodic training and issue reminders to Administrative Officers on their responsibility to verify the eligibility and commuting costs of transit benefit program participants;
- (3) Put in place a process to require transit benefit program participants to annually recertify their eligibility and commuting costs (i.e., complete a new transit benefit program application);
- (4) Implement a process to obtain separation data on all Commission employees and compare that data to the DOT's transit database to ensure that all separated employees who participated in the transit program have been promptly removed from DOT's database;
- (5) Pursue collection of \$394 in erroneous benefits collected by transit benefit program participants after they separated from the Commission;
- (6) Ensure for each file identified as missing or incomplete that OHR obtain the necessary documentation to create a file (electronic or hard copy) containing, at a minimum, a copy of the participant's transit benefit program application, SmartBenefit application, and documentation to support changes in commuting costs;
- (7) Put in place a process to conduct periodic internal reviews of transit benefit program participants who are on extended leave and/or frequently telework to ensure they are properly reducing benefits;

- (8) Remind transit benefit program participants that they are required to reduce benefits if they are on extended medical or personal leave, travel, and any other situation that results in their commuting cost to be less than the amount of benefits they are eligible to receive in the applicable month. Additionally, OHR should provide instructions on how benefits are adjusted under the SmartBenefits program;
- (9) Seek recovery of the estimated \$225 in overpayments erroneously collected by transit benefit program participants while they were on leave;
- (10) Implement additional management controls over regional office transit benefit program operations to ensure they are in compliance with SEC requirements, including: (a) performing periodic reviews of regional offices to examine their transit benefit program processes, (b) requesting that regional offices provide semiannual reports to headquarters in addition to the Regional Directors discussing the results of their program audits, and (c) requiring regional offices to have written policies and procedures tailored to their specific transit benefit programs.

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Background and Objectives

Background

The U.S. Securities and Exchange Commission's (SEC or Commission) Public Transportation Benefit Program (transit benefit program) was established in 1992 to encourage employees to commute to and from work by means other than single occupant vehicles. To achieve this goal, the transit benefit program provides financial incentives to employees who regularly commute via public transportation, not to exceed the lesser of the Federal tax-excludable amount (currently \$120 per month for 2009) or the actual commute cost. Executive Order 13150, "*Federal Workforce Transportation*," was issued in April 21, 2000, and mandated that all Federal agencies in the national capital region (Washington, D.C. metropolitan area) implement a transit pass benefit program by October 2000.

In April 2007, the Government Accountability Office (GAO) provided testimony to a Congressional Subcommittee regarding the Federal Transit Benefits Program, entitled "*Ineffective Controls Result in Fraud and Abuse by Federal Workers*." GAO found that individuals were selling Metrocheks on eBay and Craigslist, as well as claiming benefits to which they were not entitled, and identified weaknesses in the design of program controls at several agencies.¹ As a result of the GAO review, the Office of Management and Budget (OMB) issued a memorandum to the Executive departments and agencies in May 2007 requiring all agencies with transit benefit programs to implement several internal controls designed to deter fraud, waste, and abuse.² The OMB required internal controls included application requirements, independent verification of eligibility, and program implementation controls.

The SEC's transit benefit program is administered by the Office of Human Resources (OHR). A program manager oversees the daily operations of the transit benefit program at the SEC's headquarters location (Washington, D.C. metropolitan area). In participating regional offices, a program coordinator administers the transit benefit program under the direction of the office's Regional Director.

¹ GAO-07-724T, Testimony Before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate: Federal Transit Benefits Program, Ineffective Controls Result in Fraud and Abuse by Federal Workers, April 24, 2007.

² M-07-15, Memorandum For All Heads of Departments and Agencies, dated May 14, 2007, Subject: Federal Transit Benefits Program.

To assist in administering the program, the SEC entered into an interagency agreement with the Department of Transportation (DOT).³ Under this agreement, DOT is responsible for processing enrollment applications, safeguarding and distributing fare media, providing monthly statements regarding employee participation, maintaining a database that identifies all participants in the program, and providing customer service support for the headquarters location, as well as the Los Angeles and Atlanta regional offices. OHR handles all enrollments, terminations and employee record changes for the transit benefit program.

The Commission spent approximately \$1.3 million on the transit benefit program in Fiscal Year 2007 and \$1.6 million in Fiscal Year 2008. As of July 18, 2008, approximately 1,655 headquarters employees and 1,067 regional office employees participated in the transit program. Based on DOT data as of November 2008, approximately 1,206 headquarters employees received SmartBenefits by downloading them on a SmarTrip Card.

SmartBenefits is a web-based program that allows employers to assign a value to the employees' SmarTrip card. Effective in March 2009, employees commuting to and from work via Metrorail and Metrobus must use SmarTrip cards. A SmarTrip card is a rechargeable fare card that can be purchased and registered through the Washington Metropolitan Area Transit Authority (WMATA). In order for employees to gain access to their SmartBenefits, they have to download their benefits electronically from a Metro station passes/fare card machine onto their SmarTrip cards each month. Use of the SmarTrip card provides employees a way to recoup losses if the card is lost or stolen. It also gives employees the ability to consolidate all transit benefit funding into one place, including adding their own money, up to the \$300 card maximum funding capacity. Employees who do not download the monthly benefit to their SmarTrip cards by the last day of the benefit month lose that month's funding, which automatically reverts to the Agency as a credit on a future WMATA monthly invoice.

Effective March 2009, employees who commute to work on any form of transportation that does not accept the SmarTrip card (e.g., certified vanpool, Virginia Railroad Express or MARC train) have the option of receiving their approved monthly transit benefits by paper fare (SmarTrip vouchers). These participants will still go to the regularly scheduled transit disbursements at the SEC's headquarters location at Station Place and the Operations Center in Alexandria, VA to pick up their benefits covering a two-month period. Annually, participants are provided a schedule of distribution dates and are also reminded by email of upcoming distribution dates.

³ Interagency Agreement Between SEC and DOT dated September 11, 2008, Agreement Number 021-TFC-3017010201-09.

Objectives

The Office of Inspector General (OIG) conducted this audit in accordance with our annual audit plan. The objectives of the audit were to:

- (1) Determine if the Commission has sufficient policies and procedures (i.e., management controls) in place to ensure compliance with applicable laws, regulations, and other requirements, and to prevent and detect waste, fraud, and abuse in the transit benefit program, and
- (2) Assess whether employees are complying with transit benefit program participation requirements.

Findings and Recommendations

The audit found that the Commission has established some management controls over the transit benefit program. However, additional improvements can be made in the areas of:

- (1) Strengthening the transit benefit program application process;
- (2) Timely removing separated employees from DOT's transit database;
- (3) Maintaining complete pertinent data on current program participants; and
- (4) Increased monitoring of regional office transit benefit programs.

Additionally, while we generally found that transit benefit program participants were complying with the program requirements, we also found that some participants may not be adjusting their benefits due to telework schedules and extended leave.

Finding 1: The Transit Benefit Application Form and Process Should Be Strengthened

The Commission's internal policies and procedures for the transit benefit program, SECR 5-9, *Public Transportation Subsidy Program*,⁴ generally reflect current processes and procedures and appear to be consistently followed; however, the program application form and application process need to be strengthened to ensure compliance with the OMB Memorandum M-07-15, *Federal Transit Benefits Program*, dated May 14, 2007 (OMB Memorandum M-07-15).

The OMB Memorandum M-07-15 was issued in response to an April 2007 GAO review in which numerous instances of fraud and abuse of Metrocheks by Federal employees were disclosed. The memorandum required agencies to confirm in writing, by no later than June 30, 2007, that certain internal controls had been implemented regarding the transit application process, including the following:

⁴ SECR 5-9, SEC Administrative Regulation, Public Transportation Subsidy Program, February 16, 2005.
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Application Requirements

- *Commuting Cost Breakdown*

Independent Verification of Eligibility

- *Commuting Cost Verified by Approving Official (e.g., employee's home address validated and commuting cost correctly calculated).*
- *Eligibility Verified by Approving Official⁵*

The SEC's response to OMB stated that the OHR Transit Benefit Program Manager routinely verifies that all applications include a home address, employee work address, commuting cost breakdown, and an employee certification of eligibility. Additionally, the OHR Transit Benefits Manager currently verifies all applications by utilizing the WMATA trip planner tool to ensure employees request the correct amount of transportation benefits.

Based on our review of the Commission's internal policies and procedures, and interviews of transit benefit program representatives, we found that the SEC has not fully implemented the following OMB required internal controls:

1. Cost Breakdown

The current SEC application for transit benefits, SECR 2445, *Application for Transit Benefit*, dated April 2004, does not require a cost breakdown of a participant's commuting costs. The application contains a certification that states, "I certify that my average monthly commuting cost on public transportation is \$_____. *This amount does not include parking or expense for my personal vehicle. It does not reflect consideration for periods of regular and/or recurring extended business travel when I will not commute from home to work.*"

An attachment to OMB Memorandum M-07-15 contains a mass transit expense worksheet showing that participants should be required to list their mode(s) of transportation (e.g., bus, light rail subway, train or vanpool), daily expense, weekly expense and monthly expense. Additionally, teleworkers and part-time employees must complete a specific section of the worksheet showing the appropriate reductions in benefits.

Based on discussions with the SEC's current OHR Transit Program Manager during the course of this audit, the SEC's application for transit benefits is being revised to include a cost breakdown and a draft is currently being circulated for comment.

⁵ OMB Memorandum M-07-15, page 2.

2. Independent Verification of Commuting Costs and Eligibility

The OMB's internal control guidelines require that an approving official verify a transit benefit program participant's eligibility and commuting costs. Currently, the SEC's OHR Transit Program Manager primarily relies on the Administrative Officers within each office/division to perform this function as part of their review of the transit benefit program application prior to its submission to OHR. The Transit Program Manager then performs a second, more cursory review of the application prior to submitting it to DOT.

The SECR 5-9, *Public Transportation Subsidy Program*, states that the Administrative Officer will review the application for accuracy, indicate the month that the participant is eligible to start receiving the transit benefit, enter the organizational name and code, sign on the appropriate line and forward the application to OHR.⁶ However, there is no documentation to support that the Administrative Officers are independently verifying employees' commuting costs and eligibility.

We noted the following specific issues. First, while the SEC has designated Administrative Officers as approving officials for transit applications and requires them to sign the application prior to submission to OHR, it is not clear what the Administrative Officer's approval represents (i.e., the signature line does not currently contain a certification of any kind). Second, without having some type of cost breakdown on the transit application, the task of verifying commuting costs is difficult to perform with any accuracy. For example, in order to verify commuting costs appropriately, Administrative Officers would have to determine the closest rail or train station based on the participant's home address and estimate costs without knowing if the person also took a vanpool, bus, etc. Moreover, there is no evidence that the Administrative Officers are actually performing this calculation. Third, based on our review of a sample number of transit benefit program files containing application information, the files generally do not contain supplemental information (e.g., a WMATA trip planner or equivalent) documenting that commuting costs were verified.

Based on discussions with the current OHR Transit Benefit Program Manager, and after the auditor brought this matter to OHR's attention, OHR has modified the transit benefit program application to include a certification statement below the Administrative Officer's contact signature block to clearly indicate what the signature represents. We believe that in addition to this certification, OHR should periodically train and remind

⁶ SECR 5-9, page 5.

Administrative Officers of their responsibilities with respect to verifying eligibility and commuting costs.

3. Re-certifications

The SEC currently does not require transit benefit applicants to recertify their eligibility and commuting costs on a periodic basis (i.e., complete a new transit benefit program application). As a result, the SEC may have outdated information on file for many program participants.

The current application contains a box at the top of the form in which transit benefit program participants can place a check to change a name, address, or commuting cost. They can also apply as a new enrollee or re-enroll after a period of non-participation. The application currently does not have a box or requirement to have program participants periodically recertify their transit information.

While OMB's internal control guidelines do not explicitly require re-certification, OMB attached to M-07-15 an application adopting OMB's required controls that includes a box at the top of the form for individuals to check for re-certification. Also, the OIG believes that periodic re-certification is a necessary internal control to help ensure that OHR has current commuting information on transit benefit program participants. Additionally, as the application for transit benefits is modified in the future, participants will be required to sign the new forms and related representations/certifications.

In response, the OHR Transit Benefit Program Manager agreed there is a need to implement a recertification requirement (i.e., have participants periodically fill out new transit benefit program applications that would contain cost breakdowns, etc.). However, he noted that in December 2008, DOT required all participants to sign a declaration form stating whether they would be using the SmartTrip card or SmartTrip vouchers, and that this declaration also required participants to provide their monthly commuting costs.

Recommendation 1

The Office of Human Resources should finalize its revised transit benefit program application by April 30, 2009, and ensure that the application:

- (1) Requires transit participants to provide a breakdown of commuting costs in accordance with OMB guidelines; and

- (2) Includes a certification below the Administrative Officer's signature line that clearly states that the application had been reviewed for verification of eligibility and commuting costs.

Recommendation 2

The Office of Human Resources should conduct periodic training and issue reminders to Administrative Officers on their responsibility to verify transit participants' eligibility and commuting costs.

Recommendation 3

The Office of Human Resources should put in place a process to require transit participants to re-certify annually their eligibility and commuting costs (i.e., complete a new transit benefit application).

Finding 2: Employees Separating From the Agency Are Not Always Removed In a Timely Manner From DOT's Transit Database

We found that transit benefit program participants were not always removed in a timely manner from the DOT transit database upon separation from the Commission. As a result, we found that some employees inappropriately collected benefits after leaving the Commission.

We obtained employee separation data from OHR for Fiscal Year 2008 and compared the information to a DOT list of all transit benefit program participants as of November 2008. We also identified 38 participants who had separated from the SEC, but were still active in DOT's transit benefit program database. We brought this issue to the attention of the OHR Transit Benefit Program Manager, who in turn asked DOT to clean-up the database by removing applicants who had been inactive for three or more months. Through this process, the OHR Transit Benefit Program Manager also discovered that DOT was not automatically purging the database every three months as the SEC had requested. The SEC has instructed DOT to do so going forward.

We then identified and gathered detailed information for 13 transit benefit program participants who remained in DOT's transit database after the clean-up of records, to determine why they were still active participants in the SEC's

transit benefit program when they were shown as having separated from the Commission. Based on available data from DOT and OHR, we found:

- For 10 of 13 participants (which included two student interns and one employee who subsequently became a contractor), OHR and the Office of Financial Management (OFM) could not locate a copy of an exit clearance form (SEC Form 1455), as required by SECR 7-4, *Employee Clearance Process*, dated December 31, 1999. As a result, according to the OHR Transit Benefit Program Manager, OHR was unaware that these individuals had left the agency and, therefore, did not initiate action to have them removed from DOT's transit database. Further, we found that three of the 10 transit participants withdrew benefits using their SmartCards or picked up benefits totaling \$624, after they separated from the SEC as detailed in the table below. OHR, in conjunction with OFM, required Participant B to return the \$230 in erroneous benefits after another SEC employee notified DOT that the individual had become a contractor and was no longer entitled to the benefits.

Table 1: Transit Participants Withdrawing Benefits After Separation

Participant	Separation Date	Dates and Amounts of Drawdowns/Pickups	Amount of Benefits Received After Separation
A	1/19/08	Drawdown: 6/29/08, \$92, 10/26/08, \$92	\$184
B	7/20/08	Pickup: 8/6/08 for August \$115 and September \$115	\$230
C	8/8/08	Drawdown: 10/26/08, \$105, 11/29/08, \$105	\$210
Total			\$624

Source: OIG Generated

- An OFM representative responsible for the exit clearance process was unable to provide the OIG with an explanation for why there were no exit clearance forms for the 10 participants.
- For 2 of 13 participants, an OHR transit benefit program representative signed the exit clearance form, but there was no documentation to show that OHR had instructed DOT to remove the participants from its database. For one of the two participants, the OHR transit benefit program representative who signed the form was no longer employed at the SEC and, therefore, was unavailable for comment.

- For 1 of 13 participants, an exit clearance form was completed by the participant and signed by the Administrative Officer, but the OHR Transit Benefit Program Manager never received it. As a result, the OHR Transit Benefit Program Manager was unaware that the participant had separated from the SEC and did not remove him from DOT's transit database. It should be noted that the employee exit clearance form does not provide specific instructions as to who should sign off on particular items, such as transit benefits.

Due to the unreliability of the exit clearance process, OHR should periodically review separation data to identify any transit benefit program participants who need to be removed from DOT's transit database so these participants are no longer eligible to collect benefits. OHR should also make efforts to recover the \$394 in erroneous benefits collected by participants after they separated from the Commission.

Recommendation 4

The Office of Human Resources should implement a process to obtain data on all separated Commission employees and compare that data to the Department of Transportation (DOT) transit database to ensure all separated employees who participated in the transit benefit program have been promptly removed from DOT's records.

Recommendation 5

The Office of Human Resources, in coordination with the Office of Financial Management, should pursue collection of the \$394 in erroneous benefits that were collected by Participants A and C after they had separated from the Commission.

Finding 3: Transit Benefit Application Data Was Not Always Available or Complete

The audit found that transit benefit application data was not always available or complete. Additionally, transit benefit program participants may not always be adjusting their transit benefits while on leave and teleworking. As a result, management controls are not always functioning as intended.

Where documentation was available for our judgmental sample of 50 transit benefit program participants, we generally found that the applications were complete, the participant was eligible to collect transit benefits (e.g., was not a government contractor, non-paid intern, etc.), claimed commuting costs were reasonable, OHR timely processed the applications, and employees adjusted their transit benefits while on extended leave.

However, OHR was unable to provide complete application data for nearly half of our sample (24 of 50 participants) and, therefore, we were unable to determine for those participants whether the application was processed timely and claimed commuting costs were reasonable. We also identified three instances where transit benefit applications were not signed by the Administrative Officers or by OHR, prior to being sent to DOT. Further, we found that two transit participants did not adjust benefits due to extended leave. Lastly, we were unable to obtain telework data detailing actual days or hours of telework for any of the sampled transit benefit program participants to determine if participants had appropriately reduced benefits while teleworking.

Maintenance of Transit Benefit Program Applications and Related Documentation

We requested OHR to provide OIG with transit benefit program applications and supporting documentation, such as SmartBenefit applications, transit benefit increase requests, and emails showing when OHR processed the application and forwarded it to DOT for the 50 participants in our sample.⁷ OHR was unable to provide any information or files for seven applicants. Additionally, for 17 applicants, OHR provided files, but they did not contain copies of the transit benefit applications, which are the primary documents containing the participants' transit-related information and approvals by the applicable Administrative Officer and OHR.

The OHR Transit Benefit Program Manager explained that prior to the time he took over responsibility for the transit benefit program in May 2008, there was no centralized OHR filing system for the program. Transit benefit applications and related information were kept in prior OHR Transit Benefit Program Managers' personal hard copy files, as well as personal emails. The OHR Transit Benefit Program Manager provided documentation to show that OHR is working with the SEC's Office of Information Technology to develop a database to house key transit benefit data, as well as electronic copies of applications and other related forms. Additionally, OHR has set up a dedicated Outlook mailbox and drive for transit benefit program correspondence and documents.

⁷ It should be noted that these participants were active in the transit benefit program during Fiscal Year 2008; however, many of them entered the program several years earlier. Accordingly, the scope of our review of transit benefit application processing extended beyond Fiscal Year 2008 activities.

Transit Application Authorizations

We also found that three transit benefit applications were not signed by the Administrative Officers or OHR, as required by the SEC internal guidelines.

SECR 5-9, *Public Transportation Subsidy Program*, requires transit benefit applications to be approved by both the Administrative Officer and OHR prior to submission to DOT.⁸ These authorizations are necessary to ensure that the participant is eligible for the program and commuting costs are properly calculated.

Based on available transit benefit program files and data for our judgmental sample of 50 participants, we found one application that did not contain a signature to show that it was reviewed by the Administrative Officer, prior to submission to OHR. Additionally, two applications did not contain signatures from the OHR Transit Benefit Program Manager to show they were reviewed and authorized by OHR. We found, however, that all applications processed by the current OHR Transit Benefit Program Manager contained the required OHR signatures.

Adjusting Benefits Due to Telework/Leave

The audit found that transit benefit program participants may not always be adjusting their transit benefits when they are on recurring telework schedules or are on extended leave. As a result, they were collecting benefits to which they were not entitled.

SECR 5-9, *Public Transportation Subsidy Program*, requires transit benefit program participants who are on extended leave, personal leave, travel, or any other situation that causes their commuting costs to be less than the amount they are eligible to receive in any particular month to reduce the amount of transit benefits they claim. If they receive the full monthly benefit and did not use the full amount due to unanticipated personal leave or business travel, they must appropriately reduce their benefit at the next transit disbursement.⁹

Based on our sample of 50 transit benefit program participants, 30 participants had telework agreements on file with recurring telework schedules of six or more days per pay period, according to OHR records. Additionally, based on our review of payroll records, 18 participants took 32 or more hours of extended leave during Fiscal Year 2008 (e.g., sick leave, leave without pay).

We found that 17 participants who were approved to work a recurring telework schedule of six or more days per pay period still claimed the \$115 maximum

⁸ SECR 5-9, page 5.

⁹ SECR 5-9, page 6.

transit benefit during Fiscal Year 2008 each month. It should be noted, however, that there is no system for tracking actual days or hours of telework. Consequently, OHR was unable to provide actual telework data for the participants. Therefore, we could not confirm whether participants actually worked their approved telework schedules.

The Work Life Program Manager is responsible for maintaining telework agreements filed with the Work Life Program Office. The Work Life Program Manager explained that the SEC's time and attendance system, Quicktime,¹⁰ has a telework code available that employees can use to denote the number of hours teleworked per pay period; however, many employees are not aware of the code and few are using it. Additionally, Quicktime does not provide a report form for accessing and analyzing the telework code data, so it is not yet a viable system for tracking or reporting actual telework hours or days. The Work Life Program Manager stated that she is beginning a pilot program with a subgroup of employees to test a campaign to raise awareness of the telework code and the proper procedures employees are to follow to report actual telework hours. However, until the Department of Interior includes a reporting capability for the telework code, the SEC will not be able to track employees' actual telework hours. Also, once the reporting capability is in place and employees are educated on the proper use of the telework code, the data will still be subject to each employee's accurate self-reporting of telework hours.

We also identified two participants who were on extended leave during Fiscal Year 2008, per the SEC's payroll records, but did not appear to have adjusted their benefits per DOT records, as shown in the Table 2 below. Payroll records from OHR show that Participant 1 was on extended sick leave for the entire month of July 2008 and the first half of August 2008; however, the participant collected the full \$115 transit benefit for both July and August. Based on the participant's total monthly estimated commuting costs of \$150, we calculated the participant's total actual commuting costs were approximately \$75 altogether for July and August. This resulted in the participant receiving approximately \$155 in benefits that the participant was not entitled to receive.

Participant 2 was on extended sick leave during the second half of December 2007 and the first half of January 2008; however, the participant collected \$110 per month for both December and January. Based on the participant's total monthly estimated commuting costs of \$150, we calculated that the participant's total actual commuting costs were approximately \$150 altogether for December and January. This resulted in the participant receiving approximately \$70 that the participant was not entitled to receive.

¹⁰ Quicktime is the time and attendance system that the SEC uses and it is operated by the Department of Interior.

Table 2: Participants on Extended Leave That Did Not Adjust Benefits During FY 2008

Participant No.	Dates Extended Leave Taken	Number of Commuting Days in Month (Excluding Holidays and Leave Taken) ¹¹	Total Monthly Commuting Costs Claimed Per Transit Application	Monthly Benefit Received	Monthly Estimated Commuting Costs	Estimated Amount of Overpayment for the Month
1	Jul 1-31, 2008	0	\$150	\$115	\$0	\$115
	Aug 1-16, 2008	10	\$150	\$115	\$75	\$40
2	Dec 9-22, 2007	9	\$150	\$110	\$67.50	\$42.50
	Jan 6-19, 2008	11	\$150	\$110	\$82.50	\$27.50
	Total Overpayments					\$225¹²

Source: OIG Generated

OHR should seek recovery of the \$225 in estimated overpayments shown in the table above. OHR should also remind transit participants that they are required to reduce benefits if they are on extended leave (i.e., annual, sick, etc.), travel, recurring telework and any other situation that causes their commuting costs to be less than the amount they are eligible to receive in a given month. Further, OHR should provide instruction on how benefits can be adjusted under the SmartBenefits program. Finally, OHR should periodically conduct reviews of all participants to ensure they only collect the benefits they are entitled to receive.

Recommendation 6

The Office of Human Resources should ensure for each file identified as missing or incomplete that it obtains the necessary documentation to create a file (electronic or hard copy) containing, at a minimum, a copy of the participant's transit benefit program application, SmartBenefit application, and documentation to support changes in commuting costs.

¹¹ Participant 1 and Participant 2 had recurring telework schedules in place during the relevant timeframe for four and two days, respectively. Our calculation of the number of commuting days for the applicable months does not take into account the number of days the person may have teleworked as the data was not readily available. Consequently, further reductions in benefits may be necessary.

¹² This amount only represents overpayments identified based on a sample of 18 transit participants who took extended leave during FY 2008. Accordingly, the actual amount of overpayments for the entire population of transit benefit program participants may be significantly higher.

Recommendation 7

The Office of Human Resources should develop a process to conduct internal reviews periodically of transit benefit program participants to ensure they properly reduce benefits as required and only collect the benefits they are entitled to receive.

Recommendation 8

The Office of Human Resources should periodically remind transit benefit program participants that they are required to reduce benefits if they are on extended medical or personal leave, travel, recurring telework or any other situation that causes their commuting costs to be less than the amount they are eligible to receive for that month. Additionally, OHR should provide participants with instructions on how benefits are adjusted under the SmartBenefits program.

Recommendation 9

The Office of Human Resources, in coordination with the Office of Financial Management, should seek recovery of the estimated \$225 in overpayments that were improperly collected by transit benefit program participants while on leave.

Finding 4: SEC Headquarters Should Increase Monitoring of Regional Office Transportation Benefit Programs

We found that SEC headquarters performs minimal oversight of the transit benefit programs in the regional offices. Increased monitoring by headquarters is necessary to ensure that regional offices have proper internal controls in place for their transit benefit programs and to ensure regional office employees are complying with program requirements.

SECR 5-9, *Public Transportation Subsidy Program*, states that a Program Coordinator administers the Transportation Benefit Program under the direction of the Regional Director in participating field (now regional) offices.¹³ Regional Directors are responsible for developing a Transportation Benefit Program for their offices, providing overall guidance for their programs, and overseeing the Program Coordinators, Recording Agents, Disbursing Agents and Local Program

¹³ SECR 5-9, page 11.

Auditors. Each member is responsible for specific duties according to his or her designations. Other specific duties are designated as follows:

- (1) Program Coordinators - Oversee the daily operations of the program for their field offices;
- (2) Recording Agents - Keep updated records of all benefit transactions and enroll employees into the program;
- (3) Disbursement Agents - Disburse transportation benefits to participants; and
- (4) Local Program Auditors - Perform semiannual audits and provide the results to the Regional Directors.

OHR provides overall guidance for the Transportation Benefit Program at headquarters, as well as the regional offices.¹⁴

SECR 5-9, *Public Transportation Subsidy Program*, also states that Regional Directors are required to submit annual program activity reports (SEC 2416 and SEC 2418) to OHR, by no later than November 30th of each year.¹⁵ OHR then reviews and consolidates the annual reports from the field offices (now regional offices) into the overall agency report.

Based on discussions with the current OHR Transit Benefit Program Manager, we found that basic program data (e.g., number of participants, type of fare media, etc.) is collected from regional offices in order to recommend an annual level of funding for the transit benefit program. However, according to the OHR Transit Benefit Program Manager, regional offices are no longer required to provide the annual activity reports referenced in SECR 5-9, nor are regional offices required to provide a copy of their semiannual audit results to OHR.

We performed a limited review of the transit benefit programs in the regional offices, which consisted of interviewing officials responsible for transit benefit program operations in the New York, Boston, and Chicago regional offices. The regional offices generally represented that they follow the policies and procedures in SECR 5-9, *Public Transportation Subsidy Program*, with regard to enrolling and disbursing transit benefits, records maintenance and segregation of duties. However, because the transit systems within each region vary widely, internal processes may differ according to the regional offices' individual needs. These unique processes are not documented in written policies and procedures specific to each regional office.

¹⁴ SECR 5-9, page 12.

¹⁵ SECR 5-9, page 14.

Additionally, the three regional offices indicated that they perform internal program reviews according to the SEC guidelines; however, the reviews are not necessarily documented in a report format and the results are not provided to OHR.

The OIG believes that because OHR has overall responsibility for transit benefit program policy, it should implement additional internal controls to ensure that regional offices adhere to the SECR 5-9 requirements, including conducting semiannual program reviews. Ensuring appropriate internal controls are in place is particularly important for the regional offices since most are not included in the SEC's interagency agreement with DOT, and therefore, are fully responsible for enrolling applicants and disbursing, recording, changing, and terminating transit benefits.

According to the OHR Branch Chief responsible for the transit benefit program, new and additional transit benefit program requirements call for added resources and perhaps improved technological approaches to monitor the nation-wide transit benefit program. Currently, the headquarters transit benefit program is staffed with one full-time person and one part-time student. These individuals remain busy administering the headquarters program, including advising employees on updated enrollment requirements, processing transit applications and terminations from the program, managing program communications and coordinating program changes for headquarters.

We recommend that OHR perform periodic reviews of regional offices (including site visits) to examine their transit benefit program processes and ensure compliance with SEC requirements, including those for proper recordkeeping, segregation of duties and program reviews. Additionally, OHR should require regional offices to provide semiannual reports to headquarters, in addition to the Regional Directors discussing the results of their program audits. These reports should include audit results, statistical data on the regional office's transit benefit program (e.g., how many participants are in the program, how many participants joined the program and have exited the program during a semiannual period, etc.) and perhaps optional information (e.g., what types of issues the office has encountered during the period. Further, each regional office should have written policies and procedures tailored to its specific transit benefit program. A copy of these policies and procedures should be provided to headquarters for its records, and updates should also be provided as they become available.

Recommendation 10

The Office of Human Resources should implement additional management controls over regional office transit benefit program operations to ensure compliance with required SEC guidelines, including (1) performing periodic reviews of regional offices to examine their transit benefit program processes, (2)

requesting that regional offices provide semiannual reports to headquarters, in addition to the Regional Directors discussing the results of their program audits, and (3) requiring regional offices to have written policies and procedures tailored to their specific transit benefit programs.

Acronyms

DOT	Department of Transportation
GAO	Government Accountability Office
OFM	Office of Financial Management
OHR	Office of Human Resources
OIG	Office of Inspector General
OMB	Office of Management and Budget
SEC or Commission	U.S. Securities and Exchange Commission
WMATA	Washington Metropolitan Area Transit Authority

Scope and Methodology

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

Scope. We obtained data from OHR, OFM and DOT covering transit benefit activities during Fiscal Year 2008. The scope of our review included transit benefit program participants and activities at the SEC's headquarters office, as well as a limited review of transit activities at the SEC's New York, Boston, and Chicago regional offices. We conducted our fieldwork from November 2008 through February 2009.

Methodology. We interviewed staff and managers in the Office of Human Resources, as well as the New York, Boston, and Chicago regional offices, to gain an understanding of the operations of the transit benefit program. We reviewed available documentation, including transit benefit program files maintained by the OHR and information available on the SEC's intranet. We attended a scheduled bi-monthly transit benefit disbursement session to observe the roles and responsibilities of both OHR and DOT officials. We held discussions with, and obtained documentation from, DOT officials regarding the SEC's transit benefit program and DOT's responsibilities under their interagency agreement with the SEC. Lastly, we tested data to determine if transit benefit program participants were complying with program requirements.

Management Controls. We reviewed internal controls that were considered significant within the context of the audit objectives. We interviewed OHR management and staff, identified and reviewed applicable policies and procedures, obtained and reviewed available transit benefit program documentation, and tested data for compliance with selected policies and procedures.

Prior Audit/Investigative Coverage. The SEC OIG issued a previous audit report on the transit benefit program (Audit Report No. 237, August 1996). The audit found that controls were generally functioning as intended and recommended some improvements to internal controls. All recommendations from the prior audit have been closed. Also, as a result of two investigations related to the transit benefit program, the SEC OIG issued investigative memoranda in February 1998 and September 2001, respectively (OIG-248 and

G-335), which recommended program changes to enhance management controls over the transit benefit program.

Use of Computer-Processed Data. We used computer-processed data such as emails, Excel spreadsheets, and DOT transit database information. We did not test the DOT database. To the extent practical, we compared the data with source documents. We did not perform extensive testing of system general or application controls. DOT data was used to identify the total population of headquarter transit benefit program participants and relevant data such as participants' claimed and collected benefits.

Judgmental Sample. We used two separate judgmental samples for data testing. The first sample consisted of 13 of 38 transit participants who had separated from the Commission, but were still listed as active transit participants. The second sample consisted of a review of application data for 50 out of approximately 1,650 headquarters transit benefit program participants. The OIG's basis for selecting the 50 participants consisted of identifying individuals claiming the maximum transit benefit per month and individuals who were on extended leave and or had re-occurring telework schedules during Fiscal Year 2008.

Criteria

Executive Order 13150, April 21, 2000 - Mandated all Federal agencies in the National Capital Region (Washington, D.C. metropolitan area) to implement a transit pass benefit program by October 2000.

SEC Administrative Regulation SECR 5-9, February 16, 2005 - Established policies and procedures for the SEC's Public Transportation Benefit Program as an incentive for its employees to use public transportation and to rideshare.

Office of Management and Budget Memorandum M-07-15, May 14, 2007- Required all agencies with a transit program to implement several internal controls designed to deter fraud, waste, and abuse.

SEC Administrative Regulation SECR 7-4, Employee Clearance Process, December 31, 1999 – Establishes a method for all personnel who are leaving the SEC to return any documentation or other Government property which they have obtained during the course of employment.

List of Recommendations

Recommendation 1

The Office of Human Resources should finalize its revised transit benefit program application by April 30, 2009 and ensure that the application:

- (a) Requires transit benefit program participants to provide a breakdown of commuting costs in accordance with the Office of Management Budget guidelines; and
- (b) Includes a certification below the Administrative Officer's signature line that clearly states that the application had been reviewed for verification of eligibility and commuting costs.

Recommendation 2

The Office of Human Resources should conduct periodic training and issue reminders to Administrative Officers of their responsibility to verify transit benefit program participants' eligibility and commuting costs.

Recommendation 3

The Office of Human Resources should put in place a process to require transit participants to re-certify annually their eligibility and commuting costs (i.e., complete a new transit benefit application).

Recommendation 4

The Office of Human Resources should implement a process to obtain data on all separated Commission employees and compare that data to the Department of Transportation's (DOT) transit database to ensure that all separated employees who participated in the transit program have been promptly removed from DOT's records.

Recommendation 5

The Office of Human Resources, in coordination with the Office of Financial Management, should pursue collection of the \$394 in erroneous benefits that were collected by transit participants after separating from the Commission.

Recommendation 6

The Office of Human Resources should ensure for each file identified as missing or incomplete that it obtains the necessary documentation to create a file (electronic or hard copy) containing, at a minimum, a copy of the participant's transit benefit program application, SmartBenefit application, and documentation to support changes in commuting costs

Recommendation 7

The Office of Human Resources should develop a process to conduct internal reviews periodically of transit participants to ensure they properly reduce benefits as required and only collect the benefits they are entitled to receive.

Recommendation 8

The Office of Human Resources (OHR) should periodically remind transit benefit program participants that they are required to reduce benefits if they are on extended medical or personal leave, travel, recurring telework or any other situation that causes their commuting costs to be less than the amount they are eligible to receive for that month. Additionally, OHR should provide participants with instructions on how benefits are adjusted under the SmartBenefits program.

Recommendation 9

The Office of Human Resources in coordination with the Office of Financial Management should seek recovery of the estimated \$225 in overpayments that were erroneously collected by transit benefit program participants while on leave.

Recommendation 10

The Office of Human Resources should implement additional management controls over regional office transit benefit program operations to ensure compliance with SEC requirements, including:

- (a) Performing periodic reviews of regional offices to examine their transit benefit program processes,
- (b) Requesting that regional offices provide semiannual reports to headquarters in addition to the Regional Directors discussing the results of their program audits, and
- (c) Requiring regional offices to have written policies and procedures tailored to their specific transit benefit programs.

Management Comments



OFFICE OF
HUMAN RESOURCES

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

MAR 20 2009

H. David Kotz
Inspector General
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Mr. Kotz:

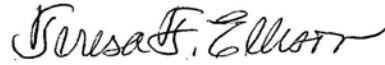
I have reviewed Inspector General Report #456, "Audit of Public Transportation Benefit Program". The report makes ten recommendations to address deficiencies in management controls of the program. These recommendations involve actions to improve the transit application process, update the DOT transit database and our own internal records, and increase the monitoring of regional office transit benefit programs. I concur with the audit findings and the recommendations contained in the report. Our office had previously detected some of the deficiencies noted in the report and had begun work on correcting these problems.

We were pleased that the audit found no evidence of some of the egregious fraudulent activity that had been found in other federal agencies by GAO in their 2007 study of the federal transit benefit program. Although we recognize that any improper payments in the transit benefit program are cause for concern, we were also encouraged to learn that the audit detected a relatively minimal amount of improper payments in a program with disbursements of over a million dollars a year (i.e., \$624 to employees who had separated and \$225 to employees who failed to adjust benefits for leave).

Some of the recommendations will require collaboration with the Office of Financial Management, DOT, and the regional offices. We have already begun working with the Office of Financial Management to collect the improper payments made and have recovered some of those funds. Additionally, the OHR staff is currently revising its operating procedures as well as the application and recertification forms related to the program. We will also work closely with DOT staff to ensure that records are up-to-date in their system as well as ours. Finally, we plan to work with staff in the regional offices to ensure heightened oversight of the regional transit subsidy programs.

Thank you for this audit report and for the professionalism that your staff demonstrated during the audit.

Sincerely,


Jeffrey A. Risinger
Associate Executive Director
Office of Human Resources

Office of Inspector General Response to Management's Comments

The Office of Inspector General is pleased that the Office of Human Resources (OHR) concurred with the report's 10 recommendations. We believe that OHR's proposed actions are responsive to our findings and recommendations and are pleased that OHR has already taken action to implement many of the recommendations that are identified in our report. Once all of the recommendations are fully implemented, we believe the Commission's internal controls over the transit benefit program will be strengthened.

Audit Requests and Ideas

The Office of Inspector General welcomes your input. If you would like to request an audit in the future or have an audit idea, please contact us at:

U.S. Securities and Exchange Commission
Office of Inspector General
Attn: Assistant Inspector General, Audits (Audit Requests/Ideas)
100 F Street, N.E.
Washington D.C. 20549-2736

Tel. # 202-551-6061
Fax # 202-772-9265
Email: oig@sec.gov

Hotline

To report fraud, waste, abuse, and mismanagement at SEC,
contact the Office of Inspector General at:

Phone: 877.442.0854

Web-Based Hotline Complaint Form:
www.reportlineweb.com/sec_oig